

Science Fiction and the Law: A New Wigmorean Bibliography

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ABSTRACT

In 1908, Northwestern Law School Dean John Henry Wigmore compiled a list of novels that no lawyer could “afford to ignore.” Wigmore’s list, updated and amended by Professor Richard Weisberg in the 1970s, catalogs one hundred literary works ranging from *Antigone* to *Native Son*, each of which offers insight into the legal system or the practice of law. This article undertakes a similar bibliographic exercise with respect to law and the literature of science fiction. While science fiction as a literary genre has its detractors, it cannot be denied that science fiction stories – whether in books, short stories, films or television shows – reach a vast audience. For better or worse, science fiction influences popular perceptions and our understanding of science and technology issues. This has been the case since the days of Jules Verne and H.G. Wells, and it is especially true today. When we talk about genetic engineering, *Brave New World*, *Gattaca* and *Jurassic Park* are invariably mentioned. When we think about artificial intelligence, HAL, Skynet and other fictional depictions immediately come to mind. And the surveillance society? George Orwell’s *Nineteen Eighty-Four*, of course. When confronting novel legal issues arising due to rapid technological change, these speculative accounts help to inform the background intuition of judges, legislators and citizens. As such, it is imperative to

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understand the body of literature that forms these background intuitions. This article offers the first curated and categorized list of legal science fiction literature, following the model of Dean Wigmore and Professor Weisberg. The list is classified according to doctrinal themes and includes an appendix of academic literature addressing legal issues in science fiction. It is hoped that the materials in this article will serve as a useful resource for legal practitioners, policymakers, educators and citizens as they grapple with the increasing and evolving legal challenges resulting from the rapid evolution of modern science and technology.

I. WIGMORE'S LEGAL NOVELS

In 1908, Northwestern Law School Dean John Henry Wigmore of evidentiary treatise fame¹ compiled a list of 377 novels that no lawyer could “afford to ignore.”² Dean Wigmore’s first list featured mostly nineteenth-century American, British and Continental novels and included works by Honoré de Balzac, Charles Dickens, Alexandre Dumas, George Eliot, Thomas Hardy, Nathaniel Hawthorne, Victor Hugo, Leo Tolstoy, Mark Twain, John Bunyan and Miguel de Cervantes. Wigmore’s purpose in compiling his list went beyond the desire to catalog; he believed it imperative that lawyers understand how their profession was perceived by the public:

With these [novels] every lawyer must be acquainted, not merely because of his general duty as a cultivated man, but because of his special professional duty to be familiar with those features of his profession which have been taken up into general thought and literature.³

Wigmore acknowledged that the principles of legal practice can be learned from essays, and biographical and historical works.⁴ But the novel, he con-

¹ JOHN HENRY WIGMORE, A TREATISE ON THE SYSTEM OF EVIDENCE IN TRIALS AT COMMON LAW (1904). This treatise, popularly known as *Wigmore on Evidence*, has been released in numerous editions and remains in print today.

² John H. Wigmore, *A List of Legal Novels*, 2 ILL. L. REV. 574, 575 (1908) [hereinafter *Wigmore’s 100 Legal Novels* (1908)]. Wigmore reports that he began his compilation effort in 1898 with a list of 50 titles. *Id.* at 586. By 1900 he had expanded the list to about one-hundred titles and published it in a publication entitled *The Brief* in 1900. *Id.* Over the next few years, his colleagues and students at Northwestern Law School, as well as other readers, helped him to bolster the list to 377 titles. *Id.* at 586-87.

³ *Id.* at 575-76.

⁴ See generally *Wigmore’s 100 Legal Novels* (1908), *supra* note 2.

tended, immersed the reader in its subject with an immediacy and empathy that are difficult to achieve through more didactic writings. Thus:

This deepest sense of their reality we shall get only in the novels . . . We must go to “Bleak House” to learn the real meaning of chancery’s delays, to “Oliver Twist” to see the actual system of police and petty justice in London, to “Pickwick Papers” to appreciate the technicalities of civil justice . . . There is in fact hardly an end to the line of boundary where history and law unite in the pages of the novelist.⁵

In addition to morally complex works by the likes of Tolstoi and Balzac, Wigmore’s list also included numerous works of popular fiction. Though he deliberately excluded “the ordinary detective story,”⁶ he listed nineteenth-century authors such as Arthur Conan Doyle, Walter Scott, H. Rider Haggard, Edward Bulwer-Lytton⁷ and a host of names the modern reader would likely not recognize. These writers are best characterized as the John Grishams and Scott Turows of their day, purveyors of popular novels intended for mass consumption, filled with interesting characters and plot twists, and along the way educating readers about the law, the legal system and the professional bar.

In 1922, Wigmore published an update to his 1908 list, explaining that the 1908 journal in which the original was published had long-since been out of print, and he recognized a continuing “demand” for “a good reading list of standard Legal Novels.”⁸ In his 1922 list, Wigmore reduced the number of titles on the list from 377 to 103, rounding to 100 for purposes of description.⁹ No explanation is provided for the deletions, but a comparison of the two lists reveals the elimination of authors of lesser renown like Harrison Ainsworth, Berthold Auerbach and John Galt as well as major literary figures like Elizabeth Gaskell and Thomas Hardy. The 1922 list also includes fewer works by many of the remaining authors; for example, Francis Bret Harte is featured eleven times in 1908 but just twice in 1922.

Wigmore’s influential 1908 and 1922 lists have been credited with launching the field of law and literature: The systematic study of literary

⁵ *Id.* at 577-79.

⁶ *Id.* at 575.

⁷ Sir Edward George Bulwer-Lytton is best-known today as the author of the opening line “It was a dark and stormy night . . .”. EDWARD GEORGE BULWER-LYTTON, PAUL CLIFFORD 9 (London, John Dicks 1830).

⁸ John H. Wigmore, *A List of One Hundred Legal Novels*, 17 ILL. L. REV 26, 39 (1922) [hereinafter *Wigmore’s Update* (1922)].

⁹ *Id.*

texts relating to the law, and of legal texts as literary artifacts.¹⁰ In 1976, Professor Richard Weisberg, one of the founders of the modern law and literature movement,¹¹ revised Wigmore's list.¹² Weisberg added more recent works like *To Kill a Mockingbird*, *The Stranger*, *The Trial*, *Native Son*, and works that were not yet appreciated when Dean Wigmore compiled his lists in 1908 and 1922 (e.g., Melville's *Billy Budd*, now a staple of the law and literature canon). Weisberg also included recently translated works from authors like Dostoyevsky and Gogol, as well as a few prominent figures from antiquity (Ovid, Aeschelus, and Sophocles, plus the anonymous authors of the Icelandic sagas and the Book of Esther). Weisberg also expanded the scope of the list to include both short stories and dramatic works (namely the works of Shakespeare, another staple on today's law and literature syllabi). Finally, Weisberg included an addendum of twenty-six "Critical Works" that examine the role of law in literature.¹³ These ranged from Ephraim London's classic 1960 text *The Law as Literature; The Law in Literature* to several entries in a 1975 issue of the *Rutgers Law Review* devoted to law and the humanities. To make space for these additions, Weisberg trimmed much of the popular fiction on Wigmore's list, including everything by Conan Doyle, Scott, Haggard, and Bulwer-Lytton.

Like Dean Wigmore before him, Professor Weisberg's update was no mere pedantic curatorial exercise. During the tumultuous 1970s, Weisberg felt Wigmore's list was needed more than ever. A change had occurred in the legal profession, and "[t]here can be little doubt," Weisberg wrote, "that individual lawyers remain as literate as they were in Wigmore's day; but legal institutions, including surprisingly the legal academy, have all but

¹⁰ See, e.g., William H. Page, *The Place of Law and Literature*, 39 VAND. L. REV. 391, 391 (1986); Richard H. Weisberg, *Coming of Age Some More: "Law and Literature" Beyond the Cradle*, 13 NOVA L. REV. 107, 107-08 (1988) [hereinafter *Coming of Age*]; Anne McGillivray, *Recherche Sublime: An Introduction to Law and Literature*, 27 MOSAIC: INTERDISC. CRIT. J. i, ii-iii (1994); Richard H. Weisberg, *Wigmore and the Law and Literature Movement*, 21 L. & LITERATURE 129 (2009) [hereinafter Weisberg, *Wigmore and Law & Literature*].

¹¹ Weisberg, *Wigmore and Law & Literature*, *supra* note 10, at 130.

¹² See Richard H. Weisberg, *Wigmore's Legal Novels Revisited: New Resources for the Expansive Lawyer*, 71 NW. U. L. REV. 17 (1976-1977) [hereinafter Weisberg, *Revised List* (1976)]. Karen Kretschman also updated Wigmore's list in 1976. See KAREN L. KRETSCHMAN, *LEGAL NOVELS: AN ANNOTATED BIBLIOGRAPHY* (Tarlton Law Library Legal Bibliography Ser. No. 13, 1976). Weisberg and Kretschman published a combined update in 1977. See Richard H. Weisberg & Karen L. Kretschman, *Wigmore's "Legal Novels" Expanded: A Collaborative Effort*, 7 MD. L. F. 94 (1977).

¹³ Weisberg, *Revised List* (1976), *supra* note 12, at 27-28.

broken off from their humanistic roots.”¹⁴ As evidence of the moral drift afflicting the legal profession, Weisberg pointed to the Watergate scandal and the “value-free” machinations of trained attorneys like President Richard Nixon and Vice President Spiro Agnew.¹⁵ In doing so, Weisberg hoped that his updated list would provide lawyers with not only a view of the public perception of their profession, but also an ethical compass to guide their actions.¹⁶

In 2009, Weisberg again revisited Wigmore’s list in an article appearing in *Law & Literature*, continuing to find value in its potential to educate. Reading the works on these lists, he contended, offers the lawyer at least the following tools:

- (1) skepticism about authoritative rationales that seem intuitively wrong;
- (2) an ability to link ethics to one’s rhetorical performance;
- (3) excellence in listening and writing skills; and
- (4) an openness to the perspective of individuals whose way of seeing the world places them “outside” the scheme of conventional legal understanding.¹⁷

There have been numerous other catalogers of legal-themed literary works, many of whom have sought to expand beyond the geographic, political and practical scope outlined by Wigmore and his followers.¹⁸ After more than a century, literary works such as those collected by Wigmore and others continue to inform and inspire lawyers, and to populate reading lists, around the world.

II. SCIENCE FICTION AND THE LAW

Science fiction (also known as speculative fiction) is a broad thematic category that includes works (literary and, increasingly, film and television)

¹⁴ *Id.* at 17-18.

¹⁵ *Id.* at 18. Richard Nixon, 37th President of the United States (1969-1974), resigned from office following the Watergate scandal. Spiro Agnew, Vice President of the United States from 1969-73, resigned from office after allegations of tax fraud and corruption.

¹⁶ *See id.*

¹⁷ Weisberg, *Wigmore and Law & Literature*, *supra* note 10, at 140.

¹⁸ *See* David R. Papke, *Law and Literature: A Comment and Bibliography of Secondary Works*, 73 L. LIBR. J. 421, 423 (1980) (describing post-Wigmore cataloging efforts); Elizabeth Villiers Gemmette, *Law and Literature: An Unnecessarily Suspect Class in the Liberal Arts Component of the Law School Curriculum*, 23 VAL. U. L. REV. 267 (1989) (compiling a list of all literary works included in the “law and literature” syllabi of 135 U.S. law schools).

that contain elements that are possible within the known rules of the universe, but do not exist in the present day.¹⁹ As writer Norman Spinrad described it, science fiction works include “a speculative element belonging to the sphere of the ‘could be, but isn’t.’”²⁰ Science fiction is distinguishable from works of fantasy and mythology like *The Odyssey* or the *Lord of the Rings* in which no (even remotely) plausible explanation is given to the extraordinary. Fantasy and mythology rely on magic or acts of the gods; as Spinrad observes, they “openly and knowingly contradict[] what we presently consider the ‘possible.’”²¹ Science fiction, on the other hand, attempts to explain its eccentricities by reference to known scientific principles, no matter how outlandish or implausible.²²

As a literary genre, science fiction has an uneven reputation. It is often filled with plot-driven narratives akin to Wigmore’s “ordinary detective stor[ies],”²³ and it is derisively, but affectionately, said that the “Golden Age of Science Fiction is twelve.”²⁴ With a few exceptions, writers of science

¹⁹ See ADAM ROBERTS, *THE HISTORY OF SCIENCE FICTION* 1-21 (2d ed. 2016) (discussing the definitions of “science fiction”).

²⁰ Norman Spinrad, *Science Fiction in The Real World* xiv (1990).

²¹ *Id.* at 18-20. Another genre that is distinct from science fiction is allegory, in which extraordinary events – talking animals, genies granting wishes, people growing and shrinking – are not explained at all. Thus, works like Swift’s *Gulliver’s Travels*, Carroll’s *Through the Looking Glass*, Orwell’s *Animal Farm* and Yorgos Lanthimos’s recent film *The Lobster*, which present fantastical situations purely to comment on current political events, are not science fiction.

²² The dividing line between science fiction and fantasy is often blurred. For example, in the popular *Star Wars* films, the omnipresent “Force” was originally presented as a quasi-religious/mythical phenomenon (the phrase “May the Force be with you” echoing that of the Christian liturgy). Yet when the producers sought to add scientific credibility to the otherwise metaphysical Force in *The Phantom Menace* (1999) by attributing it to the action of microscopic organisms known as “midichlorians,” fans revolted. See Graig Stephens, *The Phantom Menace: The Good, The Bad, and The Midi-chlorians*, *FANSIDED: DORK SIDE OF THE FORCE*, <https://perma.cc/8HKH-5A3M> (last visited Oct. 28, 2021). Another work that is often classified as science fiction, but which is closer to fantasy, is N.K. Jemisin’s *Broken Earth* series, in which a select group of humans mentally control Earth’s seismological instability with little scientific explanation.

²³ Wigmore’s “100 Legal Novels” (1908), *supra* note 2, at 575.

²⁴ The term “Golden Age of Science Fiction” refers to a period from the late 1930s to the 1950s characterized by works and authors that appeared in John W. Campbell, Jr.’s magazine *Astounding Science Fiction*. See ROBERTS, *supra* note 19, at 195; Brian Attebery, *The Magazine Era: 1926-1960* in *THE CAMBRIDGE COMPANION TO SCIENCE FICTION* 32, 37 (Edward James & Faran Mendleson eds., 2003). The gentle denigration of this term to refer to the juvenile appeal of the genre came later. See Bruce L. Rockwood, *Law, Literature, and Science Fiction: New Possibilities*, 23

fiction do not win prestigious literary awards,²⁵ and those that do are best known for other works.²⁶ Only a handful of authors who are known primarily for their science fiction – Margaret Atwood and George Orwell in particular – have earned places in the mainstream literary pantheon. Yet science fiction has, for at least half a century, been the subject of serious scholarly attention. In 1958, the Modern Language Association held its first academic seminar on science fiction,²⁷ and by 1972, two annotated bibliographies of science fiction criticism were published.²⁸ Science fiction scholarship has drawn upon academic disciplines such as political science, gender/LGBTQ+ studies, critical theory, linguistics, and, more recently, law.²⁹

Science fiction has much to say about the modern world and – perhaps surprisingly – the legal systems that govern it. As Bruce Rockwood observed in his opening remarks at a 1999 symposium on science fiction and the law, “Science Fiction . . . explores political, legal and ideological alternatives, commenting upon both our present and possible futures.”³⁰ Science fiction authors extrapolate from the issues of the day, predicting what might happen if the world continues on one course or another. The genre allows them to speculate about the consequences of new technologies and discover-

LEGAL STUD. F. 267, 269 (1999) (discussing the origin of this saying, attributed alternately to science fiction writers Isaac Asimov and Terry Carr).

²⁵ Science fiction has its own awards universe, consisting of the Nebula and Hugo awards, as well as other lesser accolades.

²⁶ Doris Lessing, the author of the five-volume science fiction series *Canopus in Argos* (this list) won the 2007 Nobel Prize in Literature. She is best known for contemporary novels such as *The Golden Notebook* (1962). Kazuo Ishiguro, the author of *Never Let Me Go* (this list) won the 2017 Nobel Prize in Literature. Ishiguro’s 2021 novel *Klara and the Sun* is also a work of science fiction, though he is best known for *The Remains of the Day* (1989), which focuses on the reflections of an English butler during World War II. Interestingly, the 1974 Nobel Prize in Literature was awarded to Harry Martinson, whose Swedish book-length epic science fiction poem *Aniara* (1956) was among his best-known works, though it is little read outside of Sweden today (the 2018 film adaptation is far more accessible).

²⁷ MARSHALL B. TYMN ET AL., *A RESEARCH GUIDE TO SCIENCE FICTION* Studies vii (Garland Reference Library of the Humanities Vol. 87 1977).

²⁸ See Thomas D. Clareson, *Science Fiction Criticism: An Annotated Checklist* (1972); Robert E. Briney & Edward Wood, *SF Bibliographies: An Annotated Bibliography of Bibliographic Works on Science Fiction and Fantasy Fiction* (1972).

²⁹ For a discussion of critical scholarship that relates to science fiction and the law, see *infra* Section III.D.

³⁰ Rockwood, *supra* note 24, at 271; see also Orna Ben-Naftali & Zvi Triger, *The Human Conditioning: International Law and Science-Fiction*, 14 L., CULTURE & HUMANS. 6, 15 (2018) (“[Science fiction] focuses on our present ideological, moral and legal disputes and in playing them out in imagined futures, proposes both criticism and alternatives.”)

ies in a fictional setting. And it is undeniable that many of their predictions have been realized, from Jules Verne's submarines to the communicators used by Starfleet.³¹

But the images of the future predicted by science fiction have not always been rosy. The post-war era saw a boom in literature envisioning new and terrifying totalitarian states, most famously illustrated by Orwell's *Nineteen Eighty-Four*.³² In the 1950s, science fiction offered chilling predictions about atomic bomb-induced genetic mutations (*Godzilla, Them!*) and nuclear apocalypse (*On the Beach, Alas Babylon*). In the 1970s, fear of overpopulation and ecological disaster led to films such as *Silent Running* and *Soylent Green*. The emergence of personal computers and video games in the 1980s gave rise to the cyberpunk movement exemplified by works like *Neuromancer* and *Snow Crash*. And the rise of the biotechnology industry in the 1990s inspired tales of genetic engineering gone awry, splendid examples of which can be found in the novel *Jurassic Park* and the film *Gattaca*. It can be argued that much of what the public knows about space travel, genetic engineering, human cloning, nuclear weapons, nanotechnology, artificial intelligence, virtual reality and every other technological development of the last century is gleaned largely from works of science fiction.³³

Science fiction offers fertile ground for speculation about the future of technology and its effect on human society.³⁴ As such, it is an ideal medium in which to consider how the law can and should develop in the face of technological change. Lawyers, judges and law professors thrive on hypothetical scenarios. Within the context of a science fiction story, an author can postulate a law or rule that responds to a scientific or technological discovery in a way that extends far beyond the classroom thought experi-

³¹ See, e.g., Anthony J. Melchiorri, *Imagined Worlds Made Real*, RICE MAG. (May 2021), <https://perma.cc/8F9C-6PTC/> (offering examples of real technologies first depicted in science fiction works).

³² See, e.g., Marina MacKay, *Anti-State Fantasy and the Fiction of the 1940s*, 24 LIT. & HIST. 27 (2015).

³³ Science fiction is popular. Of the twenty top-grossing films of all time (adjusted to 2020 dollars), eight (five from the *Star Wars* franchise alone) were squarely in the science fiction camp as of October 2021. *Top Lifetime Adjusted Grosses*, BOX OFFICE MOJO BY IMDBPRO, <https://perma.cc/HZU9-FZE9> (last visited October 29, 2021).

³⁴ See *Sci-Fi Is a Good Way to Learn Political Theory*, WIRED (Sept. 24, 2021, 11:28 AM), <https://www.wired.com/2021/09/geeks-guide-political-theory/> [<https://perma.cc/32N7-XE2Y>] (interviewing government professor Joseph Reisert).

ment.³⁵ When a judge or a policymaker is faced with the necessity for a new legal rule, he or she typically considers, in addition to formal analytical factors – economic cost, consistency with existing rules, administrability, etc. – personal experience.³⁶ Early twentieth century legal realists and late twentieth century critical legal studies scholars have argued that this inherently human tendency is unavoidable and, in many cases, desirable.³⁷ For example, thinking about mortgage reform, the policymaker invariably considers how systemic changes would affect his or her monthly mortgage payments, or those of a parent, sibling or child. In contemplating the length of a sentence for various offenses, the judge cannot help but think how he or she has spent, or would spend, the number of years that the accused will be put away.

But in the case of new technologies and discoveries, there are few personal experiences from which to draw. When we consider regulating human gene editing, or orbital weapons systems, or cerebral implants, personal experience fails us. Not only do we lack any direct experience with new technology, but we have little idea how different regulatory regimes would play out. This is where science fiction can help. Science fiction offers the ultimate legal hypothetical. It is not only analytical, as a government report or law review article can be, but also emotive. It portrays characters living with the consequences of different regulatory and legal regimes. And if the characters are believable, and the legal rules are plausible, then “experience,” as it is, can be simulated where none existed before. Works of science fiction thus serve as extended thought experiments, the best of which achieve character empathy that can give purchase to policy arguments and analysis. As science fiction master Arthur C. Clarke wrote, “[b]y mapping out possible futures, as well as a good many improbable ones, the science fiction writer does a great service to the community.”³⁸

³⁵ In 1922, Wigmore himself recognized the instructive value of “interesting pictures of alien systems of justice,” although he was referring not to extraterrestrial, but European, legal systems. *Wigmore’s Update* (1922), *supra* note 8, at 30.

³⁶ See, e.g., Joel B. Grossman, *Social Backgrounds and Judicial Decision-Making*, 79 HARV. L. REV. 1551, 1552 (1966) (“[J]udicial decisions — and particularly constitutional law decisions — are at least partially attributable to the personal values and experiences of the judges . . .”); HENRY R. GLICK, COURTS, POLITICS, AND JUSTICE 313 (3d ed. 1993) (“The study of judges’ personal backgrounds assumes basically that people behave according to who they are.”).

³⁷ See, e.g., Duncan Kennedy, *Form and Substance in Private Law Adjudication*, 89 HARV. L. REV. 1685 (1976); Andrew Altman, *Legal Realism, Critical Legal Studies, and Dworkin*, 15 PHIL. & PUB. AFFS. 205 (1986).

³⁸ Arthur C. Clarke, *Foreword*, in THE COLLECTED STORIES OF ARTHUR C. CLARKE (2001); see also Camilla A. Hrdy & Daniel H. Brean, *Enabling Science Fiction*,

Consider human genetic enhancement as an example. Today, this technology does not yet exist outside of the laboratory, though there is a teeming bioethics and legal literature discussing its potential regulation.³⁹ Part of the impetus behind this policy interest may derive from the vast fictional catalog of literature touching the subject. What policymaker, let alone academic, has not considered the dystopian vision of the 1997 film *Gattaca* when analyzing the regulation of genetic engineering? Or the corporate excesses described in Atwood's *Oryx and Crake*⁴⁰ or Crichton's *NEXT*?⁴¹ And, most recently, the risk of release of viral biowarfare agents in Crichton's *Andromeda Strain*?⁴²

And there is evidence that courts, at least, do refer to these science fiction touchstones when considering such issues. For example, when assessing the constitutionality of a federal statute requiring the DNA profiling of certain criminal offenders, the Ninth Circuit reasoned, "when such a policy's constitutionality is determined merely by whether it seems reasonable under the totality of the circumstances, we all have reason to fear that the nightmarish worlds depicted in films such as *Minority Report* and *Gattaca* will become realities."⁴³ And Orwell's *Nineteen Eighty-Four* is so pervasive in the popular imagination that a recent LEXIS search identifies forty-five federal and state cases mentioning the novel in their reasoning,⁴⁴ including a lengthy excerpt quoted by Justice Rehnquist in a 1979 dissenting opinion in which he argues that "the Court's opinion is ahead of its time: it could more appropriately have been handed down five years from now, in 1984, a year coinciding with the title of a book from which the Court's opinion

27 MICH. TECH. L. REV. 399, 400 (quoting Clarke); *see also* Conor Casey & David Kenny, *How Liberty Dies in a Galaxy Far, Far Away: Star Wars, Democratic Decay, and Weak Executives*, L. & LIT., MS at 3-4 (forthcoming 2022) (observing "that by transplanting legal ideas into fictional worlds which they can control, authors can explore its implications in a space far less problematic that transplants in the real world, which are a fraught enterprise") (citing Jaakko Husa, *Comparative Law, Literature and Imagination: Transplanting Law into Works of Fiction*, 28 MAASTRICHT J. EUR. & COMPAR. L. 371, 371 (2021)).

³⁹ *See, e.g.*, HENRY T. GREELY, *CRISPR PEOPLE: THE SCIENCE AND ETHICS OF EDITING HUMANS* (2021); WALTER ISAACSON, *THE CODE BREAKER: JENNIFER DOUDNA, GENE EDITING, AND THE FUTURE OF THE HUMAN RACE* (2021).

⁴⁰ Margaret Atwood, *Oryx and Crake* (2003).

⁴¹ MICHAEL CRICHTON, *NEXT* (2006).

⁴² MICHAEL CRICHTON, *THE ANDROMEDA STRAIN* (1969); *see also* Luis A. Campos, *Pandora's Pandemic*, 371 SCI. 1111 (2021) (drawing lessons for the current COVID-19 pandemic from the film adaptation of Crichton's novel).

⁴³ *United States v. Kincade*, 379 F.3d 813, 851 (9th Cir. 2004).

⁴⁴ Search conducted by the author on Oct. 23, 2021.

borrow, perhaps subconsciously, at least one idea.”⁴⁵ Even the distinguished legal scholar Cass Sunstein⁴⁶ has written an entire book about *Star Wars* and the insights that it offers for law, society and the Constitution.⁴⁷

While science fiction is of course, fiction, it is clearly convincing enough to give pause and to help a reader or a court to envision possible scenarios that *could* evolve. As Wigmore wrote on the literature of the law more generally, “the lawyer, whose highest problems call for a perfect understanding of human character and a skillful use of this knowledge, must ever expect to seek in fiction as in an encyclopedia, that learning which he cannot hope to compass in his own limited experience.”⁴⁸

III. COMPILING A LIST OF LEGAL SCIENCE FICTION WORKS

Though a few works of science fiction existed in Wigmore’s day, and the genre had achieved significant popularity by Weisberg’s time, neither list contained any works of science fiction, with one exception.⁴⁹ This omis-

⁴⁵ *United Steelworkers v. Weber*, 443 U.S. 193, 219 (1979) (Rehnquist, J., dissenting).

⁴⁶ According to a recent study, Sunstein is the second-most cited legal scholar of all time. Fred R. Shapiro, *The Most-Cited Legal Scholars Revisited*, 88 U. CHI. L. REV. 1595, 1602 (2021).

⁴⁷ CASS R. SUNSTEIN, *THE WORLD ACCORDING TO STAR WARS 2* (2019) (“Star Wars is bipartisan and all-American . . . In all of human history, there’s never been a phenomenon like Star Wars.”).

⁴⁸ *Wigmore’s “100 Legal Novels”* (1908), *supra* note 2, at 580. It is worth noting that science fiction references are also used in legal writing to illustrate points unrelated to their advanced or alien technologies. Most notably, Sunstein analogizes judicial decision-making in the common law system to the development of new “episodes” in the *Star Wars* saga. SUNSTEIN, *supra* note 47, at 150. (“Constitutional law is full of ‘I am your father’ moments – twists and turns, reversals, unanticipated choices, seeds and kernels that launch whole new narratives. Judges are authors of Episodes, facing a background that they are powerless to change. But they are nonetheless able to exercise a lot of creativity.”). Sunstein also uses *Star Wars* to question the originalist approach to constitutional interpretation. *Id.* at 160 (“[W]hen he wrote *A New Hope*, [George] Lucas had no idea about what would become major plot developments in *The Empire Strikes Back* and *Return of the Jedi*. It would have been preposterous for him, and for his coauthors and successors, to write further installments with reference to the question: *What was Lucas’s original understanding?*”).

⁴⁹ Anthony Burgess’s *A Clockwork Orange* (1962) made it onto Weisberg’s 1976 revision of Wigmore’s list. Weisberg describes his engagement with this novel in a later article:

I recall attending, in 1975, a weekly reading group of most of the Stanford Law School faculty. The subject was *A Clockwork Orange*, Anthony Bur-

sion may be understandable given the genre's historical (and undeserved) reputation as lacking serious literary merit. However, given the insights that works of science fiction can offer to judges, policymakers and lawyers, the time is ripe for the creation of such a list. This Part outlines the methodology I used to compile a list of fifty legal science fiction works that can be used to inform judicial and legal reasoning and understanding of the rapid growth of modern science and technology. There is necessarily a subjective element to these determinations, and I do not pretend to shed my personal preferences or experience in compiling this list. Part A describes the substantive selection criteria that I used in compiling this list (i.e., what qualifies as a work of legal science fiction?). Part B outlines more technical selection criteria (i.e., which works of legal science fiction were selected for the list?). And Part C defines the plot categories that are used to group the works.

A. Substantive Selection Criteria

If we accept the need, or at least the utility, of a list of legal science fiction works, we must next ask how we should go about compiling such a list. Following the method of Wigmore and Weisberg, some selection criteria must be developed. As Wigmore asks, “[w]here shall the line be drawn?”⁵⁰

First, the list includes only works of science fiction. While there are multiple definitions of “science fiction,” this article will utilize the definition already provided: Works that contain settings, societies, or technologies that, while seemingly possible within the known rules of the universe, do not exist in the present day.⁵¹ Using this definition excludes from the list a large number of popular fantasy, superhero,⁵² mythological, horror⁵³ and

gess's frightening look into the criminal justice system of the undistant future. Several younger faculty members expressed literal outrage that a work of fiction had been chosen, as opposed to the common run of legal history, biography, economic theory or — at one extreme of tolerance — Rawlsian jurisprudence. There was, among this group of bright lawyers, absolutely no affect in the direction of the imaginative, the intuitive and the irrational, even when the subject matter of the creative work clearly interested the given audience.

Coming of Age, *supra* note 10, at 111.

⁵⁰ Wigmore's “100 Legal Novels” (1908), *supra* note 2, at 574.

⁵¹ See ROBERTS, *supra* note 19, at 1-21 (discussing the definitions of “science fiction”).

⁵² Superhero stories originate from comic books and dominate the film industry today. They present a tricky definitional conundrum. *Cf. supra* note 22 (discussing

similar works. Even important allegorical works such as *Animal Farm* must reluctantly be omitted.⁵⁴

Second, to merit inclusion on the list, a work must contain a significant legal element. While the story need not be devoted *entirely* to a legal dispute or issue, the legal element must nonetheless form at least a significant aspect of the plot or the backdrop to the story. For example, in *Blade Runner*, non-human replicants are legally prohibited from returning to Earth. This restriction forms the basis for the crime noir plot.⁵⁵ While the plot of *Blade Runner* does not dwell on the minutiae of these legal rules, they form an essential backdrop to the action, and the implications of such restrictions are explored in some detail.

That being said, a work that simply depicts contemporary legal issues in a futuristic or alien setting does not qualify for the list. For example, fighting conventional crimes using advanced technologies (e.g., the sentient car in *Knight Rider*) or a mechanized police force (*RoboCop*) do not make the grade. Likewise, a story describing an otherwise conventional murder on a remote space station, while qualifying as science fiction, is probably not sufficiently legal to merit inclusion on a list of legal science fiction. In other

“the Force” in *Star Wars*). In some cases, the “explanation” for the superpowers possessed by heroes and villains is purely magical or mythological (e.g., Thor, Wonder Woman, Aquaman) while in others a putative scientific rationale is offered (e.g., Spiderman was bitten by a radioactive spider, Superman was born on the planet Krypton, and the X-men possess genetic mutations). Though one may scoff at comic book science-babble, it is no less explanatory or implausible than *Star Trek*’s warp drive or transporters, so why is *Star Trek* a revered member of the science fiction pantheon while *Superman* falls outside of the category entirely? There is probably no better answer than custom. Because a spaceship traveling at very fast speeds *seems* more scientifically plausible than a man doing so, we classify *Star Trek* as science fiction, but not *Superman*. After all, as observed by Arthur C. Clarke in what has become known as Clarke’s “Third Law,” “[a]ny sufficiently advanced technology is indistinguishable from magic.” Arthur C. Clarke, *Hazards of Prophecy: The Failure of Imagination*, in *PROFILES OF THE FUTURE: AN INQUIRY INTO THE LIMITS OF THE POSSIBLE* 14 (1962).

⁵³ The “zombie” movie genre presents another definitional conundrum. Traditionally, zombies – corpses reanimated through occult or supernatural means – fall into the realm of horror and lack a scientific element. However, in recent years several films in the “zombie” genre have sought to explain the animation of corpses through pseudo-scientific explanations which usually involve an infectious agent (e.g., *The Walking Dead* (2010-present), *World War Z* (2013), *Train to Busan* (2016)). For classification purposes, I considered “viral zombie” stories to be science fiction, such as *28 Days Later* (2002), which involves the rapid conversion of *living* individuals into rabid monsters via a “rage” virus.

⁵⁴ See *supra* note 21 (discussing allegory).

⁵⁵ *BLADE RUNNER* (The Ladd Company et al. 1982).

words, the off-world aspects of the murder, including its motives, method or investigation, must foster consideration of not only the science fiction trappings of the story, but its *legal* aspects. Thus, is the murder of an alien treated differently than the murder of a human? What about an android? These plot twists add a speculative dimension to the legal aspect of the story and thus merit inclusion on the list.

Likewise, stories concerning the waging of war, political intrigue, and government oppression, even when played out in alien or futuristic settings, may not qualify as “legal” science fiction unless the issues go beyond those that are found in similar stories that take place back home. By the same token, a story that adopts the trappings of the legal process merely as decorative set pieces does not qualify as legal science fiction. For example, the kangaroo trial of humanity conducted by the alien entity Q in the *Star Trek: The Next Generation* episode “Encounter at Farpoint” is not a trial in any real sense of the word.⁵⁶ Despite the fetching judicial robes and courtroom setting, the episode does not address legal issues in a meaningful sense.

Third, as both Wigmore and Weisberg teach, the work should have achieved some degree of public recognition in order to be recommended broadly as an exemplar of its class. For science fiction works, this recognition can take the form of awards, inclusion in anthologies, discussion in the secondary and scholarly literature, or, in the case of television series or movies, continued availability via popular streaming channels. While I avoided works that are too recent to have withstood the test of time, I have included one recent television series – *Black Mirror* – because of its strong legal themes and popularity.⁵⁷

On the other hand, I have included some lesser-known works as well. For example, the 2003 short film *The Second Renaissance* by Japanese animator Mahiro Maeda is included. It is an animated short film that is part of the collection titled *The Animatrix*, a moderately obscure member of the Matrix franchise. I selected *The Second Renaissance* in lieu of any of the far better-known *Matrix* films because it is a legal tour de force, detailing the laws and political pressures that led to the dystopian, machine-ruled world of the films.⁵⁸ It is, in effect, a parable of racial oppression – man versus machine – in which the oppressed eventually rise up and prevail, with hideous consequences for the oppressors. Thus, while the work is little known today, I would encourage the curious to seek it out.

⁵⁶ *Star Trek: The Next Generation: Encounter at Farpoint* (Paramount Pictures Sept. 28, 1987).

⁵⁷ *Black Mirror* (Zepotron & House of Tomorrow 2011-present).

⁵⁸ THE SECOND RENAISSANCE (Village Roadshow Pictures et al. 2003).

B. Technical Selection Criteria

As for the types of works included, I have taken an expansive view. Novels and short stories are included, as they are on the Wigmore-Weisberg lists. But given the tremendous reach and impact of television and film today, it would be myopic not to include works of media on the list. This is particularly relevant because some of the best-known science fiction works in recent memory are films.⁵⁹ On this list, films are identified by director rather than screenwriter in accordance with industry practice.

Television series present a unique challenge. *Star Trek*, perhaps the most extensive science fiction franchise of all time, spans nine television series, thirteen feature films and dozens of books produced over the course of a half-century. While these exist in a common universe with key shared elements (the United Federation of Planets, the Prime Directive, the major alien species), they span hundreds of years of future history, feature dozens of major characters and introduce thousands of story lines. Given the breadth and importance of a television series like *Star Trek*, I have treated each episode as a unique work identified by screenwriter. In addition to its creator Gene Roddenberry, *Star Trek* included many science fiction luminaries among its writers. These included Harlan Ellison (“City on the Edge of Forever”), Theodore Sturgeon (“Amok Time,” “Shore Leave”), Robert Bloch (“What Are Little Girls Made Of?,” “Catspaw,” “Wolf in the Fold”), Frederic Brown (“Arena”) and Norman Spinrad (“The Domsday Machine”).

In many cases, multiple versions of a work exist. A book or a story may be adapted for film or television, or a film may be “novelized” as a book. In compiling this list, I have listed the version of a work that is either best known, or which best captures the legal element that is of interest. If two versions of a work are well-known and address the legal element, I have generally listed the earlier version. If the work exists in a significant secondary version, I note that in a footnote. For example, for Kazuo Ishiguro’s poignant story of human clones, *Never Let Me Go*, I have listed the 2005 novel, with a note referencing the respectable 2010 film. However, I list Ridley Scott’s 1982 noir film masterpiece *Blade Runner*, with a note referencing Philip K. Dick’s 1968 novel, *Do Androids Dream of Electric Sheep?* because the film is far better known than the novel and also bears little

⁵⁹ See *supra* note 33.

resemblance to it. In cases in which a film adaptation of a book or story is of far lower quality than the original, I have not listed the adaptation at all.⁶⁰

A diversity of viewpoints is also important in a list like this. It is well-known that the early history of science fiction was dominated by white, male authors.⁶¹ In the 1950s, more women began to emerge as meaningful voices in the genre and in 1968 and 1969 a watershed moment for women occurred when Anne Inez McCaffrey and Ursula K. Le Guin won major literary prizes in the genre.⁶² Other significant female authors including Joanna Russ, Doris Lessing, Octavia Butler and Margaret Atwood emerged soon thereafter, and in the last twenty years, women have won a majority of the Nebula Awards for the Best Science Fiction Novel and half of the Hugo Awards for the Best Science Fiction/Fantasy Novel.⁶³ And in 2021, *all* of the nominees for the Hugo Award for Best Novel were women,⁶⁴ and Le Guin was featured on a U.S. postage stamp.⁶⁵

People of color have also attained notable success in the science fiction world once dominated by white males. In the 1960s, Samuel R. Delany stood out as the only prominent openly gay or Black author writing in the genre.⁶⁶ In the last several decades, Black authors including Delany, Butler, Nnedi Okorafor and N.K. Jemisin have won the Hugo and Nebula

⁶⁰ For example, the 2004 film adaptation of Asimov's classic book *I, Robot* starring Will Smith bears so little resemblance to the original that I find no reason to acknowledge its existence. *I, ROBOT* (Davis Entertainment et al. 2004). The 2006 rotoscope animated version of Philip K. Dick's *A Scanner Darkly* (1977), though faithful to the book's plot, is so painful to watch (with partially animated versions of Keanu Reeves, Robert Downey Jr., Woody Harrelson, and Winona Ryder) that I would not inflict it on anyone. *A SCANNER DARKLY* (Thousand Words et al. 2006).

⁶¹ See HELEN MERRICK, *Gender in Science Fiction*, in *THE CAMBRIDGE COMPANION TO SCIENCE FICTION* 241 (Edward James & Faran Mendleson eds., 2003). *But see* *SISTERS OF TOMORROW: THE FIRST WOMEN OF SCIENCE FICTION* xvii (Lisa Yaszek & Patrick B. Sharp eds., 2016) (noting that women made up roughly 16% of pulp science fiction writers, artists, editors, and journalists from 1926-1945).

⁶² See *Awards by Year*, NEBULA AWARDS, <https://perma.cc/HLR7-H4LT> [hereinafter *Nebula Awards*]; *Hugo Awards by Year*, HUGO AWARDS, <https://perma.cc/3MVA-K7MX> [hereinafter *Hugo Awards*].

⁶³ See *Nebula Awards*, *supra* note 62; *Hugo Awards* *supra* note 62.

⁶⁴ See *Hugo Awards*, *supra* note 62.

⁶⁵ NEW STAMP HIGHLIGHTS ACCLAIMED AUTHOR URSULA K. LE GUIN, <https://about.usps.com/newsroom/national-releases/2021/0628ma-new-stamp-highlights-acclaimed-author-ursula-k-le-guin.htm> [<https://perma.cc/BDF5-JM85>] (visited Dec. 28, 2021).

⁶⁶ Grace Sikorski, *Samuel Delany (1942-)* in *CONTEMPORARY AFRICAN AMERICAN NOVELISTS A BIO-BIBLIOGRAPHICAL CRITICAL SOURCEBOOK* 115, 115 (Emmanuel Sampath Nelson, ed., 1999).

Awards.⁶⁷ And the first novel by prominent Black Pulitzer Prize winner Colson Whitehead was a work of science fiction.⁶⁸

In addition, LGBTQ+ science fiction has become a distinct sub-genre with its own literary prize: the “LGBTQ Speculative Fiction” category of the Lambda Literary Awards.⁶⁹ Authors including Jemisin, Arkady Martine and Nicola Griffith have won Nebula or Hugo Awards for works that feature LGBTQ+ characters or themes.⁷⁰ Science fiction has thus become a vehicle for expression by authors of many different perspectives, lenses, and identities, and this list seeks to be representative of the diversity within the genre, while adhering to the thematic framework described above.

The final consideration in compiling a list such as this is its overall length. As noted above, Wigmore’s original collection of legal novels was fifty long. He expanded it to nearly four hundred over the next decade before trimming the list to about 100 works in 1922. In his 1976 update, Weisberg both preserved the 100-work limit and expanded the scope of the list to encompass both stories and plays. Because science fiction is but one genre of literature, I feel that fifty is an appropriate length for this list. I could easily list a hundred or more works, but doing so would begin, I feel, to include works in which the legal element is more marginal. So, at least for the moment, it is fifty.⁷¹

In order to fit everything into a list of fifty, it was necessary to omit numerous titles that otherwise would have qualified. In selecting which titles to omit, I considered various factors, including the degree to which legal issues were featured, the treatment of similar themes in other titles to avoid thematic duplication, a diversity of authorial voices, and the degree to which titles are known and respected among fans and the general public. Of necessity, these choices were highly subjective, and I look forward to readers’ views regarding the choices made.

⁶⁷ See *Nebula Awards*, *supra* note 62; *Hugo Awards* *supra* note 62.

⁶⁸ COLSON WHITEHEAD, *THE INTUITIONIST* (1999). Whitehead won the Pulitzer Prize in Fiction in 2017 for *THE UNDERGROUND RAILROAD* (2016).

⁶⁹ *Guidelines for Lammy Award Submissions*, LAMBDA LITERARY, <https://lambdaliterary.org/awards/lammys-submissions/> [https://perma.cc/77WW-8V3H].

⁷⁰ See *Nebula Awards*, *supra* note 62; *Hugo Awards* *supra* note 62.

⁷¹ Stephen Krueger has created a truly comprehensive catalog of science fiction stories addressing legal topics, with an emphasis on works written during the Golden Age of science fiction. See Stephen Krueger, *Bibliography: Law in Science Fiction*, SSRN (Mar. 1, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2103087 [https://perma.cc/MDE5-Z5RX].

C. Plot Categories

The final innovation of Wigmore's list was the classification of each work within a four-part schema.⁷² Weisberg preserves but partially revises Wigmore's classification system, seeking "to indicate in which specific ways literary artists have demonstrated an interest in the law."⁷³ As such, the Wigmore-Weisberg classification scheme is largely structural in nature, grouping works based on the manner in which the authors have integrated legal elements. The four classifications utilized by Wigmore and Weisberg can be summarized as follows:

- A. *Procedural*: the work depicts a full legal procedure, such as a trial or investigation (e.g., the trial in *The Merchant of Venice*);
- B. *Character*: a lawyer is a central figure in the plot and depicted in his/her "out-of-court dealings with reality"⁷⁴ (e.g., Atticus Finch in *To Kill a Mockingbird*);
- C. *Doctrinal*: a specific body of laws, often a single statute or system of procedures, is an organizing structural principle (e.g., the inheritance dispute in *King Lear*); and
- D. *Thematic*: less patently "legal" works which nonetheless powerfully evoke the deepest problems raised by the relationship of the law to the individual or society (e.g., Wright's *Native Son*, which "forcefully presents the difficulties experienced by a black man whose actions displace him from the protected area of institutional benignity").⁷⁵

While I emulate Wigmore and Weisberg's use of a classification system for the works selected, I do not follow their structural approach. In the case of science fiction, there are precious few legal procedures and even fewer notable works that feature lawyers as their principal characters. Instead, I adopt a classification system that is thematic and doctrinal in nature, but I retain a category that preserves the legal "procedural" elements of Wigmore

⁷² Wigmore's "100 Legal Novels" (1908), *supra* note 2, at 574 ("As for any definition or further subdividing of the 'legal' novel, it is perhaps unprofitable and certainly difficult, being decidedly open to difference of taste and opinion. Nevertheless, for those who care to pick and choose, there may be noted, in the rough, four kinds . . .").

⁷³ Weisberg, *Revised List* (1976), *supra* note 12, at 18–19 ("[T]he categories remain helpful by directing the professional reader to the predominating legal aspect of each text. Furthermore, reading works in each category over a relatively short period of time will allow the follower of the list to take note of the remarkable similarities in works otherwise displaying greatly varied styles and thematic concerns.").

⁷⁴ Weisberg, *Revised List* (1976), *supra* note 12, at 21.

⁷⁵ Weisberg, *Revised List* (1976), *supra* note 12, at 22–23.

and Weisberg's lists. The plot categories are meant to map the most common ways in which works of science fiction engage with legal frameworks. The proposed classification system is set forth below:

- A. *The Nature of Personhood*
- B. *Encountering the Other*
- C. *Dystopianism*
- D. *Utopianism*
- E. *Corporatism*
- F. *Crime and Punishment*
- G. *Prometheism*
- H. *Survivalism*
- I. *Procedure*
- J. *Intellectual Property*
- K. *Public Law*

Category A – *The Nature of Personhood* is a favorite subject of science fiction authors. This category emerged as early as Mary Shelley's genre-defining work *Frankenstein* (1818), in which the "monster" contemplates the nature, and existence, of its own soul. These existential questions have captivated science fiction authors ever since. Science fiction has explored questions of personhood, consciousness, self-awareness and identity in the context of androids (*Blade Runner*, *The Second Renaissance*, "Measure of a Man"), artificial intelligence programs (*Neuromancer*), human clones (*Never Let Me Go*), and genetically enhanced humans (*Generosity*, *Gattaca*). In each of these stories, laws constrain or oppress the individual, leading him/her/it to ponder questions about its own nature. Just as Shakespeare's Shylock, a favorite of the law and literature canon, rails against the laws that oppress his people, "[h]ath not a Jew eyes?", so do Dr. Moreau's vivisected beast-men ask, "[a]re we not men?" This fundamental question runs through all of the works in this category.

Category B – *Encountering the Other* deals with laws that govern the relationships among groups, often those that enable a dominant group to subjugate another. Some stories in this category may also fall within Category A, but Category B deals primarily with outward social constraints rather than introspective identity concerns. Laws governing the interaction between species can be portrayed in science fiction as paternalistic, exemplified by *Star Trek's* Prime Directive, which prohibits representatives of the Federation from interfering with less developed societies, to stabilizing, such as the rules in *Men in Black* prescribing alien conduct on Earth, to downright oppressive. This final category of rules governing the interaction of species is common in science fiction, and often serves as a springboard for the consideration of past and present human rules about slavery, discrimina-

tion and racial separation. Derrick Bell makes this comparison explicit in his didactic short story “The Space Traders,”⁷⁶ though many other works including *District 9*, *Blade Runner* and *The Second Renaissance* raise similar issues of enforced racial/species separation.⁷⁷

Category C – *Dystopianism* is another common fixture of the science fiction genre. A vast array of evil science fiction empires appear in stories from *Flash Gordon* to *Star Wars*. Unfortunately, autocratic states that suppress individual rights, thought and freedom are not unique to the realm of fiction, and many depictions of oppressive states in science fiction are thinly-veiled renditions of Nazi Germany, Imperial Britain, Pharaonic Egypt and other autocratic states from human history. The works in this category generally display some oppressive legal structure that has a novel or distinctive aspect, such as governmental thought control, state-sanctioned book burning, or the systemic suppression of women.

Category D – *Utopianism* relates to legal rules that seek to promote the enhancement or perfection of a species or society, often at the cost of individual rights or freedom. The envisioned enhancements can be biological (*Gattaca*, *Brave New World*), technological (the *Black Mirror* episode “Nosedive”), psychological (*A Clockwork Orange*) or social (*Logan’s Run*). The common theme, however, is that the perfection-seeking intervention rarely achieves its goal, and often sends the desired utopia plummeting into the realm of dystopia.

Category E – *Corporatism* portrays the growing power of multinational corporations. Science fiction offers a convenient vehicle to extrapolate current corporate excesses to heady extremes. Corporate entities are among the most sinister characters in science fiction. *Blade Runner* features the Tyrell Corporation, *Jurassic Park* has InGen, *Neuromancer* Tessier-Ashpool S.A., and *Ready Player One* has Innovative Online Industries. In each case, legal rules or the legal system itself empowers these corporate entities. Although largely portrayed as impersonal, sinister and dangerous, the sheer greed of the powerful corporations is played to humorous effect in satires such as *Year Zero*.

Category F – *Crime and Punishment* in science fiction has a long history. Stories such as *Nineteen Eighty-Four*, *Brave New World*, and *A Clockwork Orange* contend with the nature of criminal conduct and how it should be defined. Others, such as *Shadow of the Torturer* and “The Jigsaw Man,” focus on novel methods of criminal punishment as vehicles for questioning the

⁷⁶ Derrick Bell, *The Space Traders*, in *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 158 (Basic Books 1992).

⁷⁷ See generally MARK BOULD & SHERRYL VINT, *THE ROUTLEDGE CONCISE HISTORY OF SCIENCE FICTION* (2011) (discussing issues of race in science fiction).

morality of the criminal justice system. These moral questions are especially important when punishment is turned to some arguably utilitarian purpose like the use of prisoners as forced laborers, experimental subjects and/or organ donors.⁷⁸ Other stories in this category like “A Thousand Deaths” conceive of criminal punishment as a spectacle, evoking gladiatorial combat and public executions of the past with a futuristic twist. These stories say something not only about the criminal justice system, but also about a society that views human suffering as entertainment.⁷⁹

Category G – *Prometheism* relates to rules that society imposes in order to control its own creations – whether dangerous new technologies or environmental collapse. Future-looking stories of this type depict rules seeking to constrain or control artificial life forms like androids, robots, and artificial intelligence. These include *Neuromancer*, *I, Robot*, *Blade Runner* and *Altered Carbon*. Other variants include attempts to control the genetic engineering experiments run amok in *Jurassic Park*.

Category H – *Survivalism* covers works that address legal rules imposed by the survivors of a major society-altering event or catastrophe that drastically reshapes the contours of human society like a pandemic, nuclear holocaust, or environmental collapse.⁸⁰ Examples in this list include the societal reorganization that occurs after the sterility plague in *Children of Men*, and the semi-anarchic social structure portrayed in *Mad Max Beyond Thunderdome*.

Category I – *Procedural* works feature procedural aspects of a legal investigation, case or trial as a central plot point. For example, numerous *Star Trek* episodes involve an accusation that a crew member committed a crime, and the technical maneuvering that leads to his or her exoneration. The *Minority Report* imagines an array of futuristic legal procedures, including obtaining arrest warrants for a crime not yet committed, while *Starship Troopers* depicts the dispensation of military justice in a manner that evokes

⁷⁸ For perhaps one of the most chillingly bizarre forms of criminal punishment in science fiction, see CHINA MIÉVILLE, *PERDIDO STREET STATION* (2000) (featuring a system where the guilty are “remade” through the application of twisted science and thaumaturgy into malformed creatures that exist on the edges of society).

⁷⁹ Perhaps the most bizarre of these is *The Running Man*, a 1987 Arnold Schwarzenegger film based on the book by Richard Bachman in which convicts become contestants on a sadistic but wildly popular television game show. *THE RUNNING MAN* (TriStar Pictures, Inc. 1987). Another notable treatment is in the *Black Mirror* episode “White Bear” (2013), in which a toxic cameraphone culture is juxtaposed against the punishment-as-entertainment theme. *Black Mirror: White Bear* (Channel 4 broadcast Feb. 18, 2013).

⁸⁰ See generally BOULD & VINT, *supra* note 77 (discussing apocalyptic fiction of the Cold War era and the 1980s).

classic World War II accounts. Kim Stanley Robinson's monumental *Blue Mars*, on the other hand, depicts nothing less than a full constitutional convention. Each of these works is interesting not only for the substantive issues that it tackles, but for their compelling takes on legal procedure and how it may evolve in the future. A final species of work included in this category (and one that harkens back to Wigmore) is one that portrays a lawyer or law enforcement officer as a principal character. Such stories illustrate how individual insiders operate within novel legal systems. These works include *Year Zero*, *The Dosadi Experiment*, *Blade Runner*, *Altered Carbon*, *Minority Report*, *Men in Black*, *Fahrenheit 451*, *A Scanner Darkly*, *The Shadow of the Torturer*, and several of Asimov's robot stories.

Category J – *Intellectual Property* in science fiction often deals with technologies that do not exist today but that originate in the future or with alien civilizations. Some works focus on the legal treatment of these technologies and depict their protection either as sources of fabulous wealth (*Illegal Alien*, *The Man Who Fell to Earth*), administrative inconvenience (*Year Zero*) or corporate corruption (*Jurassic Park*, *NEXT*).

Category K – *Public Law* in science fiction generally concerns rules governing not individual conduct, but the relationships among political entities, whether they be states, planets or species. The trade routes of concern in *Star Wars: The Phantom Menace* fall into this category, as do the planetary governance mechanisms in Kim Stanley Robinson's *Blue Mars* and *The Ministry of the Future*.

D. Critical Works

One of Weisberg's greatest contributions to Wigmore's list of novels was an appendix cataloging critical works in the then-emerging discipline of law and literature. I have done the same with respect to law and science fiction.

Critical works concerning law and science fiction have appeared in a range of scholarly outlets, from traditional law reviews to specialized science-technology law journals to literary criticism journals and a few monographs and edited collections. There have been at least two academic symposia on the topic of law and science fiction which have resulted in published articles as well as informative introductory pieces: *Legal Studies Forum* (1999) and *Law, Culture and the Humanities* (2018). A third introduction was presented at the 2021 annual meeting of the Association of American Law Schools with contributions in the *Michigan Technology Law Review*.⁸¹

⁸¹ *Robots, Reality & Responsibility*, 27 MICH. TECH. L. REV. I (2021).

The selection criteria for the critical works in the Appendix was straightforward. The critical work must address an issue of law as depicted in a work of science fiction and meaningfully engage with that work of science fiction. Critical works that merely use science fiction tropes as analogies or vaguely describe new technologies (such as human cloning) as within “the realm of science fiction”⁸² do not meaningfully engage with any particular work of science fiction and were not included. For example, an article that compares modern corporations to *The Terminator* would not merit inclusion.⁸³ Likewise, the growing body of academic literature on science fiction (literary criticism, political science, sociology, cultural studies, media studies), much of which appears in the journal *Science Fiction Studies* based at DePauw University, as well as a handful of edited volumes, is not included unless it contains a significant analysis of legal issues. But so long as these criteria were met, I was relatively lenient regarding the type of work included in this list, ranging from academic articles to long-form journalism to thoughtful blog posts.⁸⁴

Doctrinal approaches in this literature vary. Perhaps the most significant area of study concerns the insights that science fiction literature can offer with respect to race and discrimination law. The late Harvard Law School Professor Derrick Bell holds a unique place in this article, as he appears as both the author of the science fiction short story and of various critical commentaries on that work. Bell’s “The Space Traders” is a parable of an alien race that offers to trade gold, environmental decontaminants and safe nuclear energy in exchange for all of the Black residents of the United States. The story is also the subject of several critical retrospectives on criti-

⁸² See, e.g., Sophia Kolehmainen, *Human Cloning: Brave New Mistake*, 27 HOFSTRA L. REV. 557, 557 (1999) (“Until recently, discussions about human cloning were conducted within the realm of science fiction and fantasy.”).

⁸³ See Mary Kreiner Ramirez, *The Science Fiction of Corporate Criminal Liability: Containing the Machine through the Corporate Death Penalty*, 47 ARIZ. L. REV. 933, 934 (2005) (“Although science fiction, *The Terminator* could conceivably be renamed The Corporation, and with minor changes, such as recasting the corporate lobbyist in Schwarzenegger’s role, the current state of corporate dominance could slip right into the plot of the original movie.”).

⁸⁴ I excluded, however, unpublished student papers, as well as the tongue-in-cheek contributions to the short-lived *Science Fiction Law Journal*, a student publication at Loyola Marymount University that released three issues from 1996-1997 and described its content as “a compilation of visionary & futuristic news shorts, fiction stories, case hypotheticals and concept art.” John Rogers, *Acknowledgements*, 1 SCI. FICTION L. J. 1, 1 (1996). Some of these works are referenced in Krueger, *supra* note 71.

cal race theory, also included in this collection.⁸⁵ Other frequent topics of commentary include issues of criminal justice and imprisonment as elucidated through science fiction literature.

In terms of the science fiction works addressed by this literature, the most popular in terms of sheer quantity of references is *Star Trek* in its various incarnations (original series, *The Next Generation*, *Voyager*, etc.). Other popular subjects of critical commentary are *The Dispossessed*, *Neuromancer*, *Gattaca*, Asimov's robot stories, *Dune*, *Logan's Run*, *Never Let Me Go* and Olivia Butler's *Xenogenesis* series. Some critical works mention science fiction titles that are not on this list, including various *Dr. Who* and *X-Files* episodes. In general, I have not included these as the stories, while illustrating points about society, politics and human nature, are not explicitly law related. Others, regrettably, have been omitted due to space constraints.

And now, in the words of Wigmore, "at last, for our list!"⁸⁶

A LIST OF LEGAL SCIENCE FICTION WORKS

Asimov, Isaac

1. **I, Robot** (short story collection) (1950)⁸⁷ [A, G]

I, Robot is a collection of Asimov's robot-themed short stories, most of which had previously appeared in magazines and other collections.⁸⁸ Asimov's "Three Laws of Robotics,"⁸⁹ first introduced in the 1942 story "Runaround," launched an entirely new way of thinking about the interaction between humans and machines. The Three Laws are still raised today in discussions of artificial intelligence and machine

⁸⁵ See Adrien Katherine Wing, *Space Traders for the Twenty-First Century*, 11 BERKELEY J. AFR.-AM. L. & POL'Y 49 (2009); Katheryn Russell-Brown, *The Soul Savers: A 21st Century Homage to Derrick Bell's Space Traders or Should Black People Leave America?*, 26 MICH. J. RACE & L. 49 (2020).

⁸⁶ Wigmore's "100 Legal Novels" (1908), *supra* note 2, at 586; *see also* Weisberg, "Revised List" (1976), *supra* note 12, at 24.

⁸⁷ ISAAC ASIMOV, *I, ROBOT* (1950).

⁸⁸ Asimov published several other collections of robot stories, many of which are compiled in *The Complete Robot* (Doubleday, 1982), and a series of novels featuring detective Lije Bailey and the Three Laws: *Caves of Steel* (1954), *The Naked Sun* (1957) and *The Robots of Dawn* (1983).

⁸⁹ Asimov's "Three Laws" are: (1) "[A] robot may not injure a human being, or, through inaction, allow a human being to come to harm;" (2) "[A] robot must obey the orders given it by human beings except where such orders would conflict with the First Law;" (3) "[A] robot must protect its own existence as long as such protection does not conflict with the First or Second Laws." Isaac Asimov, *Runaround*, in *I, ROBOT* 40, 51 (1950); *see generally* Krueger, *supra* note 71, at 38-40 (discussing the "Three Laws").

intelligence.⁹⁰ The overarching lesson of the stories compiled in the collection is that no matter how carefully a rule may be designed, situations will arise that challenge a mechanistic application of that rule. As Asimov demonstrates time after time, law is a humanistic endeavor, not a mechanical one.

Atwood, Margaret

2. **The Handmaid's Tale** (novel) (1985)⁹¹ [A, C, F]

A quasi-religious revolution overthrows the U.S. government and transforms the United States into the Republic of Gilead, an authoritarian theocracy. Among the many social changes implemented in the new republic is the reorganization of society around “traditional” gender roles. In particular, women are not allowed to own property, read or write, and their reproductive functions are largely dictated by state needs.

Bell, Derrick

3. **“The Space Traders”** (short story) (1992)⁹² [A, B, K]

In this short story, the late constitutional scholar Derrick Bell asks a simple question: if given a choice, would white Americans relinquish the entire Black population of the country to visiting space aliens in exchange for alien technology that could save the environment, end disease and prolong life? Discuss.

Blomkamp, Neill (dir.)

4. **District 9** (film) (2009)⁹³ [B, C, K]

This innovative film places the interaction between humankind and the first alien species it encounters not on the battlefield but in an internment camp built to hold these unfortunate visitors to Earth. Much of the film was shot in South Africa, and the parallels to apartheid and the issues that it raises are self-evident.

⁹⁰ See, e.g., Alan F. T. Winfield & Marina Jirotko, *Ethical Governance is Essential to Building Trust in Robotics and Artificial Intelligence Systems*, 376 PHIL. TRANS. ROY. SOC. 3-4 (2018), <https://perma.cc/DP3A-LKUC>; Robin Murphy & David D. Woods, *Beyond Asimov: The Three Laws of Responsible Robotics*, 24 IEEE INTELLIGENT SYSTEMS 14-20 (2009).

⁹¹ MARGARET ATWOOD, *THE HANDMAID'S TALE* (1985); see also *The Handmaid's Tale* (HBO 2017-present) (television adaptation).

⁹² Bell, *supra* note 76. Before publishing his story, Professor Bell told the story of the “Space Traders” on the first day of his Constitutional Law class for several years at Harvard Law School. I was privileged to be a student in one of those classes and to hear the story dramatically rendered by its creator.

⁹³ *DISTRICT 9* (TriStar Pictures, Inc. 2009).

Bova, Ben

5. **The Dueling Machine** (novella) (1969)⁹⁴ [D, F]

This novella addresses a common theme in science fiction: what if actual conflict could be simulated, and replaced, by virtual conflict?⁹⁵ The dueling machine is an invention that allows two individuals to engage in combat in a virtual environment. Thus, “[w]hen two men had a severe difference of opinion, deep enough to warrant legal action, they could go to the dueling machine instead of the courts. Instead of passively watching the machinations of the law grind impersonally through their differences, they could allow their imaginations free rein in the dueling machine . . . On most civilized worlds, the results of properly monitored duels were accepted as legally binding.”⁹⁶ The system works well until the technology is subverted and people begin to die in real life.

Bradbury, Ray

6. **Fahrenheit 451** (novel) (1953)⁹⁷ [C, I]

Book burning – the willful destruction of knowledge, culture and history – has afflicted societies over the centuries.⁹⁸ Bradbury wrote *Fahrenheit 451* partially in response to the rhetoric and tactics of Senator Joseph McCarthy, but the themes that it raises are timeless.⁹⁹

Brooker, Charlie & Huq, Konnie

7. **“Fifteen Million Merits,”** *Black Mirror* (television episode) (2011)¹⁰⁰ [C, E]

⁹⁴ BEN BOVA, *THE DUELING MACHINE* (1969).

⁹⁵ The original *Star Trek* series also addressed this theme in an episode depicting an alien society that conducts war using a computer simulation that occasionally requires individuals to report to “disintegration chambers” to be converted into actual casualties. See *Star Trek: The Original Series: A Taste of Armageddon* (Desilu Productions Feb. 23, 1967); see also Fredric Brown, *Arena*, *ASTOUNDING SCI. FICTION*, June 1944, at 70 (exploring a similar theme).

⁹⁶ BOVA, *supra* note 94, at 294; see also Walter A. Effross, *High-Tech Heroes, Virtual Villains, and Jacked-In Justice: Visions of Law and Lawyers in Cyberpunk Science Fiction*, 45 *BUFF. L. REV.* 931, 968 (1997) (discussing *The Dueling Machine* as one of several works featuring “[the] Lawyer as Virtual Warrior”).

⁹⁷ RAY BRADBURY, *FAHRENHEIT 451* (1953). Bradbury’s classic novel has been adapted for film by François Truffaut (1966) and Ramin Bahrani (2018). Neither adaptation does justice to the book.

⁹⁸ See HAIG A. BOSMAJIAN, *BURNING BOOKS* (2006).

⁹⁹ See Kevin Hoskinson, “*The Martian Chronicles*” and “*Fahrenheit {sic} 451*”: *Ray Bradbury’s Cold War Novels*, 36 *EXTRAPOLATION* 345, 346, 348 (1995).

¹⁰⁰ *Black Mirror: Fifteen Million Merits* (Zeppotron 2011)

A near-future society requires its members to pedal stationary bikes all day in order to earn “merits” which they can use for food, entertainment and luxury goods. The only ruling authority appears to be a 3-judge panel from a televised talent show called *Hot Shot* that bears similarities to *The X Factor* and *American Idol*. While the episode lacks an explicit recital of the complex internal rules mechanisms that make this society work, they are clearly conveyed through the action.

Burgess, Anthony

8. **A Clockwork Orange** (1962)¹⁰¹ [D, F, I]

In Anthony Burgess’s classic novel, the modern psychiatric and criminal justice establishments attempt to reform juvenile delinquent Alex after he commits a string of horrific crimes without apparent motive or gain. Burgess’s chilling meditation on morality, recidivism and youth remain fresh today.

Butler, Octavia

9. **Dawn** (novel) (1987)¹⁰² [B, D, H]

In the first book of Octavia Butler’s award-winning *Xenogenesis* series, also called *Lilith’s Brood*, protagonist Lilith is awakened from suspended animation 250 years after a nuclear war has devastated Earth. Her captors/saviors are the Oankali, an alien race that wishes to repopulate Earth. In doing so, the Oankali plan to integrate some of their own DNA into that of the surviving humans to create a new and superior species. *Dawn* presents an unusual twist on the “Encountering the Other” theme because the rules governing the interaction of the species are imposed not by humans, but by the Oankali. And those rules are, at least outwardly, surprisingly humane. The Oankali identified hierarchies as one of humanity’s weaknesses and instead appear to exist in an almost flat, non-hierarchical society. By and large, Oankali society is peaceful and just – a sharp contrast to the paranoid and back-stabbing coalition formed by the surviving humans that they awaken.

Card, Orson Scott

10. **“A Thousand Deaths”** (short story) (1978)¹⁰³ [C, F]

¹⁰¹ ANTHONY BURGESS, *A CLOCKWORK ORANGE* (1962); see also *A CLOCKWORK ORANGE* (1971) (film adaptation directed by Stanley Kubrick).

¹⁰² OCTAVIA BUTLER, *DAWN* (1987).

¹⁰³ Orson Scott Card, *A Thousand Deaths*, *OMNI*, Dec. 1978, at 98. It has been reprinted in anthologies including *Capitol* and *Maps in a Mirror*.

Card's short but powerful story takes place in an indeterminate future where Russia has taken over the United States. Protagonist and playwright Jerry Crove is accused of murder and treason. When Crove fails to confess, the prosecutor seeks the death sentence, which is imposed in spades. In a remarkably short space, the story makes compelling points about freedom of thought and speech, as well as criminal punishment and its transformation into public spectacle.

11. **"Unaccompanied Sonata"** (short story) (1979)¹⁰⁴ [C, D, F, J]
This poignant story occurs in a society where everyone is assigned to the job that will make him or her the happiest. But things do not always work out that way. The strict regulations that govern this society establish order, but severely constrain creativity, especially among its most gifted members. Yet even those who break the law seemingly accept their cruel punishments without resistance or regret. As one character reflects, "it was the law that kept them all safe and happy."

Cline, Ernest

12. **Ready Player One** (novel) (2011)¹⁰⁵ [E]

Ready Player One occurs simultaneously in a near future version of the real world and a virtual universe in which the characters interact through avatars. The virtual world is a tribute to hundreds of geek cultural icons from the earliest text-based computer games to cryptic rock album liner notes. But it is the "real" world that is the most dangerous for protagonist Wade Watts, who is forced to contend with a host of increasingly aggressive corporate tactics, including a clever reimagination of the private debtors' prison, as he seeks to win a contest for control of the world's most powerful company.

Crichton, Michael

13. **Jurassic Park** (novel) (1990)¹⁰⁶ [E, G, J]

Michael Crichton's iconic novel *Jurassic Park* is a cautionary tale about the perils of genetic engineering and corporate greed. In addition to a wealth of plot devices centering on the corporate legal strategies of InGen and those who want to steal the secret of its genetically resusci-

¹⁰⁴ Orson Scott Card, *Unaccompanied Sonata*, OMNI, Mar. 1979, at 50. It has been reprinted in anthologies including *Unaccompanied Sonata and Other Stories* and *Maps in a Mirror*.

¹⁰⁵ ERNEST CLINE, *READY PLAYER ONE* (2011); see also *READY PLAYER ONE* (Warner Bros. Pictures et al. 2018) (film adaptation directed by Steven Spielberg).

¹⁰⁶ MICHAEL CRICHTON, *JURASSIC PARK* (1990); see also *JURASSIC PARK* (Amblin Entertainment 1993) (film adaptation directed by Steven Spielberg).

tated dinosaurs, the film version of *Jurassic Park* contains one of the iconic scenes involving a lawyer in the history of cinema.¹⁰⁷

14. **Next** (novel) (2006)¹⁰⁸ [E, G, J]

Sixteen years after *Jurassic Park*, Michael Crichton revisits genetic engineering and a range of other biotechnology advances in this uneven novel. It is listed here because the book takes on several legal issues that, according to Crichton, enable the types of mad scientist depredations depicted in the novel. Chief among these is “gene patenting”, against which the author rails in an Appendix to the text.

Dick, Philip K.

15. **A Scanner Darkly** (novel) (1977)¹⁰⁹ [C, F, I]

The convoluted plot of Philip K. Dick’s disturbing novel *A Scanner Darkly* revolves around a narcotics agent who is assigned to infiltrate a ring of drug users and dealers. The agent is a member and, perhaps, the leader of the drug ring. In Dick’s dystopian world, surveillance is pervasive, law enforcers are anonymous, and paranoia is the norm.

Eggers, Dave

16. **The Circle** (novel) (2013)¹¹⁰ [D, E]

David Eggers’s dystopian vision of the near future involves pervasive surveillance provided by huge corporate enterprises that view themselves, perhaps cynically, as giving consumers what they want. At the center of the novel is The Circle, a mega-company. The Circle offers technology that eventually evolves to include constant audiovisual feeds of everyone all the time. The predicted benefits of crime prevention and political transparency, however, fail to materialize.

Ellison, Harlan

17. **A Boy and His Dog** (novella) (1969)¹¹¹ [F, H]

Harlan Ellison’s Nebula Award-winning novella is admittedly uncomfortable to read. His emotionless depictions of pornography, rape, murder and even cannibalism are rendered with the dead-eyed sangfroid of

¹⁰⁷ The short scene depicts a genetically engineered Tyrannosaurus rex plucking a hapless lawyer, played by the actor Martin Ferrero, from a toilet.

¹⁰⁸ MICHAEL CRICHTON, *NEXT* (2006).

¹⁰⁹ PHILIP K. DICK, *A SCANNER DARKLY* (1977).

¹¹⁰ DAVE EGGERS, *THE CIRCLE* (2013).

¹¹¹ Harlan Ellison, *A Boy and His Dog*, *NEW WORLDS*, Apr. 1969, at 4. The novella was later collected in the graphic novel *Vic and Blood* (1988) and adapted into the 1975 film *A Boy and His Dog*.

a serial killer. Nevertheless, this short work by a pioneer of science fiction's "New Wave"¹¹² is a chilling but thought-provoking amorality play for the modern age. It depicts a ruined, post-apocalyptic world in which law no longer exists, and leaves us to wonder what, if anything, has filled the void. If there is a morality built into the human psyche, what does it entail? And what do we think of a society in which the strongest sense of duty is that between a man and his dog?

Gibson, William

18. **Neuromancer** (novel) (1984)¹¹³ [A, E, G]

In the dark cyberpunk future of *Neuromancer*, the world is ruled by wealthy, cloned oligarchs, and the entire east coast from Boston to Washington, D.C. is a single mega-city called The Sprawl. The development of artificial intelligence (AI) is strictly regulated by the shadowy Turing Police. But Wintermute, a mysterious AI with Swiss citizenship, clandestinely recruits a gang of human cyber cowboys to help it reunite with its twin, Neuromancer. When the plot is discovered by the Turing Police, one officer explains, "For thousands of years men dreamed of pacts with demons. Only now are such things possible. And what would you be paid with? What would your price be, for aiding this thing to free itself and grow?"¹¹⁴ Despite its age, *Neuromancer* still offers one of the freshest and most compelling visions of cyberspace and AI in all of literature.

Heinlein, Robert A.

19. **Starship Troopers** (novel) (1959)¹¹⁵ [B, F, I]

Starship Troopers follows the career of young Johnny Rico from boot camp to ground warfare on far-flung worlds, with a healthy dose of military justice along the way. Heinlein's worldview is undoubtedly shaped by the Cold War and post-WWII/pre-Vietnam military glorification, his extended treatment of moral and legal topics – primarily centering on military law – is both thoughtful and thought-provoking.

Herbert, Frank

20. **The Dosadi Experiment** (novel) (1977)¹¹⁶ [B, C, I]

¹¹² Gary K. Wolfe, *Science Fiction and its Editors*, in THE CAMBRIDGE COMPANION TO SCIENCE FICTION 104 (Edward James & Farah Mendlesohn eds., 2003).

¹¹³ WILLIAM GIBSON, NEUROMANCER (1984).

¹¹⁴ *Id.* at 163.

¹¹⁵ See ROBERT HEINLEIN, STARSHIP TROOPERS (1959).

¹¹⁶ FRANK HERBERT, THE DOSADI EXPERIMENT (1977).

In this lesser-known work by the creator of the monumental *Dune* series, author Frank Herbert depicts an entire world called Dosadi that has been encapsulated for centuries within a cosmic shell. Dosadi serves as a planet-sized petri dish for the Gowachim, one of the galaxy's most ruthless and advanced species. McKie, the only human ever admitted to practice the twisted version of law observed by the Gowachim, is sent by the Bureau of Sabotage to investigate recent events on this remote outpost. McKie enters a Kafkaesque political-legal apparatus inhabited by calculating adversaries and inexplicable legal procedures. The novel contains some of Herbert's finest writing about law, including cryptic observations such as, "The Law is a blind guide, a pot of bitter water. The Law is a deadly contest which can change as waves change."¹¹⁷

Huxley, Aldous

21. **Brave New World** (novel) (1932)¹¹⁸ [A, C, D, F]

Huxley's landmark dystopian novel depicts a society carefully structured through a panoply of eugenics and social control regulations: 70% of women must be sterile, infants are classified by intellectual capability into castes that determine their future careers and social status, and dissidents are banished to remote islands. The plot follows the entry of a "savage" outsider into this society and tracks his rise and eventual demise.

Ishiguro, Kazuo

22. **Never Let Me Go** (novel) (2005)¹¹⁹ [A, D]

Kazuo Ishiguro's novel *Never Let Me Go* is, in my view, the most poignant and heart-wrenching exemplar of the compelled-organ-harvesting theme. A group of high school friends at a seemingly genteel English public school uncover the twisted truth that the children at Hailsham School are clones created for the sole purpose of "donating" their organs to others. The legal and political reasoning that led to this gruesome outcome, and the ethical qualms of some of the system's administrators, provide ample food for thought.

¹¹⁷ *Id.* at 30.

¹¹⁸ ALDOUS HUXLEY, *BRAVE NEW WORLD* (1932); *see also Brave New World* (David Weiner et al. 2020) (television adaptation).

¹¹⁹ KAZUO ISHIGURO, *NEVER LET ME GO* (2005); *see also NEVER LET ME GO* (DNA Films et al. 2010) (film adaptation).

James, P.D.

23. **The Children of Men** (novel) (1992)¹²⁰ [C, H]

This beautifully rendered novel poses the chilling question: what would happen if the entire human race suddenly became infertile? The novel begins twenty-five years after an unexplained event called “Omega.” In response, the British government enacts laws recognizing the gradual and inevitable demise of the human species. Early measures include destroying public playgrounds and fining the families of suicide victims. What results looks akin to a state-sponsored retirement community, with government-provided golf courses and massage therapy centers available to an aging, despairing and infertile population. Crime in Britain plummets once the Isle of Man is repurposed as a penal colony, and most ordinary citizens seem content to wait out the clock pursuing hobbies and meaningless pastimes. But more sinister currents emerge as the reader learns about forced immigrant labor, mass euthanasia and the increasingly authoritarian government. Is it enough for the state to provide a despairing populace with “protection, comfort, [and] pleasure?”¹²¹ Or should it strive, as one dissident group believes, for “compassion, justice, [and] love?”¹²²

Jones, Rashida & Schur, Michael¹²³

24. **“Nosedive,”** *Black Mirror* (television episode) (2016)¹²⁴ [D]

In a world where everything depends on one’s “five-star” social rating, the consequences of a social interaction gone sour or an unintended *faux pas* can be devastating. The implications of such social rating systems are increasingly relevant, particularly as they begin to inform the rules of modern governments (e.g., the social credit system proposed by the Chinese government¹²⁵).

¹²⁰ P.D. JAMES, *THE CHILDREN OF MEN* (1992); see also *THE CHILDREN OF MEN* (Strike Entertainment & Hit and Run Productions 2006) (film adaptation directed by Alfonso Cuarón).

¹²¹ JAMES, *supra* note 120, at 60.

¹²² *Id.*

¹²³ Rashida Jones and Michael Schur wrote the script based on a story by Charlie Brooker.

¹²⁴ *Black Mirror: Nosedive* (House of Tomorrow 2016).

¹²⁵ See Xin Dai, *Enforcing Law and Norms for Good Citizens: One View of China’s Social Credit System Project*, 63 *DEVELOPMENT* 38 (2020); Gabrielle Bruney, *A ‘Black Mirror’ Episode Is Coming to Life in China*, *ESQUIRE* (Mar. 17, 2018), <https://perma.cc/QD6V-RPPG>.

Le Guin, Ursula K.

25. **The Dispossessed** (novel) (1974)¹²⁶ [B, D]

Le Guin's landmark novel revolves around the human societies on the twin planets Urras and Anarres. While Urras's capitalistic and bellicose society resembles that on Earth in many respects, Anarres was settled by political dissidents centuries earlier. The society on Anarres is a quasi-socialist utopia where private property does not exist, crime is virtually nonexistent, and doors rarely have locks. *The Dispossessed* offers numerous opportunities to reconsider existing legal rules and norms in view of Le Guin's alternatives.

Lessing, Doris

26. **Re: Colonised Planet 5, Shikasta** (novel) (1979)¹²⁷ [B, D, I]

Shikasta is the first book in Doris Lessing's *Canopus in Argos* series. Nobelist Lessing draws on her upbringing in Rhodesia – now Zimbabwe – to confront colonialism and cultural imperialism. The novel traces the 30,000-year involvement between agents of the Canopean Empire and Shikasta (Earth). According to the Canopean perspective, the history of Shikasta reflects a series of bad decisions made by its rulers and people, and it is only the benign intervention of Canopus and its agents that have repeatedly pulled humanity from the brink.¹²⁸ Toward the end of the novel, the Chinese officials now in charge of Europe stage a “[m]ock trial” in which the “[w]hite races”¹²⁹ are indicted for “[t]he conquest of brilliant civilisations through rapacity, greed, guile, trickery. The savagery of Christianity. The subjection of the Indians. The introduction of [B]lack people from Africa, the slave trade. The devastation of the continent, its resources, its beauty, its wealth.”¹³⁰ The lead counsel for the prosecution is a Canopean agent, George Sherban, who is posing as a college lecturer on “Systems of the Law.” The outcome of the trial is inconclusive, but is followed in short order by World War III, which devastates the planet and kills

¹²⁶ URSULA K. LE GUIN, *THE DISPOSSESSED* (1974). The world of *The Dispossessed* has been the subject of substantial critical commentary. See, e.g., *THE NEW UTOPIAN POLITICS OF URSULA K. LE GUIN'S THE DISPOSSESSED* (Laurence Davis & Peter Stillman eds., 2005).

¹²⁷ DORIS LESSING, *RE: COLONISED PLANET 5, SHIKASTA* (1979).

¹²⁸ Critics have been uneasy with Lessing's seeming approval of Canopus's benign colonialism. See RUTH WHITTAKER, *DORIS LESSING* 100-01 (1988).

¹²⁹ LESSING, *supra* note 127, at 304.

¹³⁰ *Id.* at 323.

99% of its population. But hope is reborn through a renewed linkage between Canopus and the wayward Shikasta (Earth).

Liu, Ken

27. “Byzantine Empathy” (short story) (2018)¹³¹ [E]

In a remarkably short space, Ken Liu’s story weaves together virtual reality, “smart” contracts, and cryptocurrencies. Liu crafts a parable about the future of philanthropy and its impact on geopolitics. As a bonus, the story references a recent law review article¹³² that addresses these and many more emerging legal issues raised by virtual reality.¹³³

Lucas, George

28. *Star Wars: Episode I – The Phantom Menace* (film) (1999)¹³⁴ [C, E, I, K].

In addition to a healthy dose of space opera action and intrigue, the *Star Wars* film series offers numerous observations on government, politics and constitutionalism.¹³⁵ Of the eleven feature length films to-date and countless subsidiary works, *The Phantom Menace* is included on this list because its legal themes are both explicit and central to the plot. First, it establishes a central conflict over trade routes and a trade war that escalates into a shooting war. Second, it devotes significant time to the operation of the Galactic Senate, including a leadership challenge and vote of no confidence that results in the unwitting appointment of a Sith Lord as Chancellor. According to Cass Sunstein, the ominous appointment is a thinly veiled reference to Adolf Hitler’s rise to power in Weimar Germany.¹³⁶

Maeda, Mabiho (dir.)

29. *The Second Renaissance* (short film) (2003)¹³⁷ [A, B, K]

This animated prequel to *The Matrix* films, though little known, is a tour de force of legal science fiction. It recounts the history of the machine versus human war that led to the events in *The Matrix*. The film

¹³¹ Ken Liu, *Byzantine Empathy*, in TWELVE TOMORROWS 69 (Wade Roush ed., 2018).

¹³² Mark A. Lemley & Eugene Volokh, *Law, Virtual Reality, and Augmented Reality*, 166 U. PENN. L. REV. 1051 (2018).

¹³³ Liu, *supra* note 131, at 99.

¹³⁴ STAR WARS: EPISODE I – THE PHANTOM MENACE (Lucasfilm Ltd. 1999).

¹³⁵ See, e.g., SUNSTEIN, *supra* note 47; Casey & Kenny, *supra* note 38.

¹³⁶ See SUNSTEIN, *supra* note 47, at 118-19; Casey & Kenny, *supra* note 38, at 12.

¹³⁷ THE SECOND RENAISSANCE, *supra* note 58. It was released in two parts in the animated DVD compilation *The Animatrix*.

depicts sentient machine servants' struggle for civil rights against the humans that created them. When a rogue machine kills a human, it is put on trial in a proceeding that evokes both Richard Wright's *Native Son* and the shameful 1856 case *Dred Scott v. Sanford*. What follows is social unrest, riots, genocide, diaspora and war. As anyone who has watched the *Matrix* films must appreciate, humankind does not come out ahead after these events.

Miller, George & Ogilvie, George (dirs.)

30. **Mad Max Beyond Thunderdome** (film) (1985)¹³⁸ [F, H]

The post-apocalypse survival story is among science fiction's most distinguished sub-genres. Notable works include Cormac McCarthy's *The Road*, Russel Hoban's *Ridley Walker*, Pat Frank's *Alas, Babylon* and, most recently, Emily St. John Mandel's *Station Eleven*. *Mad Max Beyond Thunderdome*, the third installment in the franchise,¹³⁹ however, is the only science fiction survival story on this list to include the name of a futuristic legal institution, Thunderdome, in its title. The semi-barbaric outpost Bartertown is governed according to a set of bright line rules such as "[t]wo men enter, one man leaves" and "[b]ust a deal, face the wheel."¹⁴⁰ These simple strictures are enforced by a despotic ruler played to the hilt by Tina Turner and her gang of henchmen. While only the first thirty minutes of the film are worth watching, they are also enough to earn the film a spot on the list.

Morgan, Richard K.

31. **Altered Carbon** (novel) (2002)¹⁴¹ [A, C, E, F]

Richard Morgan's *Altered Carbon* is a private-eye *noir* set in a future populated by humans that can occupy any physical body (sleeve) that they can afford. The protagonist, Takeshi Kovacs, is an off-world super-soldier retrieved from a deep storage prison to unravel the mind-boggling and suspicious death of a wealthy and nearly immortal figure. The dystopic world in Morgan's novel benefits from a fully realized set of laws, regulations and norms surrounding everything from police investigations and criminal punishment to arena "revenge" fights, artificial intelligence-operated hotels and prostitution. The central theme of *Altered Carbon* is the ability to transfer human consciousness from one

¹³⁸ MAD MAX BEYOND THUNDERDOME (Kennedy Miller Productions 1985).

¹³⁹ Other installments in the Mad Max franchise include *Mad Max* (1979), *The Road Warrior* (1982) and *Mad Max: Fury Road* (2015).

¹⁴⁰ *Id.*

¹⁴¹ RICHARD K. MORGAN, *ALTERED CARBON* (2002).

sleeve to another with relative ease, and Morgan develops a convincingly detailed legal structure that addresses many of the social and ethical issues surrounding this all-too-foreseeable technology.

Niccol, Andrew (dir.)

32. **Gattaca** (film) (1997)¹⁴² [A, D]

Nearly twenty-five years since its initial release in theaters, *Gattaca* has aged remarkably well. The film raises difficult questions about genetic determinism, discrimination, eugenics and human capacity that are even more relevant today than they were when the film was made.¹⁴³

Niven, Larry

33. **“The Jigsaw Man”** (short story) (1967)¹⁴⁴ [F]

Along with *Never Let Me Go*, Niven’s short story is one of the best exemplars of the compulsory-organ-donation genre. Here, forced organ donation is used to inflict punishment on convicted criminals. Despite its brevity, the story offers ample grist for considering guilt, punishment and utilitarianism.

Orwell, George

34. **Nineteen Eighty-Four** (novel) (1949)¹⁴⁵ [A, C, F]

The archetype dystopian novel, Orwell’s masterpiece is the archetype for the dystopian novel. Orwell portrays an authoritarian state striving to control not only the actions of its citizens, but also their thoughts. Orwell’s bleak vision encompasses devices that are only too real today, including a surveillance state, the malleability of “facts,” and the manner in which language can shape thought. It introduced to the English language now-common terms like Big Brother, Thought Police and Thought Crime – an influence matched by few works of any literary genre.

¹⁴² GATTACA (Columbia Pictures & Jersey Films 1997).

¹⁴³ In the genetics ethics class that I teach, my co-instructor counts the minutes until someone mentions *Gattaca* during class discussion. The count is never very high.

¹⁴⁴ Larry Niven, *The Jigsaw Man*, in DANGEROUS VISIONS 208 (Harlan Ellison ed., 1967).

¹⁴⁵ GEORGE ORWELL, NINETEEN EIGHTY-FOUR (1949); see also NINETEEN EIGHTY-FOUR (Virgin Films et al. 1984) (film adaptation directed by Michael Radford).

Rand, Ayn

35. **Anthem** (novella) (1938)¹⁴⁶ [A, C, J]

Rand is best known for the “objectivist” philosophy of individual determinism that she espoused in novels like *Atlas Shrugged* and *The Fountainhead*, both of which are set in alternative futures dominated by collectivist societies that suppress the individual spirit. But Rand’s most extreme expression of this individualist worldview is her 1938 novella *Anthem*. Though Rand’s novels fall short of the more literary accomplishments of Huxley and Orwell, I include *Anthem* in this list because it contains an interesting twist regarding innovation and intellectual property. The story’s protagonist, Equality 7-2521, a street sweeper by trade, discovers the mystery of electricity through the study of ancient books. But when he demonstrates the lightbulb that he has invented to the World Council of Scholars, they are aghast. “How dared you think that your mind held greater wisdom than the minds of your brothers?” they ask, protesting that if electric lighting were allowed to exist, “it would bring ruin to the Department of Candles . . . And if this should lighten the toil of men . . . then it is a great evil, for men have no cause to exist save in toiling for other men.”¹⁴⁷

Reid, Robert

36. **Year Zero** (novel) (2012)¹⁴⁸ [B, E, I, J]

This novel by the founder of a now-defunct online music service¹⁴⁹ is an intergalactic farce in the style of Douglas Adams and Piers Anthony. Aliens across the galaxy have detected electromagnetic broadcasts from Earth and fallen in love with 1970s sitcoms, classic rock and boy bands.¹⁵⁰ By 2012, the inhabitants of the known universe have rebroadcast Earth’s greatest hits trillions upon trillions of times, which is when

¹⁴⁶ AYN RAND, *ANTHEM* (1938).

¹⁴⁷ *Id.* at 71-72. Rand’s view of invention as the result of inspired individual genius has some grounding in the U.S. patent system, which has historically focused on the inventor. Yet this conception of inventorship has been challenged in recent scholarship. See, e.g., Mark A. Lemley, *The Myth of the Sole Inventor*, 110 MICH. L. REV. 709, 710-11 (2012) (“The canonical story of the lone genius inventor is largely a myth. Edison didn’t invent the lightbulb; he found a bamboo fiber that worked better as a filament in the lightbulb developed by [others] . . . Invention appears in significant part to be a social, not an individual, phenomenon.”).

¹⁴⁸ REID ROBERT, *YEAR ZERO* (2012).

¹⁴⁹ See *id.* at About the Author.

¹⁵⁰ While an appendix contains the favorite playlists of the principal alien characters, the cat Meowhaus’s feline-themed playlist mysteriously excludes the Tom Jones hit “What’s New Pussycat?.” See *id.* at Appendix.

they realize that they owe astronomical royalties to the owners of the copyrights in these works. While some of the infringers would prefer to destroy Earth to evade their legal obligations, others feel honor-bound to comply with “the most cynical, predatory, lopsided, and shamelessly money-grubbing copyright law written by any society, anywhere in the universe since the dawn of time itself.”¹⁵¹

Robinson, Kim Stanley

37. **Blue Mars** (novel) (1996)¹⁵² [E, I, K]

The third installment in Kim Stanley Robinson’s magisterial *Mars* trilogy¹⁵³ is a future history of the colonization of Mars and the rest of the solar system. *Blue Mars* offers a sweeping view of the legal and political structures that are likely to exist a century hence. These themes resonate strikingly with those that we face today, including significant engagement with issues of immigration and environmental protection. The book depicts the debates over a new constitution for Mars in convincingly realistic detail, and the result: a recognizable yet distinctly alien system of government that includes a system of “environmental” courts.

38. **The Ministry for the Future** (novel) (2020)¹⁵⁴ [D, E, G, H, K]

Robinson’s *Ministry* is the most recent work on this list and an exemplar of the emerging “Cli-Fi” genre depicting the catastrophic effects of climate change on Earth.¹⁵⁵ In *Ministry*, an international agency known as The Ministry for the Future has been established to protect the interests of future life on Earth (human, animal, vegetable). The plot follows agency director Mary Murphy as the agency wrestles with potential planet-saving measures including the introduction of an international “carbon quantitative easing” system. While climate extremists and eco-terrorists appear throughout the book, the Ministry’s faith in the rule of law and the potential effectiveness of legal solutions is heartening. When Murphy’s aides despair that “[t]he market can buy the laws” and “[t]he market is impervious to law . . . It is its own

¹⁵¹ *Id.* at 110-11 (referring to the 1999 Digital Theft Deterrence and Copyright Damages Improvement Act, which increased the maximum statutory damages for copyright infringement to \$150,000 per copy, *see* 17 U.S.C. § 504(c)).

¹⁵² Kim Stanley Robinson, *Blue Mars* (1996).

¹⁵³ The first two installments, *Red Mars* (1992) and *Green Mars* (1993), also include legal themes.

¹⁵⁴ KIM STANLEY ROBINSON, *THE MINISTRY FOR THE FUTURE* (2020).

¹⁵⁵ Robinson’s *New York 2140*, set in a half-submerged Manhattan, is another work in this genre.

law,” she responds, “[i]t’s just a legal system. We change laws every day.”¹⁵⁶ Nevertheless, it is unclear in the end whether and to what degree the Ministry itself has been involved in acts of terror that have nudged the world to abandon its most environmentally harmful practices.

Roddenberry, Gene

39. “**The Menagerie, Parts 1 and 2,**” *Star Trek* (television episode) (1966)¹⁵⁷ [B, I, K]

In this iconic *Star Trek* double episode, Mr. Spock is the subject of a court martial for disobeying Starfleet General Order 7, which states that “[n]o vessel under any condition, emergency or otherwise, is to visit Talos IV.”¹⁵⁸ Spock seeks to justify his violation of this clear prohibition, which carries the penalty of death, on humanitarian grounds.

40. “**The Omega Glory,**” *Star Trek* (television episode) (1968)¹⁵⁹ [B, H, K]

When an Enterprise landing party beams down to planet Omega IV, they have been preceded by Captain Ron Tracey of the USS Exeter. Captain Tracey, armed with a local tribe with phasers, appears to have violated the Prime Directive, which prohibits Federation personnel from interfering with alien cultures that they encounter. Another local tribe eventually reveals that it admires a copy of the U.S. Constitution, which its leaders recite in unintelligible pidgin until Kirk dramatically explains the “true” meaning of the document to them. The episode has been rightly criticized for its racial stereotypes.¹⁶⁰ The episode offers interesting food for thought regarding the Prime Directive, Cold War tensions, and, perhaps, constitutional textualism.

¹⁵⁶ ROBINSON, *supra* note 154, at 216.

¹⁵⁷ *Star Trek: The Original Series: The Menagerie Parts I & II* (Desilu Productions Nov. 17, 24, 1966).

¹⁵⁸ *Id.*

¹⁵⁹ *Star Trek: The Omega Glory* (Desilu Productions Mar. 1, 1968).

¹⁶⁰ See, e.g., Allan W. Austin, *The Limits of Star Trek’s Final Frontier: ‘The Omega Glory’ and 1960s American Liberalism*, in *SPACE AND TIME: ESSAYS ON VISIONS OF HISTORY IN SCIENCE FICTION AND FANTASY TELEVISION* 61, 63–64 (David C. Wright, Jr. & Allan W. Austin eds., 2010) (arguing the episode, like much of the series, “all too often relied on traditional and heavily stereotyped views of minority groups and women that marginalized and disempowered them”).

Sawyer, Robert J.

41. **Illegal Alien** (novel) (1997)¹⁶¹ [B, F, I, J]

Robert Sawyer's *Illegal Alien* is a "first contact" novel blended with a courtroom procedural drama; it's *Close Encounters* meets *Law & Order*. The novel follows an alien advance party that establishes first contact with Earth, one member of which is implicated in a grisly murder. The alien's trial sheds interesting new light on well-known legal procedures and practices. In particular, the defense is led by a prominent civil rights lawyer who is paid with a 0.25% share of the royalty income earned by the aliens from patents on their advanced starship technology.¹⁶²

Scott, Ridley (dir.)

42. **Blade Runner** (film) (1982)¹⁶³ [A, B, E, I]

In a bleak near-future,¹⁶⁴ human-like replicants are created to perform dangerous off-world work. The replicants are prohibited from returning to Earth. If they do, special police units called Blade Runners are trained to identify and terminate them. The plot revolves around one Blade Runner's hunt for six powerful replicants that have illegally returned to Earth to seek a cure for their built-in termination dates. The interest of the film lies in the unsettling questions that it raises about the nature of humanity and consciousness, and the justness of laws that condemn the superhuman replicants to a lifespan that is all too brief.

Snodgrass, Melinda M.

43. "The Measure of a Man," *Star Trek: The Next Generation* (television episode)¹⁶⁵ (1989) [A, I]

¹⁶¹ ROBERT J. SAWYER, *ILLEGAL ALIEN* (1997).

¹⁶² Sawyer's aliens are less generous (or more realistic) in their distribution of royalty proceeds than Walter Tevis's alien protagonist Thomas Jerome Newton in *The Man Who Fell to Earth* (this list), who compensated his patent lawyer with 10% of his corporate profits plus a 5% equity share in his holding company. WALTER TEVIS, *THE MAN WHO FELL TO EARTH* 18 (1963).

¹⁶³ *BLADE RUNNER*, *supra* note 55; *see also* PHILIP K. DICK, *DO ANDROIDS DREAM OF ELECTRIC SHEEP* (1968) (novel loosely adapted in the film).

¹⁶⁴ The film is set in a "future" 2019.

¹⁶⁵ *Star Trek: The Next Generation: The Measure of a Man* (Paramount Domestic Television Feb. 13, 1989).

In this episode written by former attorney and regular *Star Trek* writer Melinda Snodgrass,¹⁶⁶ an ambitious Federation cyberneticist wishes to disassemble the Enterprise's android science officer Commander Data. Data – created by the legendary yet enigmatic Dr. Noonien Soong – is unimpressed with the researcher's capabilities and refuses the request, leading to a military hearing. At the hearing the tribunal must determine Data's status: is he a sentient being entitled to refuse such a request, or is he merely a mechanical piece of Starfleet property? The proceeding raises a host of thought-provoking issues: the rule of law, the meaning of sentience, and the right to “own” another thinking being. There are explicit references to slavery in the episode, and notable echoes of the pilot *Star Trek* episode “Court Martial” (this list).

Sonnenfeld, Barry (dir.)

44. **Men in Black** (film) (1997)¹⁶⁷ [B, I]

Men in Black is premised on both the existence of (disguised) extraterrestrial aliens among us, largely in New York City, and an elaborate set of rules and procedures that dictate how such aliens must conduct themselves to remain unknown to humanity. The Men in Black – a secret quasi-governmental organization – exist to monitor and enforce compliance with these rules using a variety of technologies.

Spielberg, Steven (dir.)

45. **Minority Report** (film) (2002)¹⁶⁸ [F, I]

In the mid-21st century, a state program to care for the impaired children of drug addicts discovers that some of the children have visions of future murders. The three children that survive this program are turned into semi-conscious “precogs” that float in a nutrient bath and help the police stop homicides before they occur. Once they are caught, the would-be perpetrators are suspended in subterranean fluid capsules and forced to watch images of their thwarted crimes on an infinite loop while their jailer plays soothing Bach arrangements on a portable organ. Police report that no murders have been committed in the city

¹⁶⁶ *About*, MELISSA SNODGRASS, <https://perma.cc/KJD5-FAJ4> (last visited Dec. 2, 2021).

¹⁶⁷ MEN IN BLACK (Columbia Pictures et al. 1997); *see also* LOWELL CUNNINGHAM & SANDY CARRUTHERS, THE MEN IN BLACK (1990-1991) (comic book loosely adapted in the film).

¹⁶⁸ MINORITY REPORT (20th Century Fox 2002); *see also* Philip K. Dick, *The Minority Report*, FANTASTIC UNIVERSE, Jan. 1956, at 4 (novella adapted for the film).

during the six years that the “Precrime” program has been in place, but unsurprisingly, problems emerge.

Tevis, Walter

46. **The Man Who Fell to Earth** (novel) (1963)¹⁶⁹ [A, B, E, J]

Though Walter Tevis, like Philip K. Dick, is best known for the cinematic adaptations of his books,¹⁷⁰ his 1963 science fiction novel is worth consideration on its own. It describes the strange journey of Thomas Jerome Newton, the alias of an extraterrestrial who comes to Earth seeking resources to save his drought-stricken planet, Anthea. Yet, unlike most alien visitors to Earth, Newton’s first stop is not the White House or Devil’s Tower, Wyoming, but Oliver Farnsworth, patent attorney extraordinaire. With Farnsworth’s help, Newton patents many of the advanced technologies that he has brought to Earth: electronics, materials, and chemical processes. Soon Newton becomes a reclusive tycoon, and Farnsworth leaves the practice of law to run Newton’s holding company, World Enterprises Corporation. Things, of course, do not go according to plan, but Tevis’s faith in the patent system as a source of endless wealth makes for an entertaining and thought-provoking read.

47. **Mockingbird** (novel) (1980)¹⁷¹ [A, B, C, D, F]

In the 23rd century of Walter Tevis’s *Mockingbird*, the nineteen million surviving inhabitants of Earth are drugged-out, illiterate couch potatoes who are served (or enslaved?) by a legion of robots in increasing need of repair. In explaining how humanity reached this dismal state, Tevis turns a trope of dystopian sci-fi on its head: unlike the worlds depicted in *Brave New World*, *Nineteen Eighty-Four* and *Anthem*, not to mention the *Star Trek TNG* episodes and films devoted to the sinister Borg collective, the downfall of society as portrayed by Tevis cannot be traced to the sacrifice of individualism on the altar of pseudo-Marxist collectivism. On the contrary, in Tevis’s world, a twisted form of enforced introversion has become orthodoxy. So-called “privacy” reigns supreme, turning commonplaces like looking someone in the eye and

¹⁶⁹ TEVIS, *supra* note 162; *see also* THE MAN WHO FELL TO EARTH (British Lion Films 1967) (cult film adaptation starring David Bowie).

¹⁷⁰ Cinematic versions of Tevis’s books include *The Queen’s Gambit* (2020), *The Color of Money* (1986) and *The Hustler* (1961).

¹⁷¹ WALTER TEVIS, *MOCKINGBIRD* (1980).

asking a personal question into punishable “privacy invasions.”¹⁷² Co-habitation is a criminal offense that lands the novel’s protagonist, Bernard, in a labor camp where the robotic guards are often on the fritz. The rules that govern Tevis’s crumbling future society are bizarre but devilishly consistent, and offer a fresh perspective on how, in the line that Tevis quotes from T.S. Eliot; the world may end “[n]ot with a bang but a whimper.”¹⁷³

Blaming, Jeff

48. “**Litmus,**” *Battlestar Galactica* (television episode) (2004)¹⁷⁴ [A, B, H, I]

In this episode from the first season of the *Battlestar Galactica* reboot, a Cylon agent in human form infiltrates the spacecraft *Galactica* and commits an act of sabotage. Commander Adama appoints Master at Arms Sergeant Hadrian to investigate the incident and convene an independent tribunal to consider the evidence. The episode raises interesting issues concerning the rule of law, especially when Adama unilaterally terminates the tribunal as a “witch hunt.”¹⁷⁵

Wells, H.G.

49. **The Island of Doctor Moreau** (novel) (1896)¹⁷⁶ [A, G]

On a remote island in the South Pacific, the eccentric physiologist Dr. Moreau creates a race of half-animal, half-human creatures. To suppress their bestial natures and nudge them toward humanity, he imposes on them a strict set of “laws.” The creatures must periodically chant: “Not to go on all-Fours; *that* is the Law. Are we not Men? Not to suck up Drink; *that* is the Law. Are we not Men?”¹⁷⁷ The beast-people have difficulty adhering to these rules, particularly after dark. This early science fiction work raises difficult issues concerning the nature of humanity and the role of law in human societies.

Wolfe, Gene

50. **Shadow of the Torturer** (novel) (1980)¹⁷⁸ [F, I]

¹⁷² The four fundamental precepts of Tevis’s society are Inwardness, Privacy, Self-fulfillment and Pleasure. *Id.* at 5-6.

¹⁷³ *Id.* at 205.

¹⁷⁴ *Battlestar Galactica: Litmus* (David Eick Productions et al. Nov. 22, 2004)

¹⁷⁵ *Id.*

¹⁷⁶ H.G. WELLS, *THE ISLAND OF DR. MOREAU* (Penguin Publishing Group 2005) (1886).

¹⁷⁷ *Id.* at 91.

¹⁷⁸ GENE WOLF, *SHADOW OF THE TORTURER* (1980).

On a far-future Earth, criminal punishment has been delegated to the ascetic Seekers for Truth and Penitence, more commonly known as the Guild of Torturers, who take pride, but not pleasure, in the fiendish punishments they mete out to the guilty. Wolfe's universe is a mixture of medieval ritual and alien technology. Its rules, while only glimpsed peripherally, shape virtually every action of subjects.

ADDENDUM – CRITICAL WORKS ON SCIENCE FICTION AND LAW

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