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Black/African Science Fiction and the Quest for Racial Justice through Legal Knowledge: How Can We Unsettle Euro-modern Time and Temporality in Our Teaching?

Folúké Adébísi

University of Bristol, United Kingdom

Abstract

This paper argues that the relationship between law, time, temporality, race and racism is vital to understanding the continuous reproduction of racial injustice and the making permanent of colonial logics. This entanglement is exemplified in the extension, recreation and adaptation of those colonial logics of the human and space-time beyond the time of both racialised enslavement and exploitative colonisation. This paper further argues that the absence of a detailed and central examination of these junctures within legal knowledge – especially in teaching but also in research – can be addressed by recourse to science fiction. A specific area of science fiction, collectively termed here Black/African Science Fiction, has made inroads into unsettling Euro-modern law's chronopolitics. Using Octavia Butler's *Kindred* as an example, this paper argues that Black/African Science Fiction can help us to reframe legal knowledge to disrupt the inevitability of our current version of the future and the question of inevitability itself.

Keywords: Black/African Science Fiction; law; time; *Kindred*; racism.

Introduction

Questions of time and temporality should be of keen interest to the teaching, research and practice of law as we try to understand why and how racial injustice persists. Due to its propensity for unsettling supposedly established predeterminations, science fiction can help us unpack (for ourselves and our students) how the effects of racialised enslavement and colonial enterprise continue into the present, even within the law itself. This essay argues that to unveil and unsettle law's manoeuvrings in time, especially to bring an end to a long history of evolving racial injustice, we may need to go beyond the strict boundaries of Euro-modern law and explore genres not bound by the same temporal rules of law. A corpus of literature – which I collectively term 'Black/African Science Fiction' (B/A SF) – responds directly to the continuation of racial injustice by unsettling our understanding of time. This unsettling of time reveals how the law enables disparate allocations of time with material consequences. By tapping into this genre, especially in how we teach our students what law is and how it functions, we gain a critical lens to think about time differently and through which we may craft legal futures that break from the devastation of time.

Law as the Keeper of Colonial Time: Racial Injustice as the 'Inescapable Robbery of Time'

Racial injustice in the present is partly produced through the historical and continued use and manipulation of artificial racial categories, developed through and beyond the colonial encounter.¹ These encounters occurred mainly across the Americas, Oceania, Asia and Africa and enabled the dispossession of indigenous peoples of their land, lives, freedom, resources and ways

¹ Wolfe, *Traces of History*, 18.



of living. The accumulation and dispossession that occurred through racialised enslavement and exploitative colonisation were and are enabled and maintained through legal regulation. This regulation is not just in Euro-modern legislation and judicial decision but fundamentally in the very nature of Euro-modern law. In other words, Euro-modern law was and is necessary for the continuation of colonial legacies, through its enacting of legislation and case law to make seemingly sacrosanct legal meanings about law, racial categories, space, time and temporalities, but also and more importantly through its role in naturalising the orders of power already laid down. Thus, Euro-modern law makes its meanings of the human and space-time seem natural and inevitable.² Yet, this world it makes is also characterised by the reproduction of extreme, manufactured inequality and the acceleration of ecological disaster.

Therefore, understanding how law, time and temporality are implicated in the colonial logics of racial injustice is important to understanding how these injustices evolve and are reproduced in the present – with Euro-modern law’s complicity. This complicity is evidenced, inter alia, in the universalisation of a particular way of keeping time. With the temporal move, which was the introduction of Greenwich Mean Time and the Prime Meridian, Europe (via London) consolidated its place as the absolute centre of the ‘modern’ world. The designation ‘Euro-modern’, therefore, describes a particular vision and version of modernity that is reliant on casting ‘othered’ bodies, spaces and times beyond and beneath its purview into a timeless zone of non-being. ‘Race’ points to a structural tool for domination and dispossession and not, as is often believed, a neutral categorisation of humanity. These structural interworkings produce and normalise a global racial regime that operates on disparate ‘dispositions and allocations of time that are differentiated by race’³. In other words, these workings construct and fictionalise disparate versions of differentiated bodies and spaces in different dimensions of time.

So, this control of time operates as an automated display of unmitigated legal-political-economic power. Thus, Bourdieu describes in his thesis on temporalisation how the exercise of absolute power is manifested through the manipulation of time to deny alternative possibility to others and grant endless possibility to self.⁴ This description is echoed by Hicks, who defines this form of power as ‘chronopolitics’, a politics that turns time into a warzone, transforms present kingdoms into ancient ruins and narrates current civilisations as barbaric backwaters.⁵ In essence, the effect of Euro-modern times and temporalities forcefully being made superior, along with the complicity of Euro-modern legal knowledge, racial categories and cartographies, marks bodies and spaces to be violently written out of time.

So, it must be understood that Euro-modern law, through its history, language, and structure, is a key player in enacting chronopolitics. For example, this enactment can be observed in the language within which the law makes its legal definitions and sets spatial and temporal jurisdictional limits. During colonial administration, manoeuvring in time was often operationalised within legal decisions to consolidate colonial accumulation, such that not only land and unfree labour were accumulated, but also time. Keenan describes how land registration (in Oceania particularly) and the legislation used to enact registration cast indigenous peoples backwards in time while securing boundless possible futures for colonisers.⁶ A specific example of this manoeuvring in time is the judgment of *Wi Parata v The Bishop of Wellington*,⁷ which declared the treaty of Waitangi ‘worthless’ and ‘a simple nullity’. This judgment relied on a racially contingent reading of the past to un-recognise the shared temporalities of the indigenous people. The treaty of Waitangi, inter alia, recognised Māori territorial rights. However, in *Wi Parata*, Prendergast CJ rejected the possibility of such a binding treaty being signed by people whose times were made unintelligible to Euro-modernity. A similar approach to subjectivity and re-reading the past and law was also taken in the UK Privy Council’s judgment in *Re Southern Rhodesia*.⁸ Here, Lord Sumner declined to recognise the legal-political structures of Matabeleland and Mashonaland or the legal authority of their ruler, Lobengula, in acquiring any rights before and after British settlement of his land. In both cases, the displacement of the racialised population in time had legal effects, not just physically dislocating them from their land but also nullifying any legal agreements that had been made, the past sovereignty of indigenous peoples, as well as their future possibilities. So, the ascription of the times and spaces of indigenous, racialised and colonised peoples as ‘timeless’ is not a noble tribute but marks them for extinction, disposability and bare life. For these peoples, being labelled timeless has often meant that they are out of time or without time. Or, according to Gilmore, vulnerable to ‘premature death’.⁹

² Gordon, “Critical Legal Histories,” 109.

³ Mills, “White Time,” 28.

⁴ Bourdieu, *Pascalian Meditations*, 228.

⁵ Hicks, *British Museums*, 113, 190.

⁶ Keenan, “From Historical Chains,” 285.

⁷ *Wi Parata v The Bishop of Wellington* (1877) 3 NZ Jur (NS) 72.

⁸ *Re Southern Rhodesia* (1919) A.C. 211.

⁹ Gilmore, *Golden Gulag*, 28.

Similarly, the doctrine of *uti possidetis* also serves a temporal purpose as well as a spatial one. Initially used as a tool to preserve state and legal status quo where needed, *uti possidetis* evolved to become quite significant in the mid-twentieth century wave of granting independence to former colonies – especially on the African continent. By maintaining colonial boundaries, possessions and spatial orders, the doctrine ensures that there is no legal vacuum in the time between colony and state.¹⁰ The effect is to enfold colonies into an artificial chronologically linear destiny and a temporal singularity that inevitably produces Westphalian states. In essence, by preserving the existence and permanence of colonial boundaries, the legal doctrine traps the boundless possibilities of people, space and place into one of endless colonial futures. Thus, Finnis argues that, based on the laws of succession, which relate to law's inherent characteristic of succession, the overtaking of the colony by the state is not a point of legal departure but a move that entraps the colony into a settled continuity.¹¹ In other words, the 'timelessness' of indigenous peoples and other colonised populations is not ended by state creation – they, their bodies and possibilities continue to be out of time. By erasing the histories of the dispossessed, the social production of time, backed by the power of the state and the authority of law, traps peoples into selected pasts and limits the futures to which we can all aspire.

In considering this legal manoeuvring in time, Coates argues that one main outcome of being racialised Black is the 'inescapable robbery of time'.¹² This argument is in specific reference to how enduring racialised logics continue to have a mortal impact on Black life in the USA. These endurances find space in a globalised organisational structure and system that posits 'antiblackness as the animating center of all racial hierarchy'¹³ and 'identifies a central, structuring principle of society'.¹⁴ This global organising principle reveals the inadequacy of 'racism' as a framework for thinking through and towards racial justice. This inadequacy is because the practice of racialised enslavement that continued for over 400 years, with its focus on those who had been made 'Black of the world', produced a natural social condition for the body so racialised. In the first instance, this practice and its logics resulted in a cadre of persons marked by skin that constituted an absolute negation of humanity. In that same instance and the aftermath, a world was produced whose logics advance upon and require that negation.

Thus, 'robbery of time', as defined by Coates,¹⁵ is evidenced in the moments lost, not just in large-scale atrocities or violent events like police brutality and similar state violence, but also in smaller moments such as engaging in hypervigilance under surveillance systems and undertaking emotional labour to manage divergent temporalities within an anti-Black world. Consequently, it must be understood that time is fundamentally important to the exercise of freedom. In essence, the fair distribution of time is the ultimate justice. Justice requires that time be made available as a counterpoint to and subversion of logics underpinning racialised enslavement and carried forward by unfree labour practices under colonial and capitalist market systems. Moreover, justice also means the provision and availability of temporal space for critical thought and the imagination to break free from the continuous reproduction of the colonial ever-present. Making justice present, therefore, requires radical and critical innovation to make the present intelligible, with a view to making flourishing futures possible.

Ultimately, law reveals itself as a colonial discipline because, within it, bodies and space-time have been revalued and redefined to meet the needs of enclosure, property-making and capital accumulation – and not the protection of life. Consequently, this essay focuses on time and temporality to note how law's orderings of time are fundamental to the continuation of racial injustice and how we cannot imagine alternative futures without unsettling this process. Because Euro-modern law functions as a tool for social order (past, present and forward-looking) through its underwriting of racialised enslavement, exploitative colonisation and the afterlives of both, law is, consequently, also complicit in enabling colonially and racially accumulated capital and other advantages to be retained through the ways in which it normalises the workings of Euro-modern time. This permanence of possession and dispossession continues to exist and evolve partly because Euro-modern time is marked linearly, thus presupposing the inevitability of progress, even without positive or radical action to bring about such progress. Euro-modernity also relies on singular temporalities through memory practices that erase all non-Euro-modern subjective movements through moments. Such linearity and singularity obscure how abstractive and extractive violence continues and evolves beyond supposedly fixed points in space-time. In other words, often ignored is how these violences proceed beyond the specific time of racialised enslavement and exploitative colonisation. For example, erroneous adherence to linearity and singularity permits us to falsely cast 'decolonisation' as a matter of the past. Thus, in this frame of linearity and singularity tied to Euro-modernity, a call to decolonise is wrongly heard only as a call to do justice as regards the lingering after-effects of colonialism. This approach takes no account of the fact that the logics allowing the enclosure of colonial territories and the use of racialised bodies as coerced labour are a global organising principle of domination and dispossession that underwrite the current structure

¹⁰ Hasani, "Uti Possidetis Juris," 85–86.

¹¹ Finnis, "Revolutions and Continuity," 418.

¹² Coates, *Between the World*, 91.

¹³ Grimes, *Christ Divided*, xxviii.

¹⁴ Bledsoe, "Primacy of Anti-Blackness," 472.

¹⁵ Coates, *Between the World*, 91.

of the world – not just a nasty aftertaste. To think of decolonisation as a means to unsettle Euro-modern linearity and singularity is to think of different ways of being in the present and future world; it means to think towards utopias.

Therefore, if law ‘brews time’, as Grabham suggests, then we can brew different times; we can ‘remake questions of justice over and over again’.¹⁶ If Euro-modern law has truly operated to preserve colonial time as well as racial injustice and, particularly, the anti-Blackness carried within it, then Euro-modern legal knowledge must change direction to undo this ongoing characteristic. This re-understanding and re-engineering of time and temporality invite us to revisit the substance of life itself and the potential uses of law to preserve life and the planet. Because if Euro-modern law as a colonial discipline continues as it has done to revalue and redefine within it bodies and space-time to meet the needs of enclosure, property-making and capital accumulation, there will not be much left of and for humanity due to the ecological and societal perdition in which the earth finds itself. One of the ways in which law can potentially be reimagined so that we do not destroy the earth and each other is to reorder the legal workings of time. This approach means ensuring that our legal knowledge does not continue to contribute to the mass death of the earth and its inhabitants, to the disappearing of knowledge and ways of being and to the timelessness of peoples and potential. To narrate all these back into time is to disrupt the linearity of Euro-modern time and the singularity of Euro-modern temporalities. To rethink the future is to seek legal epistemologies, ontologies, teleologies and axiologies that break from the past and present.

Science Fiction as Imaginative Resistance

Because Euro-modern law operates to make what is constructed appear normal, natural and normative (especially in its role as temporal governor), we need tools beyond it to reveal these constructions and to imagine ways to break free from its more oppressive strictures. Adopting new tools is especially important in the case of racial injustice that is produced by Euro-modernity. We need to be able to observe this reproduction from outside it to find ways to interrupt its cycles of regeneration. To question the presumptions upon which the world-making of Euro-modern legal knowledge is based, the tools adopted must have the capacity to bend the rules of the law’s assumed ‘naturals’ with impunity. Science fiction provides us with just such a prospect, as it has the ‘potential to ... imagine alternative worlds’ and ‘imagine radical alternatives’.¹⁷ Unlike law, which is characterised by the need for certainty and predictability, science fiction is predicated on breaking those rules of certainty to go beyond what is considered inevitable destiny. Therefore, the scope it provides for creatively imagining possible futures can be ‘a stage on which we imagine humanity’s fate, and ... develop the terminology to describe our future’.¹⁸ So, it is not just the content of science fiction and the beyond-world settings that it often offers that are of use here, but also science fiction’s devices and vocabularies that allow us to depart from pre-ordained registers. Consequently, we can unsettle our understanding of the present through its gaze. Thus, science fiction gives us images of potential futures and invites us ‘to defamiliarize and restructure our experience of our own present’¹⁹ by predicting ‘a future significantly different from the empirical present’.²⁰ This potential of science fiction is important to engaging with and disrupting the co-constitution of race and Euro-modern law through the capitalist-colonial-enslavement project, precisely because this genre often relies on suggesting that ‘the present capitalist world-system is not the determinate outcome of a teleological historical necessity’.²¹ Once that fiction of necessity is disrupted, we can begin to imagine beyond it.

Both disruption and new imagination are of key significance to Euro-modern legal knowledge, as, especially in the context of unsettling time and the reproduction of racial injustice, we require ‘space in which alternate social and legal systems, conditions, and variables can be considered’.²² So, science fiction can be regarded as imaginative resistance to the devastation of time by helping us to articulate ‘new approaches to – and directions – in law’.²³ One of the significant ways this genre posits legal alternatives is in dealing with the alternative breakdown or maintenance of law and order. Science fiction is a major site for contemplating possibilities for the emergence of dystopias and utopias. Through this genre, writers have also made a case for how law would handle new technological innovations and raised relevant questions that can only be considered outside the confines of the strict boundaries of legal writing.²⁴ Thus, as a subset of the wider law and literature movement, science fiction operates as a creative lens to understand the relationship between law and society in ways that give us the ‘capacity to dislodge

¹⁶ Grabham, *Brewing Legal Times*, 15.

¹⁷ Death, “Climate Fiction,” 444.

¹⁸ Melzer, *Alien Constructions*, 12.

¹⁹ Jameson, *Archaeologies of the Future*, 286.

²⁰ Freedman, *Critical Theory*, 50.

²¹ O’Connell, “We Are Change,” 300.

²² Travis, “Making Space,” 242.

²³ Travis, “Interrogating Absence,” 23–24.

²⁴ Tranter, “Speculative Jurisdiction,” 821; Ben-Naftali, “Human Conditioning,” 13.

and to reinvent imaginaries'.²⁵ Science fiction helps us deconstruct stories that law does not often think it is telling, about itself and about time, through case law and legal judgment.²⁶ This storytelling allows us to imaginatively unpack concepts that we may consider settled, like 'justice', 'freedom' and 'free will'.²⁷ In other words, 'law and literature' as a field invites us to use the genre of storytelling to examine the supposedly rigid landscape of legal knowledge. Like socio-legal studies, this field appreciates agents of law as embedded in society, entrenched in their biases, prejudices and proclivities. It is not that law directs society, but society and its powerful direct the very ontology of law. Literature, in general, is a lens through which we can view the repetitions of time wrought by Euro-modern law. Rather than being lured into the false story of linear progress that liberal Euro-modern law presents, we can uncover the lie in many 'posts' that have not passed – post-colonial, post-racial, post-modern.

Nevertheless, science fiction reveals certain limitations in dealing with the question of racial injustice. Tranter describes science fiction as the 'West's mythform', by which he means the 'dreaming place for the West's technological futures'.²⁸ Consequently, the utopias and dystopias constructed within it are often either racially monochrome or racially unsighted, suggesting that the present will not produce the future. A limited appreciation of the social utility of race to the production of the colonial ever-present means that many of its white writers are not aware of how race and colonialism must inform the utopian or dystopian futures they posit. Thus, racialised anxieties of the past and present are reproduced in uninterrogated ways within mainstream science fiction. Its dystopias often lean into racial panics and terrors of floods of black and brown-skinned foreigners. So, Western science fiction that engages with Black and African life often employs devices that signal Blackness as the absolute other – a cautionary note of what the West might become.²⁹ In other words, the code of anti-Blackness is so deeply written into Euro-modern epistemics that even radical imaginaries cannot properly uproot it. Alternatively, and usually, the futures that mainstream science fiction suggests are futures in which race has no relevance, but science fiction does not explain how such a fundamental organising principle has been done away with (see, for example, *Back to the Future II* [1989]³⁰ and *Minority Report* [2002]³¹). These Euro-modern science fictional myth forms proceed from an incomplete and distorted image of the present to construct a future that cannot possibly eventuate from it. They predict a world that can never be for a world that may cease to be – if we fail to avert the danger that the present poses to ourselves, each other and the earth upon which we currently precariously survive. So, hope for racial justice for contemporary colonised, racialised and indigenous peoples is completely written out of these visions of the future – a kind of imagined death, confinement and consignment of entire populations³² – a quiet genocide of the pen. The mythforms continue the fiction of Euro-modern temporal singularities and, as such, 'dominant future climate imaginaries ... are largely depoliticised and linear visions of universal, homogenous time, with little spatio-temporal or ecological plurality'.³³ Despite these tendencies, the genre still holds promise to those seeking racial justice. Despite the whiteness of literary houses and the use of their exclusionary power to tell single stories about those kept out of these houses, 'counter-imaginaries persist and proliferate'.³⁴ Writers and artists from racialised, colonised and indigenous backgrounds have used science fiction to interrogate the present as well as the tendency of mainstream science fiction to ignore its dangers and injustices. Through their use of the genre, they have directly confronted questions of structural racial injustice and the reproduction of race as a global organising principle in space and time.

Black/African Science Fiction and Imagining Racial Justice: Contents, Methods and Futures

In this essay, I use the umbrella term B/A SF to describe a wide range of science fiction and fantasy forms that have originated from African and African-descended people. These literary forms are often described as Afrofuturism/Africanfuturism, but because they also include art forms like fantasy, magic realism, speculative African fiction and Africanjujuism, I have used the term B/A SF to encompass that breadth. 'Afrofuturism' is a term coined by Mark Dery; it is the study of 'the appeals that black artists, musicians, critics and writers have made to the future, in moments where any future was made difficult for them to imagine'.³⁵ It 'draws on mythical African pasts in order to envision new black-centered worlds of the future'.³⁶ Afrofuturism can be described as a branch of science fiction, but in its futuristic critique of contemporary realities and cultures, it also extends

²⁵ Grear, "Legal Imaginaries," 360.

²⁶ Ben-Naftali, "Human Conditioning," 8–9.

²⁷ Gurnham, Memory, Imagination, Justice, 3.

²⁸ Tranter, "Speculative Jurisdiction," 817.

²⁹ Death, "Climate Fiction," 446.

³⁰ Zemickis, *Back to the Future II*

³¹ Spielberg, *Minority Report*.

³² Benjamin, "Introduction," 17.

³³ Death, "Climate Fiction," 434.

³⁴ Benjamin, "Introduction," 17.

³⁵ Eshun, "Further Considerations," 294; see also Dery, "Black to the Future," 180.

³⁶ Sites, *Sun Ra's Chicago*, 1.

beyond science fiction into political critique that uses ‘historical fiction, speculative fiction, fantasy, Afrocentricity, and magic realism with non-Western beliefs’.³⁷

Afrofuturism mostly, but not exclusively, draws expression from the spatial limits of the USA.³⁸ So, ‘Africanfuturism’ emerges as an alternative to the American origins of Afrofuturism. Africanfuturism is described as Africans writing in ways that do not centre the West; it is Africans writing ‘from their own roots’ using their own cultures, histories and mythologies as templates.³⁹ Africanfuturism, Afrofuturism and other forms of B/A SF are connected genres because they provide transcendental and ultimately political spaces for Africa and its diasporas to confront, question, unveil and reinvent the nature of humanity and Euro-modernity in ways that centre the reality, interests, pasts and futures of Black people. Africanfuturism, in particular, also grants a temporal lens to a spatial question that responds to the absences of Africa and Africans in science fiction. Africanfuturism asks: ‘Will we still be Africa in the future? Will we see Africa in humanity’s future?’ This centring repudiates the idea that the past is primitive and stereotypically African and that the future must be uniform, shorn of supposed African primordially.

Further, Africanfuturism draws on the same social reality as B/A SF in general, and on Afrofuturism, in particular, to subvert and disrupt the ‘settledness’ of our understanding of the social and to reimagine previous literature works as well as the linearity of time. An example of this reimagination is Achebe’s *Things Fall Apart*,⁴⁰ which tells the story of Okonkwo – a man caught between the colonial and precolonial worlds of late nineteenth-century south-eastern Nigeria. His tragic flaw is his strict adherence to the indigenous customs that the British colonial occupiers are forcing out. This novel is reimagined as a story about an alien invasion – colonising powers doing in actuality what the writers of mainstream science fiction merely imagine might be done,⁴¹ erasing local customs, imposing new laws and annihilating resisters. The past is the future. This story illustrates how Africanfuturism, in particular, references African fantastic and magical realism that relies on alternative interpretations of time. These alternatives are exemplified in the ancient Asante depiction of Sankofa – an image of a bird reaching backwards for the future egg on her back.⁴² In essence, time travel has always been an integral part of B/A SF, confronting the unrelenting linearity of the Euro-modern organisation of time.⁴³

Further, these genres recognise that the law has been used and designed to subjugate and perpetuate global and national structures that have distorted and trapped Blackness. So, these genres are emancipatory devices to imagine and bring forth a different future from what epistemological genocide and contemporary intellectual engagement with Blackness predict. What is often narrated as the past is often still ongoing; thus, B/A SF, from an African-American perspective, frequently operates with completely lost memories as a referent. This situation is unavoidable, as the very existence of Black people in the Americas is predicated on the erasure of memories, amputation of timelines and destruction of bodies. African-centred B/A SF, in contrast, reaches out from a spatially determinate focus point to concretise memories made primitive. So, B/A SF attempts to put imagination and inventiveness to the service of transcending structural limitations.

As stated above, B/A SF has partly developed out of both the inadequacy of neoliberal structures to account for Black trauma and the failure of mainstream science fiction to account for Black possibility and futurity. Despite the imaginative tools available to science fiction, outside B/A SF, Blackness is often written out of time. This situation has led to an increase in B/A SF that directly responds to the obviously broken promises of neoliberalism and Euro-modernity.⁴⁴ These broken promises manifest in the failure to recognise how present-day racial injustice relies on historical yet continuing structures. In fact, science fiction often adopts, very strongly, the same colonial logics of enslavement, first contact, conquest, policing and surveillance that have already characterised Black peoples’ racialised experiences on earth. This adoption is evidenced through constructed and futuristic stories of alien abduction, the oppression of women, exploration of new worlds and the civilising/destruction of alien peoples through technological advancements. According to Dery, ‘African Americans ... are the descendants of alien abductees’.⁴⁵ Therefore, constructed dystopias have been criticised for creating their hellscape by merely extending to white people the modalities of life that racialised, colonised and indigenous peoples have continuously endured.⁴⁶ Such dystopias

³⁷ Womack, Afrofuturism 9; see also Mbembé, Necropolitics, 163.

³⁸ Samatar, “Toward a Planetary History,” 175–177.

³⁹ Bady, “Things to Come”; see also Okorafor, “Africanfuturism Defined”.

⁴⁰ Achebe, *Things Fall Apart*

⁴¹ Egbunike, “Re-presenting Africa,” 143.

⁴² Samatar, “Toward a Planetary History,” 187; Womack, Afrofuturism, 160.

⁴³ Womack, Afrofuturism, 154.

⁴⁴ O’Connell, “We Are Change,” 291.

⁴⁵ Dery, “Black to the Future,” 180.

⁴⁶ Crawley, “Reproducing Whiteness,” 333–358.

inadvertently suggest that human existence has always been dystopian, but dystopia only becomes of universal concern through the white experience.

Additionally, B/A SF has frequently responded directly to erasures and racist science fiction; for example, Okorafor's *Lagoon*⁴⁷ responds to Blomkamp's *District 9*.⁴⁸ Blomkamp's pseudo-docudrama, set in South Africa, explores themes of xenophobia, apartheid and racism through extending tropes of refugee treatment to aliens who have crashed to earth and are then segregated by local authorities. Blomkamp uses tropes of savagery and cannibalism to depict the thinly veiled Nigerian characters in the film. Okorafor, an Africanfuturist writer, responds in *Lagoon* with a story of a similar alien crash in Lagos, Nigeria. Her story humanises Nigerians by drawing on local myths and legends to explore the complexities of human existence in Lagos and the possibilities of an alien–Nigerian collaboration beyond the common stereotypes used to define Nigerians and other Africans. This exchange illustrates how, despite its promises of change and departure, mainstream science fiction quite frequently relies on colonial stereotyping of indigenous and racialised people. Conversely, B/A SF, by recognising the entanglement between enslavement, colonial dispossession, capitalism and present racial injustice, subverts mainstream expectation and inevitability, and by going to the core of colonial logics' redefinition of the body and space-time, it attempts to radically unsettle and disrupt those redefinitions.

B/A SF also develops and departs from a form of Afropessimism. Afropessimism posits that 'Black people are integral to human society but at all times and in all places excluded from it'.⁴⁹ In other words, the negation of Black spatiality and personhood underwrites the emergence and preservation of Euro-modernity. Thus, 'Africa becomes a permanent site of dystopian calamity and investment and speculation, in which "accumulation by dispossession" never ends and where the only future possible is that being imparted upon it'.⁵⁰ In response, B/A SF poses the question of how humanity can depart on the wings of African imaginings of time and temporality, from the inevitable colonial ever-present into a future in which Africa survives as itself. This envisioning of new futures that break from the repetitions of history must rely on devices that tell us, 'time can be created, reclaimed, resourced, and redeemed'.⁵¹ How else do we overturn what is considered natural except by embracing the unnatural, outlandish and fantastical? Thus, B/A SF provides us with devices to posit counterfactual questions about legal knowledge and practice that specifically reference and address the law both as a keeper of colonial time and as containing the potential to overturn this nature.⁵² In other words, B/A SF must, of necessity, rely on temporal counterfactuals, as much of its political work is done by 'enlisting readers to consider various possibilities, to speculate upon the idea of the future'.⁵³ The genre consequently emerges as a variate genre of "freedom dreams" that project utopian and self-autonomous futures from the apocalyptic realities of the colonial ever-present and the every day-present.⁵⁴

Questions about what future radical possibilities African and African-descended peoples may aspire to, despite past and present tragedies, have been a core context for the development of B/A SF.⁵⁵ Consequently, B/A SF, in its imaginary, is always asking questions of time, in time, and the colonial ordering of it. For example, 'What would a positive future for Africa's citizenry and diaspora actually **look** like?'⁵⁶ In other words, the questions posed by B/A SF go beyond the mere literary portrayal of imagined and unattainable futures for the purpose of fleeting entertainment. On the contrary, they often address and disrupt our ideas of the present and the past, 'setting out not so much to rewrite the history of the African diaspora, but to systematically deconstruct it, rendering Africa an "alien future"'.⁵⁷ By conflating humans and monsters, and their spaces, times and temporalities, B/A SF collapses our perspectives of reality to unveil what is hidden behind the fiction of benevolent Euro-modernity.⁵⁸ So, B/A SF has political and jurisprudential purposes at its core. On a smaller scale, the literary spaces of B/A SF also present themselves as concrete sites of contemporary resistance in which those facing racial trauma in the present can find not just the space to create these art forms but also rest, retreat, community, validation and rejuvenation.⁵⁹

⁴⁷ Okorafor, "Lagoon"

⁴⁸ Blomkamp, "District 9"; see also: O'Connell, "We Are Change," 292.

⁴⁹ Cunningham, "The Argument".

⁵⁰ O'Connell, "We Are Change," 302.

⁵¹ Phillips, "Race Against Time," 29.

⁵² Capers, "Afrofuturism and the Law," 5.

⁵³ Zamalin, "Afrofuturism," 12.

⁵⁴ Toussaint, "For Every Rat," 64.

⁵⁵ O'Connell, "We Are Change," 303; Zamalin, "Afrofuturism," 8.

⁵⁶ McKnight-Abrams, "New Afrofuturism".

⁵⁷ Mayer, "Africa as Alien," 564.

⁵⁸ Mayer, "Africa as Alien," 564–566.

⁵⁹ Mayer, "Africa as Alien," 561.

Ultimately, B/A SF categorically asks for a refusal of the racialised disasters that the continuities of time predict. Thus, B/A SF is directed to questions of racial justice within the field of law and literature. Using B/A SF to cultivate legal knowledge for the future will clarify the very nature of justice itself and the lawyer's role in it. Travis and Tranter argue that most mainstream science fiction takes three approaches to a legal presence in futurity: immanent justice, which does not require lawyers; the lawyer entrenched in corporate interests; and finally, the 'hero lawyer'.⁶⁰ In contrast, B/A SF almost exclusively arises from a position where the concept of justice is the opposite of intrinsic to society: the lawyer may be a corporate figure but is quite unlikely to be heroic. Ultimately, the genre seeks to overturn Euro-modern law.⁶¹ Similarly, B/A SF reimagines physical and digital borders. Increasingly entrapped into legal knowledge is the rising regulation of digital technologies. These technologies include machine learning, algorithms, biometric data collection and facial recognition, which are deployed to surveil and criminalise racialized peoples, and so they bolster the physical border.⁶² Without reckoning with the colonial ordering of space-time, this increase exemplifies an abject failure to reckon with digital technology's racial and other body politics.⁶³ By claiming artificial technology objectivity, the proponents of these technologies presuppose that non-human technologies must be just and fair and that they operate within linear timelines and singular temporalities. However, their purported objectivity often merely replicates the law's inability to read the complex text of the human body, whose conditions are produced by the social structure and space around it. These digital technologies trap Black life into a repetitive loop of trauma by maintaining racial disparities in different agencies of the law, for example, incarceration rates, border surveillance and stop-and-search levels.⁶⁴ Consequently, B/A SF can be a means to project into the consciousness of agents of Euro-modern law images of utopian radicality, diversity and mattering of Black life. Through B/A SF, we can unsettle how law constructs memories of racial injustice and the legal histories that indwell and order human society. Writing the past into the future-present may reveal how Euro-modern law's manoeuvring in time traps humanity into a loop of colonial ever-present. If law brews time and has brewed our current times, it can be re-brewed once more.

A Timely Warning on Counterfactual History and Future Imaginaries: Why Not All Black-Centred Stories Can Brew New Times

Nevertheless, some mainstream attempts at using B/A SF's techniques to narrate counterfactual histories do not go far enough to unsettle the power structures reproduced in hegemonic readings and which also create hierarchies of bodies and interwoven space-time. Counterfactual histories are 'alternative versions of the past in which one alteration in the timeline leads to a different outcome from the one we know actually occurred'.⁶⁵ These are often used in B/A SF to explore questions of possibility and futurity that, inter alia, disrupt the rigidity of Euro-modern linear time and singular temporality. Such counterfactuals invite us to consider a wide range of alternative future possibilities to perditions we currently face by imagining various outcomes of present change. However, counterfactuals fail as reconstructive imagination for present action when they have 'no grounding', and then they are 'merely an act of imagination, and unconstrained imagination at that'.⁶⁶

Thus, some attempts at B/A SF often descend into binaries and use replacement theories. They sometimes rely on tropes that they should be seeking to subvert. *Black Panther* (2018)⁶⁷ is a good example of mainstream counterfactual history that imagines what the outcome would be if there were a highly advanced African nation hidden from the world. However, like many mainstream adoptions of the tools of B/A SF, its world fails to depart from strict conceptualisations of Euro-modern readings of the human and space-time. In other words, the narrative relies on the same economic and political imperatives of capital, conquest, governance and military structures that Euro-modernity asks us to accept as settled.⁶⁸ It relies on uncomfortable storytelling tropes of resource-rich 'lost worlds' made popular in colonial novels.⁶⁹ Further, the narrative still consigns 'Africa' to darkness by fictionalising the advanced nation of 'Wakanda' as a contrast to African penury and need.

In opposition to this view, when done properly, B/A SF refuses ALL boundaries of Euro-modernity. For example, in his performances, African-American musician and poet, Sun-Ra collapsed the linearity of time. In 'Bloodchild'⁷⁰, Octavia Butler

⁶⁰ Travis, "Interrogating Absence," 23–37.

⁶¹ Capers, "Afrofuturism, Critical Race," 1–60.

⁶² Achiume, "Digital Racial Borders," 334.

⁶³ Birhane, "Algorithmic Injustice," 1–9; Williams, "Fitting the Description," 74–83.

⁶⁴ Okidegbe, "Of Afrofuturism," 41.

⁶⁵ Evans, *Altered Pasts*, xv.

⁶⁶ Bunzl, "Counterfactual History," 845.

⁶⁷ Coogler, *Black Panther*.

⁶⁸ Nyabola, "Wakanda Is Not African".

⁶⁹ Gevers, "Hiding in Plain," 116.

⁷⁰ Butler, *Bloodchild: And Other Stories*.

imagines humans beyond the current definition of the body. In *Kindred*⁷¹, Butler uses time travel to collapse the past and the present and demonstrate how erasing the realities of a racially traumatic past has produced in the present an abdication of responsibility for the future. Nnedi Okorafor writes about humans who have the power to make food grow out of dead land; in *Who Fears Death*, she also describes how Onyesonwu's rewriting of the 'Great Book' creates a new present, a world remade in 'a pocket in time, a slit in time and space'.⁷² So, we can observe the different ways in which the genre, when used optimally, directly addresses the problem of racial injustice and time as one that requires completely rethinking the world. Law and its agents must find ways to include themselves in this conversation.

Octavia Butler's *Kindred* as Jurisprudential Text: Using Black/African Science Fiction within Legal Knowledge to Unpack Racial Injustice

To properly address the key challenges facing humanity (such as global inequality, racial injustice and climate catastrophe), producers of legal knowledge need to pay closer attention to the effects of law on time and temporality. The use of B/A SF within legal education may be one starting point. Within legal knowledge, engagement with B/A SF must recognise that Black temporalities are burdened by a long history of anti-Blackness and carry within them a different but still present promise of forever. B/A SF is useful through its 'work of ... breaking down and reorganizing; disorienting and reorienting ... opening up and expanding frames of theory and politics' to artistically imagine and create 'freedom beyond the reaches of white supremacy, which is inscribed in the law'.⁷³ So, B/A SF could help us to give better accounts of the legal histories of racial injustice within legal education and research. Temporal counterfactuals help us identify and platform what is missing – missing voices, histories, bodies, structures, epistemologies and so forth. A collapse of the past, present and future helps us better understand the remnants of the past in the present and the possibilities of the future. This type of continuous questioning within the classroom is important, as Edkins reminds us that the cycle of contingency means that time and temporality are not only determined by coercive power but also by resistance to it from below and beyond it.⁷⁴ The challenge of legal knowledge is to make all times and temporalities legible. Thus, as academics, we could commit to theorising through the break to avoid repeating the ongoing violence in our present times. We could take up tools that imagine bodies and space-times beyond this colonial ever-present. This approach means to live, teach and research now as if the future we wish for already exists, 'learning from a future we have not yet reached'.⁷⁵

So, how do we analyse through and interrupt these continuities of time? In legal education, we can be more specific about the effects of Euro-modern law on time. Further, law schools could be more intentional about the relationship between racial injustice and the ontology of Euro-modern law. This approach means intentionally finding ways for Black people to be narrated back into time and ways to disrupt colonially produced hierarchies and reclaim the futures of racialised people.⁷⁶ In this regard, Octavia Butler's work is increasingly recognised as providing a foundation for contemporary works of B/A SF. Concerning herself with the status of Black women in the USA, Butler adopted the medium of speculative fiction to bend the boundaries of what can be considered possible for the body and space-time. She did this by having mainly Black female protagonists whom she places within barriers arising from racism and misogynoir, forcing them to lean on their internal power to survive, become independent, liberated and contemplate possibilities beyond the boundaries presented to them.⁷⁷ *Kindred*, in particular, has been regarded as Butler's attempt to reconcile her varied personal experiences at college in Pasadena in the late 1960s. These experiences included being introduced to alternative fiction after a lifetime of only reading white fiction, living through the assassinations of both Martin Luther King Jr and Robert F. Kennedy, as well as the rise of the Black Panther Party and 'Black Power' as a rallying cry.⁷⁸ Consequently, Butler's corpus of fiction unapologetically considers the possibility of a body 'unbounded by time and space'.⁷⁹

These themes are evident in Butler's *Kindred*, which can be regarded as a precursor to the proliferation of subsequent neo-slave narratives. In the novel, Butler's vision of the USA is one of a 'temporal and conditional shelter where trauma is ... silenced and memory repressed'.⁸⁰ The main character is Edana Franklin (Dana, racialised Black), who repeatedly travels through time throughout the story. She leaves her relatively comfortable life in 1976 Altadena, California and is transported several times to

⁷¹ Butler, *Kindred*.

⁷² Okorafor, *Who Fears*, 378.

⁷³ Zamalin, "Afrofuturism," 8–9.

⁷⁴ Edkins, "Remembering Relationality," 101.

⁷⁵ Singh, *Unthinking Mastery*, 147.

⁷⁶ Okidegbe, "Of Afrofuturism," 35–48; Capers, "Afrofuturism, Critical Race," 1–60.

⁷⁷ Salvaggio, "Black Science-Fiction Heroine," 78–81; Tranter, *Living in Technical Legality*, 110.

⁷⁸ Behrent, "Personal Is Historical," 795–796.

⁷⁹ Hampton, *Changing Bodies*, xii.

⁸⁰ Guerrero, "Crossing Time," 84.

a Maryland plantation in the 1800s during the time of racialised enslavement. Each of Dana's journeys to the past is triggered when her forebear Rufus Weyland (racialised white) is in mortal danger. She returns to 1976 each time her life is put in mortal peril in the past. On one occasion, Dana places herself in that peril by slashing her wrists. The duration of time she stays in the past is always longer than the time she is missing in the present. Dana's longest trip to the past involves eight destructive months on the plantation. Yet, on her return, she has only been gone for a few hours.

The novel uses unexplained temporal devices to explore various themes, such as survival and temporal contingency. In essence, to ensure her survival in the present, Dana must ensure Rufus's survival – even though ensuring his survival means ensuring the continuation of his sexual violence against her ancestor Alice Greenwood (racialised Black). *Kindred*'s unflinching look at history through the eyes of the present collapses time into an accumulation. This collapse invites us to think through the contingency of the present on the past and vice versa. The time spent in the past, being lengthier, dislocates our tendency towards presentism. By making Dana's stays in the past longer each time, Butler deliberately makes us take longer and deeper glances at the emotional, physical, psychic and even legal minutiae that the practice of racialised enslavement required – investments from both enslaved and slaveholders. These investments include how children were socialised into accepting the everyday brutality of the time as normal. We also question which time is the present and which is the past, forcing us to consider the value of 'present-day' freedoms and modernity. If the past is the price at which the present is bought, was that price worth it? The Fourth of July Independence Day bicentennial celebrations in the novel's 'initial-present' become flat as the journeys into the past become more vivid and vicious.

Further, by making Dana the fixed point that moves through time, *Kindred* illustrates how the social construction of 'race' evolves through time, legally granting advantage to Rufus and disadvantage to Alice and Dana. Dana's life is comparatively easy in the 1970s, but by casting her back in time, into the bosom of her multiracial family, the fragility of race, power and humanity are all shaken and unsettled. Time and temporality are revealed as not neutral backdrops in which law and racial injustice play out. They are active ingredients that produce materiality around the intricacies of love and possession. When her white husband, Kevin, accidentally travels back in time with Dana, he does not feel the same lack of security that she feels. He literally cannot. His experience of time diverges from hers sharply. In vain, she keeps trying to explain to him how their existences and exigencies differ. Despite his best intentions – his love – going back in time places them into different temporalities in which he can legally own her. Rufus's claim to love Alice while possessing and violating her reproduces parallel yet divergent resonations of Kevin and Dana's relationship.

Butler ends *Kindred* with Dana losing her left arm in the past. Her final trip ends when she kills Rufus for attempting to rape her. As he holds her arm down and threatens her life, she returns home – but not complete. Her arm is trapped and lost in the wall of her house. This physical loss demonstrates, in a deeply visceral way, how the present is ultimately trapped in the past – incomplete without it and its horrors. The prevalence of brutality during racialised enslavement means that 'reading oneself as the product of the past means one is also the product of rape'⁸¹ and dispossession. Ultimately, Dana cannot sacrifice her existence to undo these horrors. These feelings of reproduction, loss and inherited trauma are replicated in the epilogue, where Dana and Kevin travel to Maryland to find out what happened to the Weyland plantation and the enslaved people. The records they find are unsatisfactorily incomplete.

Through Dana's story, Butler invites us to think through how history plays on the present, especially the cultural amnesia surrounding racialised enslavement (to which we can add exploitative colonisation and their entangled afterlives). If past trauma is unacknowledged and unresolved, the future is almost impossible to craft or contemplate.⁸² We are trapped. This entrapment is especially illustrated by Dana's lost arm, which hints at the impossibility of even contemplating a future if the present is stuck in the walls of history.⁸³ Beyond the futility of a pessimistic vision of the future so intractably caught up in the past, *Kindred* can also be read as a means by which conditions for hopeful futurity are unearthed in ways that move beyond the hagiographic visions of the past upon which Euro-modernity relies.⁸⁴ What Butler tells us in *Kindred* is that time and temporality are non-linear and multiple and that we do not know enough about how time works.⁸⁵ This lack of full knowledge itself is a condition of possibility. Therefore, because time constantly invokes 'a dynamic and continuous invasion of the past and future',⁸⁶ in *Kindred*, Dana 'exists both despite and because of slavery'.⁸⁷ Rather than thinking of history as fixed, Euro-modern legal knowledge and its voyages into legal history must consider that 'historical events ... are always couched in a future

⁸¹ Wright, "Physics of Blackness," 85.

⁸² Guerrero, "Crossing Time," 85, 88, 94.

⁸³ Guerrero, "Crossing Time," 94.

⁸⁴ Guha-Majumdar, "Dilemmas of Hope," 130.

⁸⁵ Guha-Majumdar, "Dilemmas of Hope," 133.

⁸⁶ Guha-Majumdar, "Dilemmas of Hope," 134.

⁸⁷ Guha-Majumdar, "Dilemmas of Hope," 133.

form'.⁸⁸ Because neither the past nor the future is certain, Butler's text helps us explore how vital, though effectually uncertain, actions in the present are to uncovering the trauma of the past and attaining liberation for the future.⁸⁹

Beyond Butler's hopeful pessimism, we can also consider the specifics of achieving future justice, liberation and freedom from ongoing racial trauma. A constantly explorative understanding of the past, as far as it is possible, increases the likelihood of humanity's recovery from racial harm, the recovery of lost memories, as well as the potential for repair. However, who knows what may come beyond that? The future is not written till it becomes the present. So, Butler deliberately leaves Dana's future story open. She gives us no answers to what may come next. One could read this as the intractability of racial injustice in the colonial ever-present.⁹⁰ Alternatively, we could argue that Butler's text gives us space in legal teaching and research to craft better counterfactuals in the present about the future that break from the 'settledness' of Euro-modern time. For example, Butler recognises that freedom for Black women in the colonial ever-present is produced counter-hegemonically – against the grain of structures of Euro-modernity. Goffe understands this as the abolition of time itself through the adoption of Black temporality, which is 'a refusal to labor within the limits of history ... Black time does not demand inclusion within European colonial timelines'.⁹¹ B/A SF subverts all that is settled, including the settler's time and law.

Consequently, in reading B/A SF texts such as *Kindred*, the question for us as legal scholars is what we do in the present with our discipline, noting not only the intractability and contingency of time but also the promise of the future held in present subversive action. As Dana states, on realising that each trip makes her more accepting of the idiosyncrasies of the time and the brutality that maintaining it requires, 'I'm drawn all the way into eighteen nineteen, and I don't know what to do'.⁹² The same could be said of us – we are drawn all the way into the past. Our task is to find new ways to create new futures, by understanding how much of our legal epistemology is trapped in the walls of history. Having *Kindred* as a core legal text, for example, provides an alternative source through which legal scholars can disrupt law's reading of race and time and, through its cogitations, reflect on what *Kindred* can tell us about the law we teach, research and study. As Gurnham argues, 'the use of literature to draw attention to experiences of injustice under the law opens up a critique of its authority'.⁹³ Reading law through the eyes of B/A SF gives such space to critique law's authority and to question its temporal reproduction of racial injustice. As legal scholars, we can together interpret the system of signs that make up law, literature and racial injustice, unravelling how texts like *Kindred* unsettle our fixed ideas about societal values and beliefs. Thus, ultimately, B/A SF may give us space to understand and analyse more closely how racialisation results in parallel temporalities and disparate allocations of time for bodies structurally constructed to be placed in closer proximity to premature death than others.⁹⁴ We can analyse how concepts take on different legal materialities through different bodies, spaces and times, and therefore understand how our universal reading of the law glosses over the devastation of time.

Conclusion

Due to law's supposed linearity of time and singularity of temporality, a concentration on racial justice is sometimes presumed to be a needless preoccupation with the past. Thus, we are urged stridently to 'move on' from it. Yet, in the devastation of Euro-modern time, the admonition to move on is a demand to trap our body parts in history's walls. It is nothing less than a call for self-amputation. In response, I have argued here that the ontology of Euro-modern law requires questions of the future to be settled, predictable and foreseeable, thus erasing othered memories and human possibility. Conversely, B/A SF seeks to disrupt the inevitability of this version of the future and the question of inevitability itself. As legal scholars faced with this contradiction, as well as the long intractability of racial injustice woven into the fabric of time with the assistance of our discipline, I suggest that B/A SF gives us room to ask better questions of the discipline and ourselves. By questioning the fixity of time, we can ask ourselves what we can do now to become the law teachers and researchers we would like to be in the future. We can think through, with more clarity, what type of law students we want our law schools to produce. We can ask what type of world we want to build together and what the ontology of law will be in our uncertain future. Will it be a law that traps us in time or one that frees us?

⁸⁸ Levecq, "Power and Repetition," 550.

⁸⁹ Guha-Majumdar, "Dilemmas of Hope," 135.

⁹⁰ Donaldson, "Contested Freedom," 94–107.

⁹¹ Goffe, "Stolen Life," 110.

⁹² Butler, *Kindred*, 101.

⁹³ Gurnham, "Memory, Imagination, Justice," 8.

⁹⁴ Gilmore, *Golden Gulag*, 28.

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