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VISITS TO A SMALL PLANET: RIGHTS TALK IN SOME SCIENCE FICTION FILM AND TELEVISION SERIES FROM THE 1950s TO THE 1990s*

Christine A. Corcos**

Many science-fiction writers . . . have depicted humans and alien races interacting; but in virtually all cases, the human race is depicted as somehow special, different and better than the others. . . . The ultimate myth of science fiction that is tagged onto our astronomy turns out to be that, even with all those alien races, human beings are the central characters in the story of the universe. It is as if the Copernican Revolution never happened.¹

* See generally *Visit to a Small Planet* (Paramount Pictures 1960) (motion picture) (telling the story of an alien who travels to Earth to study humans); Gore Vidal, *Visit to a Small Planet* (Dramatists Play Serv. Inc. 1987) (originally published 1956) (a play upon which the 1960 motion picture was based).

** © 2009, Christine A. Corcos. All rights reserved. Associate Professor of Law, Louisiana State University Law Center; Associate Professor, Women's and Gender Studies, Louisiana State University A & M, Baton Rouge, Louisiana. This Article is part of the Author's more extensive study of "rights talk" in science fiction (SF) titled *Close Encounters of the Legal Kind*. For previous parts of the "rights talk" series, see generally Christine Corcos, Isabel Corcos & Brian Stockhoff, *Double-Take: A Second Look at Cloning*, *Science Fiction and Law*, 59 La. L. Rev. 1041 (1999) (studying the issue of human rights through the treatment of cloning in SF literature); Christine Alice Corcos, "I Am Not a Number! I Am a Free Man!": *Physical and Psychological Imprisonment in Science Fiction*, 25 Leg. Stud. Forum 470 (2001) (exploring the question of human rights through the treatment of imprisonment in the SF genre). The Author would like to thank Professor Ray Diamond, LSU Law Center, for his great interest in and invaluable comments on the manuscript; Cynthia Virgillio, LSU Law Center, for secretarial assistance; Philip Gragg and Kevin Baggett, LSU Law Library, for research and interlibrary loan assistance; and Carrie Mills, LSU Law 2010, and Vey LaPlace, LSU Law, 2011, for research assistance. An expanded version of this Article discussing additional film, television, literature, and other examples is available from the Author.

1. Guy J. Consolmagno, *Astronomy, Science Fiction and Popular Culture: 1277 to 2001 (and Beyond)*, 29 *Leonardo* 127, 131 (1996).

I. INTRODUCTION

As early as the seventeenth century, satirists used the travel essay as a means to examine and critique societies, including their own.² If an artist's government discouraged or banned political or social critique, he was necessarily forced to disguise his criticism as fiction—the more fanciful, the better.³ This practice has carried over to the genre of science fiction (SF).⁴

While authors fictionalize many of the elements in SF to make their stories more exciting and bizarre, some elements have made a transition into popular culture because they resonate with the human popular imagination. As a result, many individuals believe that such elements actually exist. Among them are popular methods of alien transportation, such as the rocket (often pictured as the “rocket to Mars”), the flying saucer,⁵ and the alien

2. See e.g. Charles-Louis de Secondat & Baron de la Brède et de Montesquieu, *Les Lettres Persanes* (Folio Classique 1973) (originally published 1721) (using the protagonists' reflective observations regarding their home society and the new societies encountered during their travels to analyze and critique cultures); Mark Twain, *The Innocents Abroad Roughing It* (Literary Classics of U.S., Inc. 1984) (originally published 1869) (providing a pointed satire of naive and inexperienced tourists through a travel narrative); see Sylvie Romanowski, *Through Strangers' Eyes: Fictional Foreigners in Old Regime France* 1, 3, 12 (Purdue U. 2005) (discussing how authors have used fictional literary characters, such as those in *The Persian Letters*, to filter and analyze the home culture and explore the influence outsider “aliens” may have on a society).

3. See e.g. Jonathan Swift, *Gulliver's Travels* (Penguin Bks. 2003) (originally published 1726) (using the story of an enthusiastic adventurer who often finds himself lost or shipwrecked in unknown lands to camouflage a sharp critique of the English society during the late seventeenth and early eighteenth centuries). *Gulliver's Travels* has become a classic example of both social critique and literature. See Jonathan Swift, *Gulliver's Travels and “A Modest Proposal” XIII* (Pocket Bks. 2005) (including *Gulliver's Travels* in a “rare collection of literature that has passed into folklore” and describing the story as “sophisticated political satire”). For one scholar's interpretation of *Gulliver's Travels*, see generally Claude Rawson, *God, Gulliver, and Genocide: Barbarianism and the European Imagination, 1492–1945* (Oxford U. Press 2001) (analyzing *Gulliver's Travels* and its social critique).

4. Jan Johnson-Smith, *American Science Fiction TV: Star Trek, Stargate and Beyond* ch. 1 (Wesleyan U. Press 2005). A reader knows that a piece of literature is SF through signals the author uses, including the language and plausibility within the world the author creates, even though both may be significantly different from the world the reader ordinarily inhabits. *Id.* at 19, 20; see Jonathan Culler, *Structuralist Poetics* 189 (Routledge Classics 2002) (arguing that the literary genre determines the readers' approach to understanding and interpreting a text).

5. The term “flying saucer,” which seems to be the preferred method by which some humans believe extraterrestrials arrive on our planet, originated in 1947 newspaper accounts of pilot Kenneth Arnold's encounter with nine unidentified objects flying in formation over Mt. Rainier, Washington. Phil Patton, *Flying Saucers are Part of a Modern My-*

being⁶ interested in making contact with a human, either for benign or (more often) nefarious purposes. The idea that an alien intends to visit Earth in order to destroy the planet or to cause us harm is one that begins with the H.G. Wells novel *The War of the Worlds* and quickly gathers popularity in novels, films, and television beginning in the mid-twentieth century, fed by actual political and cultural events.

These ideas resonate with the human imagination⁷ and are sometimes incorporated into spiritual beliefs.⁸ Reader and viewer

thology, Tampa Trib. Baylife 1 (July 1, 1997). Reports of Arnold's sighting led to a wave of flying saucer accounts that summer. Robert Kolarik, *News About Saucer Sightings Heated Up the Summer of '47*, San Antonio Express-News A11 (May 25, 1997). Arnold never referred to the objects he saw as *flying saucers*, but he told interviewers that they flew "like a saucer would if you skipped it across water," and, the term "flying saucer" was coined. *Id.* For a more complete history of sightings of unidentified flying objects (UFOs), see Robert Sheaffer, *UFology 2009: A Six-Decade Perspective*, http://www.csicop.org/si/show/ufology_2009_a_six-decade_perspective (accessed Apr. 11, 2010) (reviewing the history of UFO sightings in the United States beginning in 1947, describing the public's continued interest, and predicting the popularity of UFO discussions well into the future). The notion of space flight dates back to the seventeenth century. See Cyrano de Bergerac, *A Voyage to the Moon* (Doubleday & McClure 1899) (originally published 1657 and 1662). Georges Méliès later depicted space travel in a very early silent film short, *Le Voyage Dans la Lune* [The Voyage to the Moon] (Star Film 1902) (motion picture).

6. J. Allen Hynek provides us with a taxonomy for classifying alien encounters with humans, including close encounters of the first kind where a UFO is sighted, of the second kind where a physical manifestation of the alien presence is noticeable on surrounding animate and inanimate objects, and of the third kind where the UFO's "occupants" are reported. J. Allen Hynek, *The UFO Experience: A Scientific Inquiry* 28-29 (Marlowe & Co. 1998). For a sampling of SF's depiction of close encounters with nefarious extraterrestrials, see *Predator* (20th Cent.-Fox 1987) (motion picture) (depicting an extra-terrestrial being hunting a team of military servicemen in a Central American jungle); H. G. Wells, *The War of the Worlds* (William Heinemann 1898) (narrating the fight against a Martian invasion of Earth in which the Martians seek to kill all inhabitants and destroy the planet). For an example of SF's depiction of a close encounter with more benign extraterrestrials, see *Mork & Mindy* (ABC 1978-1982) (TV series) (depicting an alien, Mork from the planet Ork, whose superiors sent him on a mission to investigate Earth and report back).

7. The Roswell, New Mexico incident has caused much comment and controversy. Benson Saler, Charles A. Ziegler & Charles B. Moore, *UFO Crash at Roswell: The Genesis of a Modern Myth* x (Smithsonian Instn. Press 1997); Eileen Meehan, *Tourism, Development, and Media*, 45 *Society* 338, 339 (2008). When the Roswell incident first occurred in July 1947, it passed almost unnoticed in the papers. See *id.* at 339 (reporting that most UFO specialists considered the 1947 incident at Roswell debunked prior to the 1970s). Rancher William "Mac" Brazel found an unknown kind of debris in late June or early July and reported it to the authorities. William Reville, *Myth of UFO at Roswell Debunked*, *Irish Times* 9 (Sept. 11, 2000) (available at http://www.paradigmresearchgroup.org/News_Items-3.htm#9-11-00 IT). The local Air Force Base asserted that it was debris from a weather balloon, although many have since disputed that contention. *Id.* The Roswell UFO controversy literature is immense. For the U.S. government's report on the Roswell crash,

familiarity with real life space travel, which increases plausibility⁹ as well as the maintenance of traditional SF memes, allows SF writers to use the genre's conventions to continue to critique society.¹⁰

completed as a result of a request by U.S. Representative Steven Schiff, see James McAndrew, *The Roswell Report: Case Closed* (H.Q. U.S. A.F. 1997).

About fourteen years later, Betty and Barney Hill reported their abduction by aliens as they were driving to their home in Portsmouth, New Hampshire, on the night of September 19, 1961. Thomas E. Bullard, *UFO Abduction Reports: The Supernatural Kidnap Narrative Returns in Technological Guise*, 102 J. Am. Folklore 147, 148 (1989). They had stopped to observe a bright light in the night sky. *Id.* The Hills claimed that the light turned out to be a large craft with extraterrestrials inside, who abducted the Hills to examine them. *Id.*; see generally John G. Fuller, *The Interrupted Journey: Two Lost Hours "Aboard a Flying Saucer"* (Dial Press 1966) (recounting the complete story of the Hills' abduction in detail). The Hills' abduction story started the tradition of stories of alien abductees. Bullard, *supra* n. 7 at 150 (observing that there were over six hundred reports of alien abduction from 1961 through 1989). Another example was the 1975 abduction report of Travis Walton, an Arizona logging crew member. *Id.* at 149. For days, police combed the area where, according to witnesses, Walton had disappeared after being struck by a beam emitted from the craft. According to newspaper reports, he eventually turned up in a phone booth not far from his brother's Arizona home, wearing the same clothes in which he disappeared. *Id.*; see generally Travis Walton, *Fire in the Sky: The Walton Experience* (3d ed., Marlowe & Co. 1997) (describing Walton's abduction experience in detail); Travis Walton, *An Ordinary Day*, <http://www.travis-walton.com/ordinary.html> (accessed Apr. 11, 2010) (providing a condensed version of Walton's abduction story).

8. See generally Hugh Ross, Kenneth Samples & Mark Clark, *Lights in the Sky & Little Green Men: A Rational Christian Look at UFOs and Extraterrestrials* (Navpress 2002) (providing a Christian perspective on the topics of UFOs and extraterrestrial beings).

9. Regarding this need, one author observes:

A remarkably high degree of plausibility is vital to [SF]. One manner in which [SF] stories vary from the mundane is through their methods of highlighting difference at multiple levels, and the necessity of doing this both rapidly and convincingly for the reader or viewer is paramount. . . . Readers identify specific components in a text and in doing so they "naturalize the details of the text by relating them to some kind of natural order or pattern already existing in our physical or cultural environment." In effect, these component elements enable readers to construct the story world in a fashion plausible to them. However, for a genre like [SF], not only must the world be plausible, but a strong degree of estrangement from the mundane world is also vital.

Johnson-Smith, *supra* n. 4, at 20 (quoting Kathleen L. Spencer, *The Red Sun Is High, the Blue Low: Towards a Stylistic Description of Science Fiction*, 10.1 Sci. Fiction Studies 35–50 (1983)).

10. Kenneth B. Nunn, *Illegal Aliens: Extraterrestrials and White Fear*, 48 Fla. L. Rev. 397 (1996) (suggesting the use of alien encounters can also be seen as an analogy for the racial narrative). For an example of an SF movie that provides a social critique, see *E.T.: The Extra-Terrestrial* (Universal Pictures 1982) (motion picture) (depicting society's reaction to the discovery of an extraterrestrial being in a typical California suburb); see also Jeredith Merrin, *E.T.*, 39 S. Rev. 74, 74–75 (2003) (a poem analyzing American culture through the movie *E.T.: The Extra-Terrestrial*).

SF authors continually use human beings as the yardstick by which to measure aliens. So, while such films and shows may seem to invite us, through the use of the alien lens, to critique human society, they actually invite us to reexamine human society from a different, albeit human, perspective. As the genre critiques human society from this perspective, SF is actually well suited to examine the issue of human rights.

This Article examines the critique of United States society's development and assertion of such rights within a sampling of SF film and television programs from the 1950s to 1990s. Part II analyzes the treatment of civil rights within the alien invasion and infiltration narratives of the time period. Part III discusses the transition from the foreign alien-invasion narrative to the domestic alien narrative and its effect on the treatment of civil rights. Part IV explores the civil rights issues represented in the friendly alien-visitor narrative of the 1960s television show *My Favorite Martian*.¹¹ Part V examines the civil rights questions the late 1980s and early 1990s television series *Alien Nation*¹² poses. Part VI analyzes the civil rights issues the 1990s television series *3rd Rock from the Sun*¹³ raises.

II. KEEP WATCHING THE SKIES: ALIEN VISITORS, INVADING FORCES, AND RIGHTS OF SURVIVAL

SF authors have used the alien-invasion narrative as a proxy for whatever social, legal, economic, or other threat the culture may fear the most at the time. The depiction of aliens in alien-invasion narratives beginning with *War of the Worlds*¹⁴ and continuing through sagas such as *V*¹⁵ and films such as *Independence Day*¹⁶ as deceptive, vicious, and single-minded beings intent on

11. *My Favorite Martian* (CBS 1963–1966) (TV series).

12. *Alien Nation* (Fox Broad. Co. 1989–1990) (TV series) [hereinafter *Alien Nation Series*].

13. *3rd Rock from the Sun* (NBC 1996–2001) (TV series).

14. *War of the Worlds* (Paramount Pictures 1953) (motion picture) [hereinafter *War of the Worlds 1953*]; *War of the Worlds* (Paramount Pictures 2005) (motion picture). A television series based on the book ran on the USA network from 1988 to 1990. *War of the Worlds* (Paramount TV 1988–1990) (TV series).

15. *V* (NBC 1983–1984) [hereinafter *V 1983*]. Currently, ABC is broadcasting a remake of *V*, with Kenneth Johnson, the original producer of the film and series, at the helm. *V* (ABC 2009–present) (TV series) [hereinafter *V 2009*].

16. *Independence Day* (20th Cent.-Fox 1996).

using Earth for their own purposes allows us to project human traits onto non-existent imaginary beings and examine them from a comfortable distance. If extraterrestrial life exists,¹⁷ we have little reason to believe that it is particularly interested in Earth or Earth's inhabitants or that extraterrestrials would have war-like intentions. Instead, invasion, enslavement, and exploitation are more likely to be characteristic of humans, other primates, or intelligent mammals¹⁸ than of extraterrestrials. Thus, much SF in alien-invasion narratives serves as proxies for human characteristics and analogies to threats that are much closer to home.

For example, novels and films about alien invaders produced in the 1950s emphasize the dominant fear at the time, which was that of a communist takeover, either through an overt attack launched by the Soviet Union or Cuba,¹⁹ or in concert with the assistance of "fifth columnists"—communist sympathizers in the United States. The 1950s alien-invasion narratives depict the aliens as undesired, unwelcome, and unsympathetic beings. Often the invading aliens in such narratives were seen as proxies for communists.²⁰ In day-to-day life, many Americans were concerned

17. See Phil Plait, *Do Astronomers Believe in Extraterrestrial Life?* <http://dsc.discovery.com/space/my-take/astronomer-alien-phil-plait.html> (Feb. 23, 2009) (discussing whether astronomers believe in the possibility that life outside of Earth exists).

18. Scientists have also observed predatory behavior in dolphins and primates. Nigel Blundell, *Killer Dolphins Baffle Marine Experts*, <http://www.telegraph.co.uk/earth/earthnews/3323070/Killer-dolphins-baffle-marine-experts.html> (Jan. 25, 2008); Matt Walker, *Dolphins Seen Trying To Kill Calf*, http://news.bbc.co.uk/earth/hi/earth_news/newsid_8048000/8048288.stm (May 18, 2009).

19. See e.g. Cyndy Hendershot, *Paranoia, the Bomb, and 1950s Science Fiction Films* (Bowling Green St. U. Pop. Press 1999) (discussing the reflection of contemporary fears in science fiction films of the period as represented by monsters and humanoid doubles); see also David Seed, *American Science Fiction and the Cold War: Literature and Film* (Edinburgh U. Press 1999) (analyzing the SF genre in film and literature in light of Cold War events).

20. See e.g. *I Married a Monster from Outer Space* (Paramount Pictures 1958) (motion picture) (depicting aliens slowly switching places with real humans, thereby creating paranoia amidst the humans); *Invasion of the Body Snatchers* (Walter Wanger Prods. 1956) (motion picture) (depicting aliens stealing humans' bodies and creating paranoia amidst the remaining humans); *Village of the Damned* (MGM British Studios 1960) (motion picture) (depicting human women who have terrifying offspring after being impregnated by aliens). The book upon which *Village of the Damned* was based depicted an incident of genetic breeding and presented notions of eugenics more representative of the cultural fear during the 1950s that humans had created technology that could destroy them. M. Keith Booker, *Monsters, Mushroom Clouds, and the Cold War: American Science Fiction and the Roots of Postmodernism, 1946–1964*, at 2, 4 (Greenwood Press 2001) (stating that SF films of the 1950s were often different from their underlying novels because

about identifying those within their midst who might harbor ill intent toward the government. In the real world, both the citizenry and elected officials demanded loyalty oaths and other demonstrations of patriotism,²¹ leading to cases that challenged the constitutionality of such oaths, statutes, and demonstrations.²²

Alien invaders stood proxy for whatever societal fear dominated at the time. When the socialist H. G. Wells wrote the original novel *The War of the Worlds*, in which an anonymous journalist tells the story of invading Martians who declare war on the Earth and want to destroy it completely,²³ he was concerned with British imperialism, not with communism. When Orson Welles adapted the novel for radio broadcast in 1938, he highlighted concerns of war and foreign invasion.²⁴ By the time the film version²⁵ debuted in 1953, moviegoers had communism on their minds. In each version of *The War of the Worlds* the fictional alien invader represented a different, real threat. In no version of the work,

the films tended more toward reinforcing “prevailing ideologies than toward the often critical stance taken by the novels”); John Wyndham, *The Midwich Cuckoos* (Pauline Francis, ed., Evans Bros. Ltd. 2005) (originally published 1957). There are many parodies of this category of films. See e.g. *Top of the Food Chain* (Upstart Pictures 1999) (motion picture) (depicting an unknown force that devours the odd townspeople of an isolated Canadian town). For additional discussion relating to the depiction of the Cold War in SF films, see Seed, *supra* n. 19.

21. See Victor S. Navasky, *Naming Names* (Hill & Wang 2003) (discussing the McCarthy era of blacklisting suspected Communists and Communist sympathizers in the United States during the 1950s and 1960s).

22. See e.g. *Speiser v. Randall*, 357 U.S. 513 (1958) (striking down a California requirement that private citizens sign a loyalty oath in order to obtain a tax exemption).

23. *War of the Worlds 1953*, *supra* n. 14. The socialist philosopher is presumed to have been commenting on Britain’s imperialism as well as current developments in science. The alien invasion and infiltration narratives rarely suggest that the invading aliens may have some legally defensible reason for attacking earth. However, some noted exceptions exist in which the humans assume the role of the invading forces. See e.g. *The Twilight Zone*, “The Invaders” (CBS Jan. 27, 1961) (TV series) (depicting what originally appears to be an alien invasion of Earth but turns out to be quite the opposite); *The Twilight Zone*, “I Shot an Arrow Into the Air” (CBS Jan. 15, 1960) (TV series) (telling the story of three humans who crash-land on an alien planet).

24. When the Mercury Theater broadcast *War of the Worlds* on October 30, 1938, so much public panic ensued over the seemingly true-to-life reporting of a Martian invasion that the FCC launched an investigation and Congress held a hearing. See generally Howard Koch, *The Panic Broadcast: Portrait of an Event* (Little, Brown & Co. 1970) (recounting in detail the public panic the radio broadcast of *The War of the Worlds* created and the governmental investigation of the event that followed).

25. *War of the Worlds 1953*, *supra* n. 14 (depicting humans defending themselves without a second thought against the invading Martians).

however, did the audience question the humans' right to defend themselves.

The fears of the 1950s were not only of an outright invasion, but also of communist infiltration of the United States,²⁶ which was also reflected in then-contemporary SF works. In *I Married a Monster from Outer Space*, Marge Bradley, the female protagonist, discovers that her new husband is one of a group of extraterrestrials who have taken over human bodies in hopes of impregnating Earth woman because all of the females on their home world have perished.²⁷ The aliens' failure in their mission would mean the extinction of their race.²⁸ Marge is torn between her love for her extraterrestrial husband and her belief that she must notify the authorities and her family, friends, and neighbors that the planet is under attack.²⁹ Viewed from the perspective of 1950s humans,³⁰ the aliens are invaders who have come to Earth in disguise, taken over human bodies without their consent,³¹ deceived

26. See Navasky, *supra* n. 21. This infiltration might be physical, or it might be psychological or intellectual—hence the fear of Communist ideology and of the hiring of Communist-leaning academics and other employees.

27. *I Married a Monster from Outer Space*, *supra* n. 20.

28. *Id.*

29. *Id.* One literary critic observed:

The movie can also be read as a warning against science and the ways it is slowly robbing us of our humanity. The alien scientists, reacting to a natural disaster, came up with a plan whereby they could go and take over another species—without asking, transforming the host and the offspring into soulless, logical, superior beings who do not know how to live and love. The film makes it clear that the aliens represent a technologically and intellectually superior race of beings. Though they may look like monsters to human eyes and though they may smell like “wild things” to dogs—who growl and attack them as if they were wild animals—they are more advanced than humans, perhaps the next step in evolution.

Per Schelde, *Androids, Humanoids, and Other Science Fiction Monsters: Science and Soul in Science Fiction Films* 104 (N.Y. U. Press 1993).

30. Note that the modern invasion narrative *Independence Day*, *supra* note 16, takes the same position—the right of humans to defend themselves against an alien invasion force.

31. This was, perhaps, the invading aliens' one mistake. However, considering the hysterical anti-alien (read “anti-communist”) attitude of the period, were they not right to doubt the possibility of obtaining fair treatment had they presented their case in advance? Had they argued “self defense”—the right to invade in order to survive, either overtly or by infiltration as the aliens do in *I Married a Monster From Outer Space*, they might not prevail, because “anticipatory self-defense” is not generally recognized as acceptable in human international law. See Mary Ellen O'Connell, *The Myth of Preemptive Self-Defense* 10–13 (Am. Soc. Intl. L. 2002) (available at <http://www.asil.org/taskforce/oconnell.pdf>) (discussing treatment of self-defense in international law). Or, had the aliens in *I Married a Monster from Outer Space* sought out a small group of humans to hear their case, how

the women they married, and now constitute a threat to the United States, if not the rest of the world. From the aliens' point of view, they are an intellectually and technologically superior species who have a right to attempt survival³² and might even be able to argue this right in court.³³

The alien-infiltrator theme is also present in the 1951 film *The Thing from Another World*.³⁴ Like the pod people in *Invasion of the Body Snatchers*,³⁵ the alien in *The Thing from Another World* takes over human beings, eliminating what makes them human to ensure its own survival.³⁶ Thus, the surviving humans cannot easily determine whether any particular one of their companions is still human or has become the alien being.³⁷ Naturally, the surviving humans do not want to destroy fellow humans, but they do not have any other choice if they hope to survive and save humanity from the threat of an alien takeover.³⁸ Note that the humans call the alien being "the thing"—dehumanizing and objectifying it—to make it easier for them to destroy it and justify that destruction while ensuring their own survival.³⁹ They must

likely would those humans have assisted them and told no one of their existence?

32. The U.S. Constitution guarantees that no person shall be deprived of life without due process of law. U.S. Const. amend. XIV, § 1; U.S. Const. amend. V. But are literal "aliens"—that is, extraterrestrials—"persons" in the eyes of the Supreme Court? While this discussion is beyond the scope of this Article, I hope to examine it in a future Article.

33. But would this right be heard in United States courts or some other national or international court of the 1950s? Would it be heard in any contemporary tribunal? In *Alien Nation*, the plot suggests that the United States, at least, would give such aliens refugee status if they made application peacefully. *Alien Nation Series*, *supra* n. 12.

34. *The Thing from Another World* (Winchester Pictures Corp. 1951) (motion picture) [hereinafter *The Thing 1951*]. There was a later remake of this movie. *The Thing* (Universal Pictures 1982) (motion picture). This Article will discuss the 1951 version. *The Thing* movies were based on a short story by John Campbell. John W. Campbell, Jr., *Who Goes There?* in *Who Goes There?* (Street & Smith Publications 1948). For a more in-depth discussion of the mythological and folkloric nature of alien creatures in SF movies, such as the two versions of *The Thing*, see generally Schelde, *supra* n. 29.

35. *Invasion of the Body Snatchers*, *supra* n. 20. This movie was remade twice: in 1978 as *Invasion of the Body Snatchers* (Solofilm 1978) (motion picture) and in 2007 as *The Invasion* (Warner Bros. 2007) (motion picture).

36. *The Thing 1951*, *supra* n. 34.

37. *Id.* Similarly, the humans face this dilemma in *Invasion of the Body Snatchers*. *Invasion of the Body Snatchers*, *supra* n. 20.

38. *The Thing 1951*, *supra* n. 34.

39. See *id.* (depicting the justifications the surviving characters made for destroying the alien "thing"); see also *Invasion of the Body Snatchers*, *supra* n. 20 (showing the humans' marginalization and dehumanization of the pod people before the humans can feel comfortable in destroying the pods). This kind of moral dilemma is, in some sense, the kind

first overcome their initial revulsion and belief that they might be killing “one of their own,” convincing themselves that the human is already dead to feel comfortable attacking the “thing.”⁴⁰

The treatment of aliens in infiltration narratives like *Invasion of the Body Snatchers* and *The Thing from Another World* shows that it is easier to destroy someone from another group than to destroy someone who looks like part of one’s own group. To denounce members of one’s own group, the denouncing majority must first find ways to marginalize the targeted individuals legally and ethically in order to assuage their consciences.⁴¹ Self-defense is a good justification and national security is an excellent one.⁴²

The invading aliens of this time period do not always represent a foreign threat. More domestic problems including war, eco-

of ethical and legal problem that confounds governments that must decide whether to shoot down an airliner full of innocent passengers that terrorists have hijacked and aimed at a skyscraper—are the deaths of three hundred people preferable to the deaths of three thousand? See Robin Geiß, *Civil Aircraft as Weapons of Large-Scale Destruction: Countermeasures, Articles 3BIS of the Chicago Convention, and the Newly Adopted German “Luft-sicherheitsbesetz”*, 27 Mich. J. Intl. L. 227, 237 (2005) (discussing the international law applicable to the shootdown of civil aircraft turned into weapons by non-state actors).

40. See *The Thing 1951*, *supra* n. 34 (depicting the survivors as feeling comfortable with killing alien-controlled humans only after they convince themselves that the humans are no longer human); *Invasion of the Body Snatchers*, *supra* n. 20 (showing those fighting the aliens as struggling with destruction of the alien-controlled clones and accepting the need for their destruction only after determining that the clones were no longer alive). Likewise, someone faced with taking a loved one off a respirator must believe that the loved one is beyond resuscitation prior to coming to a final decision. See *Schiavo v. Schiavo*, 403 F.3d 1223, 1231–1232 (11th Cir. 2005) (discussing the extent to which family members will fight to preserve the life of a loved one whom they have not yet accepted as beyond saving).

41. The Salem witch hunt and ensuing 1692 trials in Salem, Massachusetts are an excellent example of how a society can manufacture a legal and ethical reason to marginalize some of its members. See generally Mary Beth Norton, *In the Devil’s Snare: The Salem Witchcraft Crisis of 1692* (Random House, Inc. 2002) (providing a detailed historical analysis of the 1690s Salem witch hunt and trials).

42. See Exec. Or. 9066, 28 C.F.R. 743 (1942) (available at <http://bss.sfsu.edu/internment/executiorder9066.html>) (ordering the creation of internment camps for persons of Asian descent during World War II); Maisie Conrat, Richard Conrat & Dorothea Lange, *Executive Order 9066: The Internment of 110,000 Japanese Americans* 17 (UCLA Asian Am. Stud. Ctr. Press 1992) (discussing how President Roosevelt’s Executive Order 9066 in 1942 resulted in the imprisonment of nearly 120,000 Japanese Americans, two-thirds of whom were native-born Americans, in internment camps, for the duration of World War II). In *Korematsu v. U.S.*, 323 U.S. 214, 219 (1944), the Supreme Court ruled that President Roosevelt’s executive order was constitutional. However, Justice Frank Murphy dissented, calling the decision “a legalization of racism.” *Korematsu*, 323 U.S. at 242 (Murphy, J., dissenting).

conomic crises, and political, religious, and social divisiveness also threaten society. For example, in *The Day the Earth Stood Still*,⁴³ the alien, Klaatu, visits Earth accompanied by a powerful robot, Gort.⁴⁴ They come to warn us that if we do not stop our warlike ways, we will inevitably bring about our destruction.⁴⁵ Says Klaatu:

I am leaving soon and you will forgive me if I speak bluntly. The universe grows smaller every day—and the threat of aggression by any group—anywhere—can no longer be tolerated. There must be security for all—or no one is secure. . . . [.] This does not mean giving up any freedom except the freedom to act irresponsibly. . . . Your ancestors knew this when they made laws to govern themselves—and hired policemen to enforce them. We of the other planets have long accepted this principle. We have an organization for the mutual protection of all planets—and for the complete elimination of aggression. . . . The test of any such higher authority, of course, is the police force that supports it. For our policemen, we created a race of robots[.] Their function is to patrol the planets—in spaceships like this one—and preserve the peace. In matters of aggression we have given them absolute

43. *The Day the Earth Stood Still* (20th Cent.-Fox 1951) (motion picture) [hereinafter *The Day the Earth Stood Still*]. This movie is based on a short story. Harry Bates, *Farewell to the Master* 26 *Astounding Sci. Fiction* (Oct. 1940) (available at <http://thenostalgialeague.com/olmag/bates-farewell-to-the-master.html>; <http://thenostalgialeague.com/olmag/bates2.html>; <http://thenostalgialeague.com/olmag/bates3.html>). The original radio broadcast of *The Day the Earth Stood Still* is also available online. Irving Cummings, *The Day the Earth Stood Still* (KWTNL Jan. 4 1954) (MP3) (available at <http://thenostalgialeague.com/kwtnl/kwtnl.html>; select Lux Radio Theater, select “The Day the Earth Stood Still”). In films such as *Colossus: The Forbin Project* (Universal 1970) (motion picture) technology (represented by the computer) becomes the enemy. In a future article, I plan to investigate the implications of extending rights to artificial intelligence. I am indebted to my colleague Professor Diamond for reminding me of the existence of *Colossus: The Forbin Project*, an excellent and much underrated film.

44. *The Day the Earth Stood Still*, *supra* n. 43.

45. *Id.* The film has many of the classic elements that have been associated with SF films, including a space ship, aliens making contact with Washington, D.C., the center of U.S. political power, weapons more powerful than our own, an alien posing as a human, and aliens bringing a significant message to the people of Earth. See Adam Roberts, *Science Fiction: The New Critical Idiom* 14–15 (Routledge 2003) (listing elements common to the SF genre including, among other things, spaceships, aliens, alien encounters, and advanced technology). It makes more sense for aliens to make contact in Washington, D.C., the capital of the United States, than in rural areas, as is more typical of reports of UFO and alien sightings. See *e.g. supra* n. 7 (describing the Roswell incident and other UFO sightings and alien encounters, all of which predominantly took place in rural settings).

power over us. At the first sign of violence they act automatically against the aggressor. And the penalty for provoking their action is too terrible to risk. The result is that we live in peace, without arms or armies, secure in the knowledge that we are free from aggression and war—free to pursue more profitable enterprises. We do not pretend to have achieved perfection—but we do have a system—and it works. I came here to give you the facts. It is no concern of ours how you run your own planet—but if you threaten to extend your violence, this Earth of yours will be reduced to a burned-out cinder. Your choice is simple. Join us and live in peace. Or pursue your present course—and face obliteration. We will be waiting for your answer. The decision rests with you.⁴⁶

One of the suggestions here is that humans, rather than the inhabitants of other planets, are breaking universal law, and that Klaatu, as some sort of intergalactic diplomat,⁴⁷ is on a mission to teach humans the galaxy's law.⁴⁸

Although the early alien-invasion and infiltration narratives starkly pose the question of humanity's right to survive, they do

46. *The Day the Earth Stood Still*, *supra* n. 43. The full script is available online. *The Day the Earth Stood Still*, <http://www.imsdb.com/scripts/Day-the-Earth-Stood-Still,-The.html> (accessed Apr. 11, 2010).

47. *The Day the Earth Stood Still*, *supra* n. 43. Klaatu warns of the ultra-violent intergalactic peace keeping robots, like the character Gort, that “[a]t the first sign of violence [the alien police robots] act automatically against the aggressor.” *Id.* The very famous line that saved the Earth from the alien police robots’ zealous enforcement of the law is “Klaatu barada nikto.” *Id.* This phrase has no direct translation. However, the first word seems to make reference to the character Klaatu, so some fans speculate that the phrase was some form of command. John Brownlee, *K is for Klaatu Barada Nikto*, <http://blogs.amctv.com/scifi-scanner/2008/06/k-is-for-klaatu-barada-nikto.php> (June 11, 2008). While the movie indicates that Gort is a servant, albeit powerful, in Harry Bates’ short story *Farewell to the Master*, Gort (Gnut) tells the reporter Cliff Sutherland that he does not understand the relationship between Gort and the now deceased Klaatu. “You misunderstand. . . . I am the master” (emphasis original). Bates, *supra* n. 43.

48. See *supra* n. 47 and accompanying text for the set of rules Klaatu conveyed. The laws sound like something written by a feisty intergalactic United Nations. See The United Nations, *UN at a Glance: Overview*, <http://www.un.org/en/aboutun/index.shtml> (accessed Mar. 14, 2010) (describing the United Nations as an international organization that exists to promote peace, security, friendly international relations, social progress, improved living standards, and human rights); see also J. Hoberman, *The Cold War Sci-Fi Parable that Fell to Earth*, http://www.nytimes.com/2008/11/02/movies/moviesspecial/02hobe.html?_r=1 (Oct. 31, 2008) (describing the 2008 remake of *The Day the Earth Stood Still* in light of its predecessor SF movies). The 2008 remake of *The Day the Earth Stood Still* is more concerned with climate change than with communism and world war. Hoberman, *supra* n. 48.

not pose the question of the alien races' right to survival. Not until later in shows like *V*⁴⁹ do these narratives ask whether humans can, and should always philosophically, ethically, and legally put their own needs and desires ahead of those of other sentient beings inhabiting the Universe.⁵⁰ SF films and television shows prepare the ground to explore this question in depth in the friendly alien narratives of *My Favorite Martian*, *Alien Nation*, and *3rd Rock from the Sun* when the aliens shift from being strangely foreign to more familiar—and more human-like—forms. By seeming more human, these shows open the door to the inquiry: should those who seem other than human also receive human rights?

III. KEEP WATCHING THE HOME FRONT: A SHIFT FROM THE FOREIGN INVADER TO THE DOMESTIC VISITOR

Beginning with *My Favorite Martian*, television series depicting aliens visiting Earth begin to reject the alien-invasion and alien-infiltration narratives' notion of the 1950s that aliens necessarily pose a threat to humanity. Later series such as *Mork & Mindy*, *Alien Nation*, and *3rd Rock from the Sun*, in which aliens arrive on Earth with peaceful or neutral intentions and remain here covertly for an extended period of time, tend to emphasize the non-confrontational nature of the alien beings' visits and their genuine interest in humans as—if not species of equal intelligence and power—at least species of some interest worthy of some protection or non-interference. These “friendly alien” narratives use SF in order to critique society and examine, in particular, issues of civil rights in United States society in the second half of the twentieth century. But they do so by pointing out, paradoxically, that “real aliens” may not pose the threats that some have always

49. *V* 1983, *supra* n. 15. Since the airing of the original 1983 mini-series, there were several other versions produced, the most recent of which was Scott Rosenbaum's reimagining and reproduction. *V* 2009, *supra* n. 15. For a complete listing of the *V* spinoffs, see IMDB.com, *The Internet Movie Database*, <http://imdb.com>; select “Titles,” search “V” (accessed Apr. 12, 2010).

50. Note that some episodes of *Star Trek* and its spinoffs do pose the question in some episodes, most notably the *Star Trek* episode “The Devil in the Dark,” in which a mysterious creature attacking humans on a mining colony is discovered to be protecting its young. *Star Trek*, “The Devil in the Dark” (NBC Mar. 9, 1967) (TV series). The *Star Trek* crew brokers an accommodation between the creature, a Horta, and the miners. *Id.*

believed. By extension, the groups they represent in popular culture may also not pose the threats some have believed. In order to accomplish this representation, however, the friendly alien narrative must facilitate an exchange of ideas within the SF convention itself. Using SF allows the audience to discuss issues of race, sex, and religion without making viewers too uncomfortable about confronting human differences. By exaggerating the differences of the “other” in the SF universe, the viewing audience can then consider whether the differences in American (and world) society present such obstacles. This is what television series such as *My Favorite Martian*, *Alien Nation*, and *3rd Rock from the Sun* allow us to do.

The friendly alien narrative uses several characteristics to represent subcultures within a dominant culture. First, the friendly alien-visitor narrative includes an alien race or alien visitor that *looks* friendly—that is, the alien must, insofar as is possible, look and seem human or humanoid while still having some alien characteristics.⁵¹ The Martian of *My Favorite Martian* had formidable powers that could easily have been off-putting.⁵² Giving him a human appearance made him less frightening and more accessible to the viewing audience.⁵³ The actor Ray Walston, who played the Martian, relied on acting and limited special effects⁵⁴ to differentiate him from his co-stars, who played the humans on the show.

Alien Nation took a similar approach in its portrayal of the friendly Newcomers.⁵⁵ Although special effects had advanced

51. See e.g. *Alien Nation Series*, *supra* n. 12 (depicting non-hostile aliens that look sufficiently extraterrestrial to live almost undetected on Earth); *E.T.: The Extra-Terrestrial*, *supra* n. 10 (showing a non-hostile alien race that had smooth skin, two arms, two legs, two eyes, and human-like senses).

52. Martin could read minds and levitate objects. E.g. *My Favorite Martian*, “The Man on the Couch” (CBS Nov. 3, 1963) (TV series) [hereinafter “Man on the Couch”] (showing Martin using his telepathic powers on a psychiatrist to quickly get out of a hospital); *My Favorite Martian*, “Going, Going, Gone” (CBS Feb. 2, 1964) (TV series) [hereinafter “Going, Going, Gone”] (showing Martin losing control of his levitation finger).

53. Edward Gross, *Alien Nation: The Unofficial Companion* 36 (Renaissance Bks. 1998) (noting that the aliens on *My Favorite Martian* were “almost too human” but this similarity to the human physique made them more believable to the audience).

54. See Richard Rickitt, *Special Effects: The History and Technique* 27–29 (Watson-Guptill 2000) (discussing the special effects of the 1960s).

55. The term “Newcomers” refers to the Tenctonese who are an alien race that settles on Earth in *Alien Nation*. Kathy Li, *Plot Summary for “Alien Nation”*, <http://www.imdb>

quite far by the time *Alien Nation* went into production,⁵⁶ the director did not want the aliens “to look menacing” because they were “benevolent creatures,” so he insisted on giving them a humanoid appearance.⁵⁷ The director’s insistence on greater and greater subtlety with regard to the presentation of the Newcomers’ physical appearance was rooted in his belief that audiences might find the characters difficult to identify with.⁵⁸ So, in the friendly alien visitor narratives, being a friendly alien translated into looking at least acceptably humanoid.

Second, these friendly alien narratives show aliens as caring and, therefore, non-threatening.⁵⁹ For example, Martin of *My Favorite Martian* may be short-tempered, but he is never mean.⁶⁰ In addition, he is alone on Earth⁶¹ and does not represent any kind of alien invasion.⁶² Martin also never gives any indication that Martians are in any way warlike.⁶³

.com/title/tt0096531/plotsummary (accessed Apr. 12, 2010).

56. See Rickitt, *supra* n. 54, at 35–37 (discussing special effects of the 1990s).

57. Gross, *supra* n. 53, at 35 (describing the aliens’ distinguishing physical characteristics as including “very smooth skin and almost featureless faces” with flat eyebrows, broad noses, no ears, and unusually large heads). The director “wanted people to immediately take a liking to the aliens.” *Id.*

58. See *id.* (commenting that the human-like alien physique gave the impression that the aliens in *Alien Nation* might be an actual species).

59. However, many alien visitors presented in SF still represent a potential threat to humans because they are generally more intellectually and physically powerful and, therefore, may still pose some sort of threat to the human race. See Albert A. Harrison, *After Contact: The Human Response to Extraterrestrial Life* 253 (Plenum Press 1997) (hypothesizing that many factors, including misinterpreted cues, could lead to aggression in an alien encounter situation).

60. *My Favorite Martian*, *supra* n. 11; David Marc, *Comic Visions: Television Comedy & American Culture* 108 (2d ed., Blackwell 2002).

61. Marc, *supra* n. 60 at 108. Not until the third season does Martin’s nephew, Andromeda, join him for one episode. *My Favorite Martian*, “When You Get Back to Mars, Are You Going to Get It” (CBS Feb. 27, 1966) (TV series) [hereinafter “When You Get Back to Mars”].

62. Compare Martin and his compatriots’ very obvious lack of interest in invading Earth with the plot of *Invasion of the Body Snatchers*, *supra* note 20. Indeed, Tim never seems at all concerned about the possibility that Martin might be an advance scout, or a member of the Martian military gathering information for an invasion, in spite of the fact that *My Favorite Martian* airs during the height of the Cold War, nor does he think he should be patriotic and report Martin’s presence to the authorities (apart from an initial scene in the pilot).

63. Compare *The War of the Worlds 1953*, *supra* n. 14 (depicting Martians seeking to destroy Earth) with *My Favorite Martian*, *supra* n. 11 (depicting a close relationship developing between a stranded Martian and his human caretaker).

Third, the friendly alien narratives often depict the visiting aliens in a sympathetic situation. Martin the Martian is marooned on Earth. The Newcomers of *Alien Nation* seek asylum in Los Angeles from those who enslaved them.⁶⁴ The humans go so far as to protect the Newcomers when their former masters (the “Overseers”) attempt to re-enslave them because the humans sympathize with the Newcomers.⁶⁵

Fourth, the friendly alien narratives present the aliens as inquisitive and appreciative of (or at least interested in) human culture, intending to assimilate for the period that they remain on Earth and learn as much as they can about humans in the process. For example, Mork, from the planet Ork, on the television series *Mork & Mindy*, is a superior alien being who is interested in discovering information about humans.⁶⁶ Mork chooses to set aside his superior alien powers to blend into human society instead of using his superiority to dominate human beings.⁶⁷

Finally, the friendly alien narratives present the aliens as able to and eventually willing to protect humans from galactic threats. Such fictional alien benevolence tracks real human fears that space visitors might actually be “out there” and might mean us harm. The Solomons in *3rd Rock from the Sun* regularly ignore any “prime directive”⁶⁸ they might have that might prevent them from interfering with human destiny, particularly when Earth is

64. *Alien Nation: The Udara Legacy* (20th Cent.-Fox July 29, 1997) (TV movie) [hereinafter *The Udara Legacy*].

65. *Alien Nation: The Dark Horizon* (20th Cent.-Fox Oct. 25, 1994) (TV movie). Some of the former masters end up settling on Earth with the Newcomers. *Id.* The clear message is that the former masters prefer freedom and human rights even if they must accept the equality of the former slaves, ultimately rejecting the caste system available to them on their home planet.

66. *Mork & Mindy*, “Pilot” (ABC Sept. 14, 1978) (TV series) (telling the story of Mork’s alien supervisor, Orson, assigning Mork to study the planet Earth).

67. *Mork & Mindy*, “Mork’s Greatest Hits” (ABC Nov. 23, 1978) (TV series) (depicting Mork’s choice to deal with a threatening situation peacefully); “Mork in Love” (ABC Oct. 5, 1978) (TV series) (showing Mork falling in love with a mannequin after Mindy tells him he needs to experience love to understand the human experience fully). *My Favorite Martian’s* Martin has the same kind of experience in the episode “A Loaf of Bread, a Jug of Wine & Peaches” (CBS Nov. 10, 1963) (TV series).

68. The term “prime directive” comes from the *Star Trek* series in which the United Federation of Planets’ guiding principle requires its members never to interfere with the normal development of the lesser developed civilizations they encounter. See *Star Trek*, “A Private Little War” (NBC Feb. 2, 1968) (showing Captain Kirk’s conflict with the “prime directive” when he finds out that a hostile alien race is providing advanced technology to the enemies of one of his friends in a lesser developed civilization).

at risk.⁶⁹ For example, the Solomons save the Earth from destruction by an evil alien race⁷⁰ and later by an alien from another planet bent on destroying Earth because it blocks his home planet's view.⁷¹ The fact that the Solomons are willing to ignore their non-interference "prime directive" for the benefit of humans (when, as they tell one another, they have never done so before) suggests that humans are special and worthy beings. Even in a universe in which the Earth is a small planet circling an insignificant sun, alien visitors think its inhabitants are worth assisting.

"Prime directives" as we see them created in popular culture, however, are human constructs, not alien ones. They arise out of the human imagination, and aliens resemble humans for additional, very practical reasons. First, human actors play many of the aliens on screen, and even if they do not (that is, even if the "aliens" are computer-created), at some point, even with the special effects available, many aliens will probably resemble humanoids. Second, if the filmmakers and television executives want the viewers to identify with and like the aliens, the aliens must have something "human" about them in order for the viewers to accept them.⁷² Third, the human imagination is limited by what it can concoct in terms of "alien-ness." What an alien looks like, what it thinks, how it perceives the world, what motivates it—all of these things must come out of the brain of a human being. At some point, if an alien has no experience, narrative, or characteristic that is "human" about it, with which the human viewer or reader can empathize, that viewer or reader will have difficulty understanding and identifying with that alien.

As American culture and attitudes changed from the 1960s through the 1990s, there was a notable shift from the concerns of

69. See *3rd Rock from the Sun*, "Brains and Eggs" (NBC Jan. 9, 1996) (TV series) [hereinafter "Brains and Eggs"] (showing the aliens' initial arrival on Earth and discussion of their mission objectives).

70. *3rd Rock from the Sun*, "36! 24! 36! Dick! (Part 1)" (NBC Jan. 25, 1998) (TV series) (depicting the Venusians, a nefarious alien race, apparently exclusively female, infiltrating Earth under the guise of supermodels) [hereinafter *Venusian Episode Part 1*].

71. *3rd Rock from the Sun*, "Dick and the Other Guy" (NBC Apr. 29, 1998) (TV series).

72. Even non-human alien life will inevitably resemble something viewers or readers can recognize or imagine, because it arises out of a human being's imagination. Indeed, one blogger complains that the popular film *Avatar* (20th Cent.-Fox 2009) (motion picture) resembles at least ten other SF films. See Christopher Campbell, Spout Blog, *10 Films Avatar Unfortunately Resembles*. <http://blog.spout.com/2009/08/20/10-movies-avatar-unfortunately-resembles/> (accessed Apr. 12, 2010) (noting similarities between various contemporary SF films).

the Kennedy and Johnson years. Those concerns included not only civil rights but also the Vietnam War.⁷³ The 1980s and 1990s brought an emphasis on national security and on balancing domestic concerns such as welfare and education payments with lowering taxes.⁷⁴

In the end, the friendly alien narratives allow us to engage in dialogue about how we treat others on this planet, and as we begin exploring the Universe, to engage in meaningful dialogue, to discuss legal and philosophical notions of human responsibility toward other sentient beings⁷⁵ that we might encounter.⁷⁶

*IV. EARLY RIGHTS TALK IN 1960s SCIENCE FICTION
TELEVISION AND MOVIES AND ITS REFLECTION
IN MY FAVORITE MARTIAN, A "FRIENDLY
ALIEN VISITOR" SERIES*

From 1963 to 1966, the series *My Favorite Martian*⁷⁷ treated United States audiences to social commentary in the form of com-

73. See Irving Bernstein, *Guns or Butter: The Presidency of Lyndon Johnson* (Oxford U. Press 1996) (discussing the progressive social programs and contrasting social unrest of the Johnson years).

74. See Sean Wilentz, *The Age of Reagan: A History, 1974–2008* (Harper 2008) (discussing the Reagan presidency, his legacy, and the effect of the Clinton years).

75. SF series raise the question of what, exactly, is a sentient being. They also raise the question of whether a self-aware being should have a right of self-determination. The answers to these questions are beyond the scope of this Article, but consider the question presented in the *Dred Scott* case. *Dred Scott v. Sandford*, 60 U.S. 393 (1857). One could argue, as some of the Overseers do in *Alien Nation*, that the refugee Newcomers are simply property and the United States government should return them. The twentieth century United States government does not agree, apparently because it has determined (persuaded by those ACLU lawyers) that sentient humanoid life meets the criteria for citizenship under the 14th Amendment.

76. See Judith Barad & Ed Robertson, *The Ethics of Star Trek 23* (HarperCollins 2000) (stating that *Star Trek: The Next Generation* taught “universal ethical standards” in multiple episodes, denouncing genocide, exploitation, racism, tyranny, cultural tolerance of sexism, indifference to homelessness, and mishandling of toxic waste).

77. *My Favorite Martian*, *supra* n. 11. *My Favorite Martian* was the first of a number of sixties shows in the fantasy genre. See e.g. *The Addams Family* (ABC 1964–1966) (TV series) (showing the lives of a strange family in suburbia, based on Charles Addams’ cartoon family of the same name); *Bewitched* (ABC 1964–1972) (TV series) (featuring a witch who marries a mortal); *I Dream of Jeannie* (NBC 1965–1970) (TV series) (telling the story of an astronaut who finds a genie in a bottle and brings her home with him to Cocoa Beach, Florida); *The Munsters* (CBS 1964–1966) (TV series) (depicting the lives of an odd suburban family with a father similar to Dr. Frankenstein’s monster and a grandfather reminiscent of Dracula); *My Living Doll* (CBS 1964–1965) (TV series) (depicting an air force psychiatrist who lives with a young woman, who is really a robot).

edy.⁷⁸ In this show, Ray Walston, the respected stage and film actor, plays a Martian⁷⁹ anthropology professor who specializes in the study of humans.⁸⁰ During one of his routine trips to Earth, the Martian crash-lands because of an encounter with the United States' X-15 experimental aircraft.⁸¹ Tim O'Hara,⁸² a journalist⁸³

78. While *My Favorite Martian* is a comedy, many of the conclusions Tim and Martin come to about human emotions and human relations are serious. These conclusions include fundamental truths about the necessity for trust between friends, love and companionship, a sense of belonging, a sense of value, and justice. See e.g. *My Favorite Martian*, "The Magnetic Personality and Who Needs It" (CBS Mar. 21, 1965) (TV series) (exhibiting the importance of trust between friends when Martin's neighbor and her club sponsor an ex-convict who falls victim to Martin's suddenly magnetized body); *My Favorite Martian*, "Super Dooper Snooper" (CBS Mar. 22, 1964) (TV series) (showing the need for love and companionship when Martin's neighbor takes up private detective work as a hobby because she is lonely); *My Favorite Martian*, "Uncle Martin's Broadcast" (CBS Mar. 8, 1964) (TV series) [hereinafter "Uncle Martin's Broadcast"] (exhibiting the need for justice when police authorities suspect Tim of murdering Martin for a newly acquired life insurance policy); *My Favorite Martian*, "We Love You, Miss Pringle" (CBS Mar. 28, 1965) (TV series) (showing the importance of feeling valued when Tim's former English teacher is forced into retirement).

79. The choice of Mars as Martin's home planet may have been because it is visible from Earth without a telescope. Eric S. Rabkin, *Mars: A Tour of the Human Imagination* 65 (Praeger 2005) (stating "Mars became a regular concern for people" because it was "easily visible even to amateurs"). However, the choice of Mars was also a careful nod to the early alien-invasion narratives such as H.G. Wells' *War of the Worlds*. Wells, *supra* n. 6; see *supra* pt. I (discussing *War of the Worlds* and other alien-invasion narratives).

80. *My Favorite Martian*, "The Pilot" (CBS, Sept. 29, 1963) (TV series) [hereinafter "MFM Pilot"].

81. *Id.* The fiction of the Martian's visit is that he is a professor of anthropology who has visited Earth multiple times, but this time his spaceship crashes and he is unable to repair it and return home. *Id.* This accident results in his extended stay on Earth.

82. Tim's profession as a journalist represents the urge to discover truth and to publish it, the right of everyone to seek information and disseminate it, and the necessity of guarding the right to privacy. Many of the episodes' complications arise from others' investigations of Martin and Tim's private lives. See e.g. *My Favorite Martian*, "RX for a Martian" (CBS Jan. 19, 1964) (TV series) (showing Martin causing problems at a hospital when his vital signs and tests show that he is not human). Tim's career as a journalist drives many plots. See e.g. *My Favorite Martian*, "An Old Friend of the Family" (CBS Mar. 15, 1964) (TV series) [hereinafter "An Old Friend of the Family"] (showing Martin using his legendary reputation and inside knowledge of Kobima to help Tim get an exclusive interview with Kobima's leader).

83. Tim works for the *Los Angeles Sun*, "the West's most respected newspaper," however, his assignments are often less than distinguished, such as when he writes about a store's display of extraterrestrials. *My Favorite Martian*, "There Is No Cure for the Common Martian" (CBS Oct. 13, 1963) (TV series). But he cannot write the scoop of the century because no one would believe him if he wrote about a Martian landing on Earth. By the 1960s, journalists began to represent the interests of the public in investigating civil rights violations, government secrecy, and government corruption. See e.g. *U.S. v. Helstoski*, 422 U.S. 477, 479 (1979) (discussing Henry Helstoski, a New Jersey Representative in Congress from 1965 to 1977, and his conviction for bribery); Mark Grossman, *Politi-*

on his way to cover the flight of the X-15, rescues the Martian and names him Uncle Martin.

The military later seizes Tim, demanding to know how he obtained the information he included in a published description of the X-15's encounter with a "flying saucer."⁸⁴ Tim refuses to divulge the origin of the information, citing confidentiality owed to his sources.⁸⁵ When an officer takes him into custody, Tim presciently demands a lawyer⁸⁶ and maintains that he has the right to publish the information about the "close encounter."⁸⁷ However, an experimental military aircraft's brush with a UFO may be a national security issue—certainly, the officers who pursue Tim see it that way.⁸⁸ Tim's problem is that he can never reveal the truth or his source because most people are unlikely to believe him.⁸⁹

Ultimately, Martin manages to spring Tim from jail and set the pursuers on the wrong track by persuading them that electrical interference, not an unidentified flying object, caused the blip

cal Corruption in America: An Encyclopedia of Scandals, Power, and Greed 135–137 (ABC-CLIO, Inc. 2003) (describing Abraham Fortas, an associate justice of the United States Supreme Court from 1965 to 1969, who was forced to resign his position after becoming implicated in a financial scandal); *Montgomery Bus Incident Recalled*, Post-Tribune (Jefferson Cty., M.O.) 7 (Aug. 25, 1964) (describing the incident that resulted from an African American woman, Rosa Parks', refusal to move to the rear of a bus); *supra* n. 7 (discussing the Roswell incident and ensuing alleged government cover-up). By 1974, Bob Woodward and Carl Bernstein became heroes for many Americans because of their pursuit of the Watergate story. See Carl Bernstein & Bob Woodward, *All the President's Men* (Simon & Schuster 1974); Wash. Post Co., *The Watergate Story*, <http://www.washingtonpost.com/wp-srv/politics/special/watergate/index.html> (accessed Apr. 12, 2010).

84. "MFM Pilot," *supra* n. 80. Tim actually obtains the information from Martin, but as becomes distressingly familiar in nearly every episode, he cannot reveal his source. *Id.*

85. *Id.* Tim's stand takes place long before the United States Supreme Court ruled that this privilege may be by no means absolute in criminal prosecutions. *Branzburg v. Hayes*, 408 U.S. 665 (1972) (holding that a journalist has no First Amendment privilege to refuse to testify before a grand jury). After this decision, states moved steadily to create state shield laws, but as of this writing no federal shield law exists.

86. *Id.* This show aired just months before the Supreme Court ruled that suspects have a right to counsel. *Escobedo v. Illinois*, 378 U.S. 478 (1964). Three years after the show, the Supreme Court ruled that suspects must be informed that they have the right to an attorney if police question them while they are in custody. *Miranda v. Arizona*, 384 U.S. 436 (1966).

87. "MFM Pilot," *supra* n. 80; see Hynek, *supra* n. 6, at 28–29 (explaining the classification system for human interactions with UFOs and aliens).

88. "MFM Pilot," *supra* n. 80.

89. *Id.* One wonders what he originally told his editor about the origins of his information of the story he did publish.

on their radar screen.⁹⁰ The military needs a story consistent with leaked eyewitness evidence, and Martin provides it.⁹¹ Thus, the series begins.

The introduction of extraterrestrials like Martin in America's living rooms⁹² raises a subtle and often unspoken, issue. During the 1950s and 1960s, parties were arguing in the nation's courtrooms and legislatures over whether the same rights should be extended to humans who did not share the same physical characteristics such as skin color⁹³ or sex.⁹⁴ The United States Supreme Court did not even rule until 1967 on whether citizens whom a state classified as being from different "racial" groups could marry legally.⁹⁵ If Americans could not agree that all citizens should enjoy the same rights, would they be likely to agree that extraterrestrials, assuming they suddenly appeared in contemporary society, should share in all or some of those rights as well?⁹⁶

Although Martin has powers that would seem magical to the uninitiated human, he rarely reveals them⁹⁷ and never allows the

90. *Id.*

91. *Id.* The intervention of the military to create this "cover story" suggests the government activities that would have been familiar to the public as a result of the increasing reports of flying saucers—for example "Project Bluebook." Later, films such as *Men in Black* (Columbia Pictures 1997) (motion picture), in which a secret government agency handles alien immigration and relations, elaborate on this theme, and on the idea that the federal government knows more than it divulges about "LGMs"—little green men.

92. For other popular alien-centered television series that aired around the same time as *My Favorite Martian* and later achieved cult status see *The Outer Limits* (ABC 1963–1965) (TV series); *The Twilight Zone* (CBS 1959–1964) (TV series).

93. See e.g. *Brown v. Board of Educ.*, 347 U.S. 483 (1954) (holding that segregating public schools based on skin color of the students was unconstitutional as a matter of law).

94. See e.g. The Civil Rights Act of 1964, 42 U.S.C.A. § 2000e-2(a)(1) (2009) (making disparate treatment in government and public facilities' employment practices based on a person's "race, color, religion, sex, or national origin" illegal).

95. *Loving v. Va.*, 388 U.S. 1 (1967) (holding that it was unconstitutional to restrict the right to marry solely on the basis of race).

96. *Star Trek*, the SF series which aired immediately after *My Favorite Martian*, assumed that aliens had "human rights," as is obvious from its constant use of the phrase the "prime directive" and numerous episodes in which the plot centers on rights. See e.g. *Star Trek*, *supra* n. 68 (discussing the series' use of the term "prime directive"). The series reflected the views of its creator, Gene Roddenberry. See generally Susan Sackett, *Inside Trek: My Secret Life With Star Trek Creator Gene Roddenberry* (Hawk Publ. Group 2002) (providing an insider's look at the creation and production of the series).

97. Interestingly, Martin is quite willing to communicate with animals, and has very little reluctance in revealing his powers to them. He may be willing to do so because he realizes that they cannot communicate his real identity to humans. E.g. *My Favorite Martian*, "Doggone Martian" (CBS Mar. 6, 1966) (TV series) (showing Tim trying to use Martin's powers to find out where a stray dog lives).

fact that he has them and that humans do not to influence his rational thinking. Indeed, Martin revels in critical thinking and repeatedly demands it of Tim.⁹⁸ He rejects magical thinking,⁹⁹ superstition, and willful ignorance. Martin's calm, rational approach to stressful situations is a critique of the political and social unrest in the Cold War years due to the Bay of Pigs invasion,¹⁰⁰ the 1962 Cuban Missile Crisis,¹⁰¹ the rapidly expanding civil rights movement,¹⁰² and the strengthening liberal movement in the poor and working classes, though not a criticism of the liberal thinking that led to the latter two movements.¹⁰³ Martin frequently admonishes Tim that many human fears are the result of superstition, including the fear of others who seem "different."¹⁰⁴

98. See e.g. *My Favorite Martian*, "Tim, the Mastermind" (CBS Oct. 17, 1965) (TV series) (depicting Martin convincing Tim to take his memory pills, which turns Tim into one of the smartest men in the Universe).

99. Similarly, the alien visitors in *3rd Rock from the Sun* reject Vicki Dubcek's assumption that they have "magical" powers. When she asks if they can perform any supernatural feats and asks them to "move that from there to there," pointing to an object on the coffee table, Sally picks up the object and moves it. "Wow," says Vicki irrationally. *3rd Rock from the Sun*, "Dick's Big Giant Headache, Part 2" (NBC May 25, 1999) (TV series).

100. See Thomas G. Paterson, *Kennedy's Quest for Victory: American Foreign Policy, 1961-1963* (Oxford U. Press 1989) (recounting in detail the Bay of Pigs incident and its aftermath, which President Kennedy generally admitted was a massive miscalculation).

101. Robert F. Kennedy, *Thirteen Days: A Memoir of the Cuban Missile Crisis* 124-128 (1st ed., W.W. Norton & Co. Inc. 1969). This is the classic story of the Cuban Missile Crisis by an insider. As Attorney General, Kennedy was one of his brother John's principal advisors during the administration and urged the President toward the strategy that eventually defused what very likely would have been the start of a nuclear war. *Id.*

102. Paterson, *supra* n. 100, at 3-23.

103. See *id.* at 4-5 (discussing Robert F. Kennedy's role in "[leading] the fight for civil rights for black Americans"); see generally John Woolley & Gerhard Peters, *The American Presidency Project, Political Party Platforms, Parties Receiving Electoral Votes: 1840-2008, Democratic Party Platform of 1960*, <http://www.presidency.ucsb.edu/ws/index.php?pid=29602> (accessed Apr. 11, 2010) (describing the Democratic Party platform in 1960, which included promises for full employment, assistance to depressed areas, a fight against employment discrimination, and housing assistance); *id.* at <http://www.presidency.ucsb.edu/ws/index.php?pid=29603> (accessed Apr. 11, 2010) (describing the Democratic Party platform in 1964, which included highlighting the creation of over four million jobs since the previous December, the promise of full employment, aid to depressed areas, the end to employment discrimination, and improvement to education).

104. *My Favorite Martian*, *supra* n. 11. In his prior visits to Earth, Martin might not have been so careful to disguise his alien powers and might have been more likely to use them to "awe the natives," just as some Western explorers used their scientific knowledge to overcome resistance on the part of those they encountered during their travels to the New World. See Stephen E. Ambrose, *Undaunted Courage: Meriwether Lewis, Thomas Jefferson, and the Opening of the American West* (Simon & Schuster 1996). In one episode, Martin's discussion of his visit to "Kobima," a fictional area somewhere in Africa or Asia, suggests he used his levitation ability to create a persona that could awe and frighten the

Thus, one of the messages that emerges subtly but clearly from *My Favorite Martian* is that, even though humans may have different skin color, different socio-economic backgrounds, and different beliefs, all are entitled to the same legal status and social respect, and all are required to render it to others.

Indeed, Martin's alien powers regularly cause problems, showing reluctance and distrust within society for someone—or something—different from the norm. In “Going, Going, Gone,” sunspots cause problems with Martin's metabolism, and he disappears.¹⁰⁵ Simultaneously, Tim purchases an insurance policy on Martin's life in order to please their landlady Mrs. Brown,¹⁰⁶ and the police then suspect Tim of murdering Martin.¹⁰⁷ Likewise, in “Uncle Martin's Broadcast,” Tim uses Martin's antennae to pick up police broadcasts so he can get a jump on breaking news, but, when Tim cannot explain how he has so much inside information, law enforcement suspects Tim of being involved in the crimes.¹⁰⁸

Because Martin is different, he fears persecution.¹⁰⁹ He thus values his privacy to the point that it has more of an impact on his life than it might otherwise.¹¹⁰ Martin's desire to avoid attention from the authorities parallels the then nascent technology and privacy rights concerns of the early 1960s. In a discussion of the history of privacy rights, Judith Wagner DeCew notes that:

people he was visiting. “An Old Friend of the Family,” *supra* n. 82. Similarly, in another episode, Martin had to retrieve an Aztec statue made in his image that would reveal his prior visit to Earth. *My Favorite Martian*. “El Señor from Mars” (CBS June 13, 1965) (TV series). Such allusions suggest that while his previous visits would have fed into local folklore (and might have violated a “prime directive,” if such a thing existed), they would not have been particularly problematic for him in terms of a violation of his privacy since he could easily have escaped in his spaceship. But in twentieth century society, he cannot so easily escape. Apart from the fact that his spaceship is damaged, many more people know of his presence, and thus would notice his absence. In the America of the 1960s, people, even people with no formal documents, leave traces.

105. “Going, Going, Gone,” *supra* n. 52.

106. *Id.*

107. *Id.*

108. “Uncle Martin's Broadcast,” *supra* n. 78.

109. See *My Favorite Martian*. “If You Can't Lick 'Em” (CBS Apr. 26, 1964) (TV series) (showing Martin accidentally creating a new fashion accessory that becomes wildly popular, but highlighting Martin's choice to sign over all of the rights to the idea to avoid unwanted attention).

110. *Id.*

By 1960, William Prosser argued that privacy in tort law was recognized by an overwhelming number of American courts. He described the law of privacy as comprising four distinct kinds of tort invasion: (1) intrusion upon the plaintiff's seclusion or solitude, or into his private affairs (2) public disclosure of embarrassing private facts about the plaintiff (3) publicity that places the plaintiff in a false light in the public eye (4) appropriation, for the defendant's advantage, of the plaintiff's name or likeness[.] Prosser's four-part interest analysis was then incorporated into the Second Restatement of Torts, and both became influential for the courts.¹¹¹

But, she continues:

In 1964, Dean Edward J. Bloustein contented in a *New York University Law Review* article that Prosser's description was inadequate and conceptually thin. Bloustein argued . . . that protection of informational privacy in tort law formed a unitary concept, which he described as protection for individual liberty to do as we will and protection from the affront to human dignity occurring when individuals and government invade our privacy. On Bloustein's view, the emotional distress felt is a consequence of a loss of privacy and can be used as a measure for damages, but the fundamental basis of the legal injury in tort, Fourth Amendment, and related cases is the affront to human dignity.¹¹²

Regardless of which privacy rights model they adopted, Americans steadily litigated more privacy claims beginning in 1960.¹¹³

111. Judith Wagner DeCew, *In Pursuit of Privacy: Law, Ethics, and the Rise of Technology* 17 (Cornell U. Press 1997).

112. *Id.* at 17–18.

113. A December 8, 2009, terms and connectors search conducted in the LexisNexis "Federal & State Cases, Combined" database using the search "invasion w/2 privacy" yielded 17 cases from January 1, 1960 to December 31, 1960. A December 8, 2009, terms and connectors search conducted in the LexisNexis "Federal & State Cases, Combined" database using the search "invasion w/2 privacy" yielded 49 cases from January 1, 1965 to December 31, 1965. A December 8, 2009, terms and connectors search conducted in the LexisNexis "Federal & State Cases, Combined" database using the search "invasion w/2 privacy" yielded 89 cases from January 1, 1970 to December 31, 1970. A December 8, 2009, terms and connectors search conducted in the LexisNexis "Federal & State Cases, Combined" database using the search "invasion w/2 privacy" yielded 200 cases from January 1, 1975 to December 31, 1975.

As an observer, Martin represents the liberal conscience of the Kennedy and Johnson Administration.¹¹⁴ As the quintessential undocumented alien, he also functions as the target of social, legal, and political oppression. The right he clings to most persistently is the right to be left alone.¹¹⁵ If anyone discovers that he has no social security number, no birth certificate, no fingerprints, no job history, and no papers,¹¹⁶ he will become an exhibit in a government zoo¹¹⁷—at least temporarily.¹¹⁸ For example, in “A Nose for News,” Martin interviews an ambassador in order to get “the big story” and save Tim’s job.¹¹⁹ Tim’s editor is impressed

114. See Irving Bernstein, *Guns or Butter: The Presidency of Lyndon Johnson* (Oxford U. Press 1996) (discussing the progressive social programs and contrasting social unrest of the Johnson years). This liberal conscience was also seen in the original *Star Trek* series. See e.g. *Star Trek*, “The Cloud Minders” (NBC Feb. 28, 1969) (TV series) (depicting the members of the *Enterprise* denouncing an elitist society in which intellectuals and artists live in a utopian metropolis while the remaining inhabitants work in mines to support them).

115. See *supra* nn. 109–110 and accompanying text (discussing Martin’s desire for privacy because he recognizes that society would not accept his differences); see also Jeffrey Rosen, *The Unwanted Gaze: The Destruction of Privacy in America* (Random House 2000) (explaining how changes in technology and the law have combined to demolish American’s privacy rights); Daniel J. Solove, *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet* (Yale U. Press 2007) (discussing how blogs, social network sites, and other Web sites spread rumors and gossip creating a new-age privacy dilemma); see generally Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harv. L. Rev. 193 (1890) (setting out the foundations of what U.S. legal scholars consider as privacy law); *Griswold v. Conn.*, 381 U.S. 479 (1965) (recognizing a married couple’s right to use birth control); *Katz v. U.S.*, 389 U.S. 347 (1967) (prohibiting law enforcement from recording a telephone booth conversation without a warrant); *Roe v. Wade*, 410 U.S. 113 (1973) (generally recognizing a woman’s right to seek an abortion)).

116. *My Favorite Martian*, “Raffles No. 2” (CBS Dec. 8, 1963) (TV series). Of course, for a clever alien like Martin, these problems are really not problems at all because, as a being that could inspire Leonardo da Vinci to paint *La Gioconda*, he could easily create false documents; however, if Martin could deal with such problems so easily there would be no television show. *My Favorite Martian*, “Martin Meets His Match” (CBS Mar. 27, 1966) (TV series).

117. See *3rd Rock from the Sun*, *supra* n. 13 (showing fellow aliens reminding each other through references to the television series *Alien Autopsy: (Fact or Fiction?)* that it was better not to reveal their true identities to humans for fear that the United States government would rather dissect them than interview them); *Alien Autopsy: (Fact or Fiction?)* (Fox Broad. Co. 1995) (TV movie) (showing black and white documentary footage of a 1947 autopsy on an extraterrestrial being).

118. This imprisonment is very likely to be temporary because Martin has many powers such as telepathy and the ability to disappear. “Man on the Couch,” *supra* n. 52 (depicting Martin’s telepathic powers); *My Favorite Martian*, “My Favorite Martian; How’re You Gonna Keep Them Down on the Pharmacy?” (CBS May 10, 1964) (TV series) (showing Martin disappearing).

119. *My Favorite Martian*, “A Nose for News” (CBS June 21, 1964) (TV series).

and offers Martin a job on the newspaper. Tim is excited, but Martin points out that he could not possibly accept the position.¹²⁰ "How could I answer all those questions? What was your mother's maiden name? When did you have the chicken pox?"¹²¹ Tim realizes in dismay, "You don't exist here."¹²²

Another message *My Favorite Martian* conveys is that simply because a race of beings might be physically or intellectually more developed does not mean that it should necessarily interfere with a group of beings that might be less developed. *My Favorite Martian* holds that beings (read groups or individuals) should develop at their own pace. Martin constantly admonishes Tim that neither one of them should use Martin's Martian powers to influence human affairs¹²³ because human beings need the time to develop and make decisions on their own.¹²⁴ Whenever Martin's many unusual inventions¹²⁵ and Martian imports¹²⁶ tempt Tim to use them to his own or humanity's advantage, the attempts always end in disaster.¹²⁷ The moral, as Martin points out, is that Martian "superiority" is not a goal to which Earthlings should aspire.¹²⁸ Human beings should work through their own problems because

120. *Id.*

121. *Id.*

122. *Id.*

123. Despite his statements that he does not wish to interfere with human affairs, he does not seem to have a "prime directive." See *supra* n. 68 (discussing the history of the term "prime directive"). But, throughout the series, Martin refers to times when he has positively influenced human development by talking with Aesop, Cleopatra, Isaac Newton, Benjamin Franklin, and Thomas Edison, making the meddling seem both good-hearted and, if we can believe him, ultimately helpful. *My Favorite Martian, supra* n. 11.

124. See *My Favorite Martian*, "Time Out for Martin" (CBS June 20, 1965) (TV series) (showing the main characters traveling back to England in 1215 where the human interferes with history and the Martian must remedy the error).

125. See *e.g. id.* (showing Martin inventing a time machine).

126. See *e.g. My Favorite Martian*, "Won't You Come Home, Uncle Martin, Won't You Come Home?" (CBS Dec. 27, 1964) (showing Martin with a light bulb, the "benevolence bulb," that makes people like him). One can only wonder how Martin got all the Martian paraphernalia into his spaceship to begin with.

127. See *e.g. My Favorite Martian*, "Go West, Young Martian: Part 1" (CBS Sept. 12 1965) (TV series) (showing Martin using his time machine and, due to Tim's error, ending up in the wrong place and in the wrong point in time); *My Favorite Martian*, "Go West Young Martian: Part 2" (CBS Sept. 19, 1965) (TV series) (showing Martin and Tim extracting themselves from a difficult situation created by the use of the time machine); *My Favorite Martian*, "Pay the Man the \$24" (CBS May 1, 1966) (showing Tim influencing history when he uses the time machine and convinces Native Americans not to sell the island of Manhattan).

128. *My Favorite Martian, supra* n. 11.

shortcuts to wisdom simply do not exist. Thus, humans should evolve, as Martians have, at their own pace.¹²⁹

An essential part of humanity's evolution is intellectual development. Humanity may achieve this through using reason¹³⁰ as well as through education and acculturation. Martin underscores the importance of education when he enrolls his nephew in school even though Martians are an intellectually superior group of beings.¹³¹ This lesson is repeated in later friendly alien narratives.¹³² The underlying message is that, without education, intellectual development, and exposure to one another, humans are doomed to be an ignorant, repressed race on an insignificant planet, circling a minor star in a backwater part of only one of many, many galaxies.

V. ALIEN NATION: CIVIL RIGHTS AT THE END OF THE TWENTIETH CENTURY

We find much of the same "rights talk" in *My Favorite Martian* in the later series *Alien Nation*. *Alien Nation* takes place in Los Angeles, in the 1990s.¹³³ A group of aliens, called Newcomers, having crash landed in the Mojave Desert, are now refugees among the humans. For the native humans, the Newcomers are the alien nation and conversely, for the newly arrived aliens, the

129. The writers also seem to suggest, as other SF writers suggest, that there may be a right to develop at one's own pace without interference. This right seems to mesh with the "prime directive" notion. See *supra* n. 68 and accompanying text (discussing the terms origin in the television series *Star Trek*); see also United Nations Declaration on the Rights of Indigenous Peoples, GA RES. 61/295, UN GAOR, 107th mtg., UN DOC. A/61/L.67 and Add.1 (2007) (available at http://www.un.org/esa/socder/unpfii/documents/DRIPS_en.pdf) (affirming the right of indigenous peoples "to development in accordance with their own needs and interests . . .").

130. See *supra* nn. 97–104 and accompanying text (discussing Martin's emphasis on the importance of reason during a decade of emotional instability).

131. "When You Get Back to Mars," *supra* n. 61.

132. *Alien Nation*, "Alien Nation" (Fox Broad. Co. Sept. 18, 1989) (TV series) [hereinafter "Alien Nation Pilot"] (depicting the alien children attending school); "Brains and Eggs," *supra* n. 69 (showing the alien High Commander enrolling the alien teen in a local junior high school). In no case do the aliens suggest that their children should *not* attend school. The intellectual superiority of the alien children in *Alien Nation* breeds jealousy, masked as contempt, among some of the human children, serving as an analogy to the Asian-American children in the California public school system. "Alien Nation Pilot," *supra* n. 132; see *infra* n. 230 (discussing the contempt bred among other ethnicities at the superior academic performance of Asian Americans in California public schools).

133. *Alien Nation Series*, *supra* n. 12.

humans are also quite alien.¹³⁴ Thus, the show presents us with two kinds of alien nations.¹³⁵

The themes of intercultural conflict and the need for cultural negotiations drive *Alien Nation*. Says Kenneth Johnson, the producer of the television series and the made-for-television movies:

I was very intrigued with the idea of exploring what it's like to be the latest people off the boat . . . the newest addition to our society in America, and it's sort of an opportunity to explore what it was like to be the world's newest minority. At the same time we could explore what kind of cultural, ethnic, religious, mythological, biological differences these people represent It's really a show about cultural clash and cultural conflict. One new species trying to assimilate itself into another, which makes for a lot of conflict, a lot of anger, a lot of humor—"Welcome to Earth, here are your tax forms."¹³⁶

Alien Nation explores relationships between different humanoid groups and the problems such relationships can create. The relationships include the tensions and developing friendship between two police officers—the human Matthew Sikes,¹³⁷ and the Newcomer George Francisco—the relationship among members of an alien family, and the relationships between an alien family and their human friends and neighbors in a new—and alien (to it)—society.¹³⁸ The show also explores the difficulties ex-

134. Even the human names sound strange to the aliens as the human protagonist Matthew Sikes discovers. His name sounds like the phrase "cranial excrement" in the alien language, Tencton. *Id.*

135. This is a play on words—alien nation or alienation.

136. Gross, *supra* n. 53, at 58. Living in the United States society has tremendous advantages and it also has responsibilities, among them filling out one's dreaded I.R.S. forms. See Drake Software, *Your Complete Tax Information Source: Tax Headlines*, <http://www.1040.com/site/> (accessed Apr. 11, 2010) (providing information and guidance about completing the United States federal government individual tax return form, Form 1040). The United States government has inaugurated a "kinder, gentler" image. IRS, *IRS Begins Tax Season 2009 with Steps to Help Financially Distressed Taxpayers; Promotes Credits, e-File Options*, <http://www.irs.gov/newsroom/article/0,,id=202244,00.html> (Jan. 6, 2009).

137. The last name Sikes is spelled as "Sikes" in the television series and as "Sykes" in the original motion picture. [Editor's Note: For consistency, the name will be spelled "Sikes" in the Article.]

138. "Alien Nation Pilot," *supra* n. 132.

perienced in a romantic relationship between members of different humanoid species.¹³⁹

Almost immediately, the humans label the Tenctonese aliens “Newcomers,” a word that signifies their separation from the larger, human society at the same time that it suggests their origin.¹⁴⁰ After the Newcomers’ arrival, the humans do not immediately accept them into society. Support for the Newcomers’ citizenship is apparently mixed. Initially the Newcomers do not have the right to vote.¹⁴¹ Apparently, the phrase “all men are created equal” does not include extraterrestrials.¹⁴² Although the term “men” had been expanded over the past hundreds of years to include women¹⁴³ and persons regardless of their skin color it apparently does not include the idea of sentients of other species.¹⁴⁴ Even after the Newcomers receive their citizenship papers, they do not have voting rights, a state of affairs inconsistent with the Fifteenth Amendment of the Constitution, which provides that the “right of citizens of the United States to vote shall not be de-

139. *Id.* Because the white male on the show is involved with an alien female rather than a human non-white female, the producers and writers could direct the progression of the relationships from friendship to intimacy without worrying quite so much about a racial backlash, although interracial relationships are no longer a rarity on contemporary television. See Ann Oldenburg, *Love Is No Longer Color Coded on TV*, http://www.usatoday.com/life/television/news/2005-12-20-interracial-couples_x.htm (accessed Apr. 11, 2010) (describing a variety of interracial relationships on popular television shows in 2005).

140. Since the word “newcomer” is also close to the word “welcome,” it could have some overtones of friendliness, although societies do not automatically welcome all newcomers.

141. “Alien Nation Pilot,” *supra* n. 132.

142. SF literature has also raised the question of whether the United States Constitution imparts rights to extraterrestrial androids. The question of robot rights is beyond the scope of this Article but I consider it in another article in progress. For a television episode in which an android explores the question of self-determination, see *Star Trek: The Next Generation*, “The Measure of a Man” (CBS Feb. 11, 1989) (TV series). For a film in which an android fights for the right to marry, see *Bicentennial Man* (Columbia Pictures & Touchtone Pictures 1999) (motion picture). For the results of a British governmental study predicting the possibility of robot rights, see BBC News, *Robots Could Demand Legal Rights*, <http://news.bbc.co.uk/2/hi/6200005.stm> (Dec. 21, 2006).

143. U.S. Const. amend. XIX.

144. The United States Constitution states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1.

nied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.”¹⁴⁵

Why the United States Constitution does not grant the Newcomers voting rights despite their status as citizens is a mystery. It is perhaps because of the legal history of the African-American battle for voting rights.¹⁴⁶ The explanation might be that the Newcomers are not “human,” but the amendment does not read “human persons.” Apparently the United States government is struggling with accepting a new group of marginalized “persons.”¹⁴⁷

145. U.S. Const. amend. XV.

146. For a more comprehensive history of the fight for African Americans' right to vote, see J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (U.N.C. Press 1999); Richard M. Velely, *The Two Reconstructions: The Struggle For Black Enfranchisement* (U. Chi. Press 2004).

147. See *Alien Nation*, “Spirit of ’95” (Fox Broad. Co. Jan. 15, 1990) (TV series) [hereinafter “Spirit of ’95”] (opening with a discussion of the women’s suffrage movement and centering on the Newcomers’ fight for full citizenship rights). If we were to clone Neanderthals we might face analogous issues. Ronald Bailey discusses the question in an article for Reason Magazine. Ronald Bailey, *Neanderthal Rights: The Morality of Resurrecting Our Closest Evolutionary Cousins*, <http://www.reason.com/news/show/131717.html> (Feb. 17, 2009). Assuming that it were technically possible to do so, and at least one scientist thinks it is, would Neanderthals have the same rights as we do? What if they are of limited intellectual capacity? Ronald Bailey asks:

So what if we bring back Neanderthals and it turns out that their intellectual capacities are so dissimilar from ours that they cannot cope successfully with modern life? Should we control their fertility so that they go extinct again? This comes uncomfortably close to the eugenic arguments used to justify sterilizing people who were deemed mentally defective in the 20th century. Or perhaps Neanderthals could be placed in reservations where they would be allowed to develop without further interference from modern humans. Would this be akin to confining them to a zoo?

Id. Consider also the claims of such Neanderthals (and the popular culture image of Neanderthals) against the backdrop of *Dred Scott v. Sanford*, 60 U.S. 393 (1857) (holding that no person of African ancestry could claim citizenship in the United States). Might the Neanderthals face a twenty-first century *Dred Scott* decision, or would a United Nations resolution such as the one referenced *infra* note 347 protect them?

My colleague Ray Diamond points out Mr. Justice Harlan’s comments concerning inclusion and exclusion in his dissent in *Plessy v. Ferguson*, 163 U.S. 537 (1896) (Harlan, J., dissenting):

There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race. But, by the statute in question, a Chinaman can ride in the same passenger coach with white citizens of the United States, while citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union, who are entitled, by law, to participate in the political control of the state and nation, who are not excluded, by law or by reason of their race, from public stations of any kind, and who have all the legal rights that belong to white citizens, are yet declared to be

As the Newcomers assimilate into human culture, the show examines how far that assimilation must go. For example, the Newcomer children have to attend school.¹⁴⁸ Yet one issue left unexplored is whether their education should be bilingual in Tencton and English.¹⁴⁹

In the pilot episode, human police officers Matthew Sikes and Newcomer George Francisco head to George's daughter's school as she attempts to integrate it.¹⁵⁰ In a scene reminiscent of the showdown between Governor Orville Farbus and the United States Marshals in 1957, Sikes faces down a white woman who harangues a crowd, some carrying signs reading "America for Humans," with racist talk about the "slags" who do not belong at the school or in that part of community.¹⁵¹ He even asks a black man in the crowd: "Aren't you ashamed of yourselves? Aren't you?" He then informs the crowd that anyone still around in three minutes will be under arrest for "violation of the Civil Rights Act of 1964."¹⁵²

criminals, liable to imprisonment, if they ride in a public coach occupied by citizens of the white race.

Id. at 561 (Harlan, J., dissenting).

148. See e.g. *Alien Nation*, "Little Lost Lamb" (Fox Broad. Co. Oct. 2, 1989) (TV series) [hereinafter "Little Lost Lamb"] (showing the Newcomer Emily Francisco rehearsing for a role as "Pocahontas" in a school play).

149. Of course, Newcomers are such good English speakers that it may not matter. Like other outsiders forced to assimilate, they are examples of the outsiders who do so perhaps too well. Yet, to preserve their culture, they may still want their language and culture taught in school, and humans might want the opportunity to learn Tencton. Tencton, like Klingon in the *Star Trek* series, is an invented language. See *Star Trek* (NBC 1966-1969) (TV Series) [hereinafter *Star Trek Series*] (introducing the Klingons, an alien race, and their unique language). There is also a Klingon dictionary, see Marc Okrand, *The Klingon Dictionary* (Pocket Bks. 1992), and Lawrence Schoen has translated Hamlet into Klingon, see The Klingon Language Institute, *The Klingon Hamlet* (Pocket Bks. 2000). *Alien Nation* often provides Tencton subtitles for English speaking viewers to emphasize the unique Tencton culture. See generally *Alien Nation Series*, *supra* n. 12 (showing Tencton subtitles during English dialogues). A "Tencton" dictionary now exists. Michelle Erica Green, *The Little Review*, Michele Scarabelli: *Don't Call Me Melon-Head!*, <http://www.littlereview.com/getcritical/interviews/scarbelli.htm> (accessed Apr. 11, 2010). Note that the lyrics heard in the opening credits of the series, which are sung in the alien language, are actually director Kenneth Johnson's wife and daughter's names sung backward. *Alien Nation: Ultimate Movie Collection*, Disc 2: *Body and Soul*, "Commentary" (20th Cent.-Fox 2008) (DVD).

150. "Alien Nation Pilot," *supra* n. 132.

151. *Id.*

152. *Id.*; see The Civil Rights Act of 1964, 42 U.S.C. § 2000(e)(2) (2006) (prohibiting discrimination in government and employment, securing voting rights, and prohibiting discrimination in public accommodations and education). He must be assuming that Tenctonese fit within the definition of "race" or "national origin" in the Act. But there are no

Alien Nation makes use of analogies to world history through storylines that recall the Third Reich,¹⁵³ the history of slavery in the United States,¹⁵⁴ and racism and sexism. It engages viewers in thought about whether, and how far, we are willing to extend affirmative action and the right to work,¹⁵⁵ the right to marry,¹⁵⁶ and the right to be left alone.¹⁵⁷

Alien Nation focuses on several of the same issues as *Star Trek*,¹⁵⁸ but places the characters in modern American society.¹⁵⁹ In particular, the show examines the rights of association, of free

criminal provisions in the Act. One can make another analogy to the caste and class systems such as the one most prominently seen in India. See Susan Bayly, *The New Cambridge History of India: Caste, Society and Politics in India from the Eighteenth Century to the Modern Age* vol. IV, pt. 3, ch. 4 (Cambridge U. Press 2001) (analyzing the development of India's caste system); Murray Milner, Jr., *Status and Sacredness: A General Theory of Status Relations and an Analysis of Indian Culture* ch. 1 (Oxford U. Press 1994) (analyzing the general theory of status via a detailed study of India's complex caste system). Undocumented children do, however, have a right to attend school. See *Pyle v. Doe*, 457 U.S. 202, 230 (1982) (holding "[i]f the State is to deny a discrete group of innocent children the free public education that it offers to other children residing within its borders, that denial must be justified by a showing that it furthers some substantial state interest"). Certainly, aliens lawfully within the territory of the United States have a right to send their children to taxpayer-supported schools.

153. *The Udara Legacy*, *supra* n. 64.

154. *Alien Nation: The Enemy Within* (20th Cent.-Fox 1996) (TV movie).

155. "Alien Nation Pilot," *supra* n. 132 (depicting aliens working civil service jobs).

156. *Alien Nation Series*, *supra* n. 12 (depicting a human male and an alien female falling in love).

157. *Alien Nation*, "Eyewitness News" (Fox Broad. Co. Feb. 5, 1990) (TV series) [hereinafter "Eyewitness News"].

158. For legal issues in *Star Trek* and *Star Trek: The Next Generation*, see Richard J. Peltz, *On a Wagon Train to Afghanistan: Limitations on Star Trek's Prime Directive*, 25 U. Ark. Little Rock L. Rev. 635 (2003) (discussing the application of *Star Trek's* "prime directive" in contemporary culture); Michael P. Scharf & Lawrence D. Roberts, *The Interstellar Relations of the Federation: International Law and "Star Trek: The Next Generation,"* 25 U. Toledo L. Rev. 577 (1994) (exploring the legal issues that *Star Trek: The Next Generation* presents); Thomas C. Wingfield, *Lillich On Interstellar Law: U.S. Naval Regulations, Star Trek, and the Use of Force in Space*, 46 S.D. L. Rev. 72 (2001) (analyzing interstellar law in light of the *Star Trek* television series).

159. The original *Star Trek* series does have some episodes that take place in contemporary American society because time travel is a popular script device in the *Star Trek* universe (and in SF generally). See e.g. *Star Trek*, "Assignment: Earth" (Paramount Mar. 29, 1968) (TV series) (showing the *Enterprise* crew helping a time-travelling human go back in time to avert a disaster that would change history); *Star Trek*, "The City on the Edge of Forever" (Paramount Apr. 6, 1967) (TV series) (telling the story of Captain Kirk and Mr. Spock returning to Depression-era America to prevent Dr. McCoy from changing history and making certain the U.S. enters the Second World War on the side of the Allies); *Star Trek*, "Tomorrow Is Yesterday" (Paramount Jan. 26, 1967) (TV series) (showing the *Enterprise* crew back in Earth's orbit in the 1960s when the Air Force identifies it ironically as a UFO).

speech, of travel, and the right to be free from discrimination in an attempt to remind us that the civil rights lessons of the 1960s and 1970s are still not fully understood.¹⁶⁰ While *Star Trek* presents a hopeful, almost cheerful view of the interaction among alien races, *Alien Nation* confronts the issues in question and is sometimes less than sanguine about our ability to solve the problems at hand. In particular, *Alien Nation* absorbs and updates the racist speech of the pre-civil rights and early civil rights era and transfers it to remarks about the “Newcomers.” For example, certain anti-Newcomer groups, called “Purists,” refer to the Newcomers as “Slags” and “Spongeheads,” derogatory terms that degrade and debase the Newcomers. Although the Newcomers rarely react, their human friends often object.¹⁶¹ Even individuals who are not members of Purist groups will use such terms in jokes or in passing conversation, apparently without realizing that such language is offensive.¹⁶² The point is obviously to make clear to the audience that such speech labels, marginalizes, and hurts. Those majority groups that adopt such language do so thoughtlessly, without realizing that some minority groups who might find it objectionable might also be unable to respond, either legally or socially.

Note however, that the Tenctonese are physically and intellectually superior to the humans who surround and outnumber them. What protects those humans who choose to malign them is first, the Tenctonese respect for the rule of law (socialization), second, the Tenctonese slowness to anger (possibly genetics, possibly education), and third, the Tenctonese fear of extermination (knowledge of history), which may disappear as the Newcomers grow in number, become citizens, become acculturated, and become accustomed to their rights.

The ease with which we as viewers accept the possibility of such speech is frightening; we recognize instinctively that, although the group may change, human beings have always identi-

160. See generally, Carol J. Greenhouse, *Life Stories, Law's Stories: Subjectivity and Responsibility in the Politicization of the Discourse of "Identity"*, 31 *Pol. & Leg. Anthropology Rev.* 79 (2008) (discussing the political battle within the United States Congress over the Civil Rights Act of 1990 and the continuing argument over civil rights in the United States).

161. *Alien Nation Series*, *supra* n. 12

162. *Id.*

fied some group as “other,” “lesser,” or even as “non-human.” In the case of Asians,¹⁶³ Africans,¹⁶⁴ and Native Americans,¹⁶⁵ this marginalization began arguably with the arrival of colonial settlers. Indeed, such an analogy seems to have been paramount in writer/creator Rockne O’Bannon’s mind. O’Bannon states:

Because the aliens in *Alien Nation* were anthropomorphic in body, and possessed language, they certainly appeared more human than animal—which only helped to bring the ques-

163. See Henry Yu, *Thinking Orientals: Migration, Contact, and Exoticism in Modern America* (Oxford U. Press 2001) (describing social and historical categories like race, identity, and culture particularly in the case of Asian Americans’ assimilation into the United States culture).

164. Negative images of African Americans are ubiquitous, and attention is now turning to discussion of positive images of black role models, including in the mystery and detective fiction genre. Among the most provocative and complete studies of the treatment of African Americans in literature is Stephen F. Soitos. *The Blues Detective: A Study of African American Detective Fiction* (U. Mass. Press 1996). For additional critical analysis of African American literature, see generally Helen Lock, *A Case of Mis-Taken Identity: Detective Undercurrents in Recent African American Fiction* (Peter Lang Publ. 1994) (providing a comprehensive analysis of detective themes in African American literature); Madelyn Jablon & Rehoboth Beach, “*Making the Faces Black*”: *The African-American Detective Novel*, in *Changing Representations of Minorities, East and West: Selected Essays* vol. 11, 26 (Larry E. Smith & John Rieder eds., U. Haw. Press 1996) (studying the detective genre within African American literature); Bonnie C. Plummer, *Subverting the Voice: Barbara Neely’s African American Detective*, 20 *Clues: A Journal of Detection* 77–88 (Spring–Summer 1999) (studying the black female amateur detective, Blanche White, in Barbara Neely’s detective series); and Joe Weixlmann, *Culture Clash, Survival, and Trans-Formation: A Study of Some Innovative Afro-American Novels of Detection*, 38 *Miss. Q.* 21–32 (Winter 1984–1985) (providing a critical analysis of detective fiction within African American literature).

165. See Marilyn Jeanne Anderson, *The Image of the American Indian in American Drama: From 1766 to 1845* (unpublished Ph.D. dissertation, U. Minn. 1974) (on file with *Stetson Law Review*) (discussing the treatment of Native Americans within early United States dramatic literature); Laura Schrager Fishman, *How Noble the Savage? The Image of the American Indian in French and English Travel Accounts, ca. 1550–1680* (unpublished Ph.D. dissertation, U. N.Y. 1979) (on file with *Stetson Law Review*) (discussing the treatment of Native Americans within early French and English travel literature); Theodore S. Jojola, *Moo Mesa: Some Thoughts on Stereotypes and Image Appropriation, in Dressing in Feathers: The Construction of the American Popular Culture* 263 (S. Elizabeth Bird ed., Westview Press 1996) (exploring the creation of Native American stereotypes within the United States popular culture). For further analysis of Native American detectives and other role models, see generally Jane S. Bakerman, *Joe Leaphorn and the Navajo Way: Tony Hillerman’s Indian Detective Fiction*, 2 *Clues: A Journal of Detection* 9–16 (Spring–Summer 1981) (discussing how Tony Hillerman integrates knowledge of the Navajo people in his Joe Leaphorn fiction series); Tom Quirk, *Justice on the Reservation*, 18 *Armchair Detective: A Quarterly Journal Devoted to the Appreciation of Mystery, Detective and Suspense Fiction* 364–370 (Fall 1985) (discussing the treatment of Native Americans in detective literature).

tion of “what constitutes ‘humanity’” into cleaner perspective. How do you categorize a being that is so close to being human, yet isn’t? Every time the aliens were rejected, belittled, diminished by humans, it became the perfect parallel to any race or society who deems themselves superior and diminishes the rights and dignity of another. But, because it was being told in the “one step removed from reality” genre of science fiction, it was easier for audiences to perhaps witness their own prejudices without immediately being turned off by a “message” film rubbing their noses in it.¹⁶⁶

Although O’Bannon conceived the film, he was not involved in the creation of the television series scripts, and has no information on the interests and motivations of the series’ writers. But, he speculates that the question of human/alien rights continued to be a central focus of the series.¹⁶⁷ Concerning the purposes of *Alien Nation*, O’Bannon says:

With my film [*Alien Nation*], my [interest] was in examining the question of human rights as applied to a group of individuals who would certainly have to be categorized as “non-humans.” There is speculation among futurists that [some-day] not too far off, there will be test cases where animals will be afforded some direct protections under laws currently reserved for humans. At which time the social/legal question at the center of [*Alien Nation*] will come into more direct relief—albeit with more down-to-earth players (namely terrestrial animals rather than extraterrestrial aliens).¹⁶⁸

O’Bannon understands, perhaps more than some other writers, how much influence the law has on the ordering of a rule-conscious society into which marginalized groups request admittance. He states:

In my original draft of the screenplay, there was an opening narration that told a little more about how the aliens came to be integrated with human society. Once the alien space-

166. E-mail from Rockne O’Bannon, creator of *Alien Nation*, to Christine Corcos, Assoc. Prof., La. St. U. L. Ctr. (Aug. 19, 2001) (copy on file with *Stetson Law Review*) [hereinafter O’Bannon E-mail].

167. *Id.*

168. *Id.*

craft was discovered and guided into orbit around Earth, and the 350,000 occupants awakened from their state of cryonic sleep, the conditions aboard the ship were instantly intolerable. In the narration it was stated that the ACLU immediately leaped in and petitioned to bring these beings to Earth rather than condemn them to die in their overcrowded craft. The question of how the law was to treat these non-humans was thrust out there right on the first page of the script.¹⁶⁹

While the scriptwriters have fun with American popular culture itself, the result is that the American dominant culture is pushing out the minority Newcomer culture. First, poor Nielsen ratings result in the cancellation of a Newcomer comedian's vaudeville comedy show in the TV movie, *Alien Nation: Millennium*.¹⁷⁰ Its replacement is a talk show featuring George Stephanopoulos and Tori Spelling.¹⁷¹ Second, American consumerism quickly sucks in the unwary Newcomer, Detective George Francisco, when he runs up his Visa bill.¹⁷² His wife Susan tells him that this is a symptom of his "PSM"—post-slave mentality.¹⁷³

Some workers at the Bureau of Newcomer Affairs¹⁷⁴ (BNA) have given or assisted Newcomers in choosing new "Earth names," most of which seem intended to either bring forth laughs

169. *Id.*

170. *Alien Nation: Millennium* (20th Cent.-Fox Jan. 2, 1996) (TV movie).

171. *Id.* The writers were only slightly ahead of their time. George Stephanopoulos became host of *This Week* for ABC in 2002. Brian Hiatt, *King George*, <http://www.ew.com/ew/article/0,,263911,00.html> (June 19, 2002). In the credits for the opening of each TV episode, we see a theater marquee advertising *Rambo 6*; the film *Rambo IV* (Lionsgate 2008) (motion picture) was released in 2008. Network executives have cancelled several series after only one episode. See e.g. *Emily's Reasons Why Not* (ABC 2006) (TV series) (telling the story of a successful young woman who lives by a set of reasons why not to do something, which was cancelled after the pilot aired); *Who's Your Daddy?* (Fox Broad. Co. 2005) (TV series) (showing a game where an adoptee must choose who his or her biological father is from a panel of eight men, which was cancelled after the pilot aired); see also Ryan Christopher DeVault, *Past Life Cancelled by Fox after Three Episodes*, http://www.associatedcontent.com/article/2718065/past_life_canceled_by_fox_after_three.html?cat=2 (Feb. 19, 2010) (discussing the Fox Broadcasting Company show *Past Life* and its cancellation after only three episodes aired in February 2010).

172. *Alien Nation: Millennium*, *supra* n. 170.

173. *Id.*

174. Compare this agency with the Bureau of Indian Affairs, which handles the relationship between the United States Government and 1.9 million American Indians and Alaska natives. U.S. Dept. Int. Indian Affairs, *What We Do*, <http://www.bia.gov/WhatWeDo/index.htm> (accessed Apr. 11, 2010).

or induce philosophical thinking in viewers.¹⁷⁵ One of the aliens, frequently accused of being mentally challenged,¹⁷⁶ who works as a janitor at the police station, is named "Albert Einstein."¹⁷⁷ Albert's mental capacity distracts us from his very real abilities; he is clearly a stand-in for humans whose mental processes are different from the norm. Those whose mental abilities are different are often labeled as belonging to groups in which they might not otherwise fit.¹⁷⁸ Various other characters have names like "Edgar Allan Poe,"¹⁷⁹ "Wyatt Earp,"¹⁸⁰ "Virginia Hamm,"¹⁸¹ and "Charlotte Bronte."¹⁸² All these names are (or should) be familiar to American viewers, so they would understand the references. The recurring "important" Newcomers have "normal" monikers like Cathy Frankel (the human police officer's girlfriend) and George Francisco (the human police officer's partner).¹⁸³ A Newcomer's intentional adoption of a human name with specific history and an ironic association immediately puts him or her in the class of "other."¹⁸⁴

175. *Alien Nation: Millennium*, *supra* n. 170.

176. *Id.* We do not know what, if anything, categorizes him as "mentally challenged" rather than simply someone who thinks outside the box. *Id.*

177. *Id.*

178. Even though the mentally challenged may not truly understand the nature or quality of their acts, we have seen all too often that society is willing to hold them to the same standard as those who do understand. Frank Green, *Va. Case to Serve as Test for Court; Topic: Death Row, Mental Retardation*, *Richmond Times-Dispatch* A1 (Sept. 26, 2001). Or they may be defined "out" of the group, such as those mentally challenged persons who have fought hard for the right to marry and have children, or to live where they please. D'Vera Cohn & Dan Keating, *Group Homes on the Rise; Census Finds Number in D.C. Area More than Doubled in '90s*, *Wash. Post* B01 (Aug. 15, 2001) (explaining that people with mental retardation are the largest number of group home residents); see Tom Gibb, *Case of Sterilized, Mentally Retarded Teen to Go to Trial*, *Pittsburgh Post-Gazette* D-14 (Dec. 5, 2000) (discussing the case of Elizabeth Arnold, sterilized at the age of 16); see also Robert L. Hayman, Jr., *Presumptions of Justice: Law, Politics, and the Mentally Retarded Parent*, 103 *Harv. L. Rev.* 1201 (1990) (discussing continuing legal limitations for the mentally challenged parent).

179. *Alien Nation*, "Gimme, Gimme" (Fox Broad. Co. Apr. 9, 1990) [hereinafter "Gimme, Gimme"].

180. "Spirit of '95," *supra* n. 147.

181. "Eyewitness News," *supra* n. 157.

182. "Little Lost Lamb," *supra* n. 148.

183. In the film, Sikes tells his new partner that he will not call him "Sam." which sounds ridiculous in combination with the last name "Francisco," and substitutes the name "George." *Alien Nation* (20th Cent.-Fox 1988) (motion picture) [hereinafter *Alien Nation Movie*].

184. This identification assumes, of course, that humans are educated enough to identify the historical significance of the names. In today's society, where many Americans

If BNA employees deliberately choose these names for the Newcomers, such mean-spiritedness serves to identify and marginalize the aliens as well as to label the BNA employees as cruel or mean-spirited. If the Newcomers chose these names in an attempt to identify themselves with human culture (or adopt human names because their own names are difficult to pronounce), they will inevitably be the victims of species-ist stereotyping and identification because humans can instantly identify them as non-human (therefore "other.")

Alien Nation explores the difficulties of the concept of "other" as it depicts the Newcomers' integration into human society.¹⁸⁵ Newcomers have clashes with the Purists, whose activities and personas are analogous to Nazis and the segregationists of the civil rights era as well as the more recent Posse Comitatus¹⁸⁶ and other 1990s fringe groups.¹⁸⁷ These groups gain legitimacy and credibility among non-legally trained persons unable to distinguish between legitimate and illegitimate forms of legal reasoning.¹⁸⁸ The Purists actively attempt to cleanse the United States population of any contact with the Newcomers. The police in the series are constantly pursuing these people, arresting them, jailing them, and sometimes arresting them again because defense lawyers get them released.¹⁸⁹

Meanwhile, the local governments and various non-profit organizations encourage a certain amount of intimacy.¹⁹⁰ Because they are United States citizens, the Newcomers have the same right to marry as humans, and some Newcomer/human relation-

cannot write, spell, or identify geographical entities on a world map, such an assumption may not be warranted. Susan Trausch, *The ABC's of Illiteracy*, Boston Globe 13 (Sept. 15, 1993). The situation does not seem to be getting much better. Mark Kutner, Elizabeth Greenberg & Justin Baer, *A First Look at the Literacy of America's Adults in the 21st Century* 4 (Nat'l. Ctr. for Educ. Statistics 2005) (available at <http://nces.ed.gov/NAAL/PDF/2006470.PDF>) (comparing the literacy levels between 1992 and 2003 and showing no change in the below basic skills in prose literacy, and only a slight decrease in the below basic skills in document and quantitative literacy).

185. *Alien Nation Series*, *supra* n. 12.

186. See James Corcoran, *Bitter Harvest: The Birth of Paramilitary Terrorism in the Heartland* v–xvii (Penguin Bks. 1995) (discussing the Posse Comitatus and its activities).

187. Neo-Nazi skinheads exploit racial tensions to espouse hate and violence toward ethnic and minority groups. Robert A. Jordan, *Skinheads: An Alert*, Boston Globe 17 (July 22, 1989).

188. *Id.*

189. *Alien Nation Series*, *supra* n. 12.

190. *Id.*

ships already occur even though many unassimilated Newcomers live in an area called "Little Tencton," which looks a great deal like any large city's Chinatown or Little Saigon, reinforcing the analogies.¹⁹¹

Some Newcomers, who are marginalized not just by the Purists, but also by other Newcomers, are the "Eenos," because of the work they did on the slave ships.¹⁹² Some of these "Eenos," who occupy a place reminiscent of the "untouchables" in the Indian caste system, have made a place for themselves in the desert.¹⁹³ They have chosen to separate from both human and Newcomer societies.¹⁹⁴ The suggestion that the solution for those who do not "fit in" is complete isolation (that is, "segregation"), is one that Sikes comes to only reluctantly¹⁹⁵ since his view of the possibility of integration and harmony among species is more idealized than is Francisco's. Sikes sees no difference among the Newcomers (although he sees differences among humans).¹⁹⁶ Notes Francisco, "We all look alike to you."¹⁹⁷ Again, for Sikes the Newcomers are all grouped as "other." He cannot discern differences. Members of a social group that cannot discern differences among another group are less likely to be sensitive to the concerns of that group and to support legal rules that provide a "level playing field" for that other group.

Some of the Newcomers, who do see differences among themselves, are concerned about a "dilution" of their race, particularly if Newcomers and human interspecies breeding becomes possible.¹⁹⁸ As Buck Francisco puts it, if such a thing happens, and since only 250,000 Newcomers exist on Earth, they would necessarily be overwhelmed by the inferior human gene pool.¹⁹⁹ Thus, for a very different reason from the human reluctance to intermingle, some Newcomers themselves might favor segregation.²⁰⁰ Eventually, Buck abandons his eugenicist philosophy, partly be-

191. *Id.*

192. *Alien Nation: The Enemy Within* (20th Cent.-Fox 1996) (TV movie).

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.*

198. *Id.*

199. *Id.*

200. *Id.*

cause of his sister's friendship with an Eeno girl, which suggests that the majority Tenctonese view of the Eenos (which his father shares) are racist and learned, and younger Newcomers can discard them.²⁰¹ That viewers are still sensitive about the ghettoization of some of our population is clear when we consider that the episode storyline emphasizes similarities to Asian communities (including the sub-Asian continent), rather than African-American communities.

In the episode "Eyewitness News,"²⁰² we see that a local clinic provides lessons in Newcomer-human sex, especially for human men attracted to Newcomer women, who are physically much stronger and could injure their male human mates accidentally.²⁰³ In order to facilitate their relationship, Cathy gives Sikes a videotape on how to make love to Newcomer females after she (Cathy) ascertains his interest in her.²⁰⁴

201. For additional discussion on the use of eugenics in SF films, see generally David A. Kirby, *The Devil in Our DNA: A Brief History of Eugenics in Science Fiction Films*, 26 *Literature & Med.* 83 (2007) (available at <http://www.davidakirby.com/26.1kirby.pdf>).

202. "Eyewitness News," *supra* n. 157.

203. *Id.*

204. *Id.* Alien-human sex here reflects the human (particularly the human male's) fear of upsetting the order of things. On the history and regulation of miscegenation, see Rachel F. Moran, *Interracial Intimacy: The Regulation of Race and Romance* (U. Chi. Press 2003). Powerful females are perceived as unnatural and dangerous. The show seems to assume that, for the most part, viewers would not object to such relationships, especially because several episodes make abundantly clear that interspecies breeding is impossible. The episodes *Three to Tango* and *Real Men* provide insight into Tenctonese reproduction. *Alien Nation*, "Real Men" (Fox Broad. Co. Feb. 19, 1990) (TV series) [hereinafter "Real Men"]; *Alien Nation*, "Three to Tango" (Fox Broad. Co. Nov. 13, 1989) (TV series); *Alien Nation Series*, *supra* n. 12. The Tenctonese species requires a third person (male) to assist the initial fertilization and the male carries the fetus. *Id.*

In *Real Men*, an irritated and pregnant George resents being told to "take it easy," even though the Pregnancy Discrimination Act entitles him to an accommodation. "Real Men," *supra* n. 204; see 42 U.S.C. 2000e(k) (2006) (making discrimination based on pregnancy illegal). During the episode, George and Susan's son Buck objects to comments from his sister Emily and tells her she is insensitive to the pain that Tenctonese males undergo when reproducing. "Real Men," *supra* n. 204. The episode allows for some discussion and contemplation of role reversal, but is mostly played for laughs. However, in a tender, though graphic, scene in the next episode, George gives birth, allowing the major characters to share in the joy of Tenctonese childbirth and the screenwriters to emphasize the importance of family life in Tenctonese society. *Alien Nation*, "Crossing the Line" (Fox Broad Co. Feb. 26, 1990) (TV series). This scene parallels slave society before the Civil War, and suggests the Newcomers are now free to celebrate rituals that emphasize the bonding of parent and child on Earth. *Id.* The writers assume the right to have children is universal, but see *Witten v. Witten*, 672 N.W.2d 768, 768 (Iowa 2003) (holding that a divorced couple must decide on fate of frozen embryos by mutual consent).

We never see a child born of a union between a human and a Newcomer in the series. Thus, the show never forces us to consider how we might treat a human-alien individual, but we can speculate that it might meet with a great deal of prejudice and curiosity as well as acceptance and support. We can speculate that mixed marriages, like Newcomer-human friendships, would face the same kind of prejudice as interracial marriages, courtships, and friendships. While the series does not present the issue of a mixed marriage, thus not raising a *Loving v. Virginia*²⁰⁵ issue, we do know that the Newcomers must battle to obtain all the rights of United States citizens.

Amid concerns about assimilation from both humans and Newcomers, George Francisco is torn between his desire to assimilate into American society and his wish to preserve his own culture.²⁰⁶ When he discovers his daughter rehearsing for a school play in which she takes the role of Pocahontas, he is somewhat bewildered,²⁰⁷ but he is horrified to find his spiritually inclined Uncle Moodri rearranging the living room furniture (including the sofa, which they all refer to as the “reclining platform”) to honor the appropriate part of the Universe.²⁰⁸

Moodri: The reclining platform should face . . . toward the galaxy Centaurus.

George: The reclining platform should face that wall, toward the fireplace.²⁰⁹

Both George and Susan Francisco believe that “fitting in” is crucial for the Newcomers, but fitting in can cause problems and may require compliant Newcomers to forgo pursuing their rights in court. They worry, however, about the “taint” of human society. While many Newcomers might be able to resist the lures of hu-

205. 388 U.S. 1, 11–12 (1967) (holding that the state of Virginia had no authority to prohibit interracial marriages).

206. “Little Lost Lamb,” *supra* n. 148. On the experience of immigrants and their children, see Angelo N. Ancheta, *Race, Rights, and the Asian-American Experience* (Rutgers U. Press 1997) (discussing the importance of assimilation through language for first generation children).

207. “Little Lost Lamb,” *supra* n. 148.

208. *Id.*

209. *Id.*

man consumer goods, many of the *Alien Nation* episodes explore the traditional temptations of drugs, crime, and sex.²¹⁰ Many adult Newcomers can control their emotions and fail to react to the baiting behavior of some humans.²¹¹ However, Newcomer children act much like human children in their tantrums, desire for consumer goods, and desire to be accepted and liked.²¹²

With regard to another aspect of society, religion seems to be a given in alien culture.²¹³ Most of the SF aliens we encounter in novels, short stories, film, and television have a belief in some being or force larger than themselves.²¹⁴ Acceptance of foreign religious practices is difficult for many of us, since without sensitization and education we may not recognize what is significant or holy about others' belief systems.²¹⁵ In the TV movie, *Alien Nation: Millennium*, Sikes' and Francisco's police captain tries to take advantage of a Tenctonese "portal"—a kind of technology

210. See generally *Alien Nation Series*, *supra* n. 12 (depicting reactions of Newcomers to human temptations).

211. *Alien Nation*, "Fountain of Youth" (Fox Broad. Co. Sept. 25, 1989) (TV series). In this episode, Sikes begins telling a species-ist joke, and Francisco quietly but firmly tells him to stop. *Id.* When Sikes does not take the hint, Francisco walks away. *Id.* Francisco's reaction is comparable to many of the *Star Trek* character Spock's reactions to his human colleagues. This episode is also notable for its treatment of age discrimination. An employer denies Susan a position because, although she does not look it, she is over sixty in Earth years and the employer wants someone "younger" to appeal to a youth market. *Id.*

212. See generally *Alien Nation Series*, *supra* n. 12 (showing the reactions of the Newcomer children to human children's common worries).

213. *Id.*

214. See Clyde Wilcox, *Political Science Fiction* 160–164 (Donald M. Hassler & Clyde Wilcox eds., U. S.C. Press 1997). Similarly, most SF writers assume that aliens have politics and political systems. *Id.* Literary critics have set about studying these systems, but quite obviously many of these systems are proxies for utopian Earth futures. *Id.* at 162–163.

215. Currently, a debate is heating up over whether humans are "hardwired" to believe in a higher being, although this debate has been around for a while. See generally Pascal Boyer, *Religion Explained* (Basic Bks. 2002) (analyzing religion—and humanity's belief in a higher being—from a cognitive anthropological perspective); C. S. Lewis, *Mere Christianity* (HarperCollins 2001) (setting out a rational basis for humanity's belief in a higher being and the Christian religion).

Since SF aliens are proxies for humans, it makes sense that some sort of spirituality is a part of the alien persona. Consider, however, that since, as humans, we have no way of escaping the human mind and imagining exactly how an alien brain or mind would think, if it could think at all, we can at best only be agnostic on the subject of a real alien's religious belief. Is religion really a necessary part of alien culture? For an example of a novel that considers this question, see James Blish *A Case of Conscience* (Del Rey 2000) (telling the story of a priest who, after being sent to an alien planet, cannot reconcile the charm of the beings he meets with their logic, rationality, and utter lack of need for belief in the supernatural).

that allows one to reach enlightenment—to create a sort of Disneyland for human edification and to make a great deal of money.²¹⁶ When she hears about this, Cathy Frankel, Sikes' Newcomer girlfriend, tells him he does not understand how offensive this idea is.²¹⁷ "Why not create 'Godland'? You could have a Father, Son, and Holy Spirit Roller coaster!"²¹⁸ He becomes quite angry before he understands her point, and even once he understands it, he is still not completely convinced by the analogy.²¹⁹

Alien Nation delineates the species-ism against the Newcomers that parallels racism against minorities in human society. In the opening credits of the original motion picture, human bar patrons make unpleasant remarks to the Newcomer bartender,²²⁰ whose reaction reminds us of the patient demeanor of a black man tolerating the demeaning comments of whites in times past. Such speech is protected, unless it rises to the level of "fighting words,"²²¹ but it forces viewers to assess first, just how tolerant the Newcomers are of difference among humans, and second, how tolerant humans would be if real aliens suddenly appeared. Indeed, Sikes teases Francisco often in the TV series, but doing so has fewer dangers than one might imagine for Sikes, who is physically less impressive, because Francisco is a Newcomer and does not react emotionally to many of the remarks that humans make to him.²²² Certainly much of the easy rapport between

216. *Alien Nation: Millennium*, *supra* n. 170.

217. *Id.*

218. *Id.*

219. *Id.* Note, however, that in the United States there is currently a theme park devoted to Creationism, complete with dinosaurs. See Dinosaur Adventure Land, *About DAL*, <http://www.dinosauradventureland.com/aboutDAL.php> (accessed Apr. 11, 2010). Perhaps Cathy's suggestion is not so outlandish.

220. *Alien Nation Movie*, *supra* n. 183.

221. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 381 (1992).

Although the First Amendment does not apply to categories of unprotected speech, such as fighting words, the Equal Protection Clause requires that the regulation of unprotected speech be rationally related to a legitimate government interest. A defamation statute that drew distinctions on the basis of political affiliation or "an ordinance prohibiting only those legally obscene works that contain criticism of the city government," [] would unquestionably fail rational-basis review.

Id. at 406.

222. *Alien Nation Series*, *supra* n. 12. In the film, *Alien Nation*, Sikes, the human police officer who offers to take on the Newcomer Sam Francisco as his new partner does so not out of any feelings of brotherhood, but because he hopes that association with an alien will help him solve his dead (human) partner's murder. *Alien Nation Movie*, *supra* n. 183. Compare Francisco's behavior with the "friendlier" behavior between Dr. McCoy and Mr.

aliens and humans in *Alien Nation* is the result not of tolerance on the part of humans but on the part of aliens, who either do not react emotionally, or decide not to react emotionally to the cruel or insensitive remarks of the human majority.²²³

Through its storylines, *Alien Nation* draws parallels with the history of the civil rights struggle in the United States, familiar to American viewers of the period. For example, in the TV movie *Alien Nation: The Udara Legacy*, Buck Francisco confronts bullying and species-ism in the police academy.²²⁴ He discovers that certain members of the police hierarchy, including many instructors, are anti-Newcomer, even using the term “slag” in referring to Newcomer cadets.²²⁵ He struggles with how to resist the bullying while trying to decide whether to continue as a police cadet.²²⁶ Like many members of a minority group, he must decide whether to try to change the system from within, as his father has done, or from the outside.²²⁷

Alien Nation, the original motion picture, shows alien-human interactions as they are likely to be if such aliens suddenly appeared in today's society. The racist undertones from Sikes and his first partner, who was black, the racism expressed by the humans on the street, and the voiceover by the newscaster telling us that civil rights lawyers have obtained the release of the aliens²²⁸ all expressed toward the Newcomers indicate the kind of friction that we might expect should real extraterrestrials actually appear

Spock on the show *Star Trek*. See *Star Trek Series*, *supra* n. 149 (showing the relationship between the characters). While McCoy's frequent “teasing” comments toward Mr. Spock concerning Spock's human/alien parentage and alien demeanor seem less objectionable, perhaps because the show was made during the late 1960s, they are actually no less offensive. *Id.*

223. Note that the “human majority” exists not in the television universe, but in the obvious universe of the viewers. The accusations that younger Newcomers make of Uncle Tom-ism must be considered in this context. *Alien Nation*, “The Takeover” (Fox Broad. Co. Oct. 16, 1989) (TV series). Deliberate Newcomer indifference to species-ist remarks differs by generation, with the oldest Newcomer philosophical and nonviolent, the younger generally accepting, but concerned and sometimes willing to object, and the younger still reactive, either in the form of riots or peaceful protests. *Id.*; “Gimme, Gimme,” *supra* n. 179.

224. *The Udara Legacy*, *supra* n. 64.

225. *Id.*

226. *Id.*

227. *Id.*

228. See *Alien Nation Series*, *supra* n. 12 (repeating the language regarding the release of aliens). The opening credits of each episode of the television series repeats part of this voiceover. *Id.*

on Earth. Consider the comments of Ronald Reagan before the United Nations in 1987:

In our obsession with antagonisms of the moment, we often forget how much unites all the members of humanity. Perhaps we need some outside, universal threat to make us recognise this common bond. I occasionally think how quickly our differences worldwide would vanish if we were facing an alien threat from outside this world.²²⁹

If we are confronted with life that looks a great deal, but not exactly, like us, we might well transfer our hatred and distrust of “other” humans to the “other” life form, particularly if the “other” life form is uniformly more intelligent than are humans.²³⁰ Thus, members of ethnic groups that previously fought among themselves would then perceive a common enemy. After the initial shock, fear, and horror, many human beings faced with peaceful, but more highly intelligent, evolved, and physically powerful extraterrestrials, would very likely turn to their legislators to demand that these extraterrestrials be refused equal treatment before the law. The United States government in *Alien Nation* does not seem to have reacted in quite this way, although the Newcomers do not have “equal rights.” Perhaps because of the threat of lawsuits, and because Newcomers do not seem violent, the government has allowed the Newcomers to apply for and obtain citizenship through a “Bureau of Newcomer Affairs.” Citizenship seems to be automatic once a Newcomer registers. But as noted, the citizenship status is second-class. Newcomers may marry, work, and go to school. They have rights of privacy, they may drive cars, they may own property, they may take out credit

229. Peter Leathley, *JournalLive*, *George Bush, Reagan and Life in Outer Space*, <http://www.journallive.co.uk/page.cfm?objectid=12694748&method=full&siteid=50081> (Mar. 3, 2003). President Reagan also claimed to have seen UFOs when he was governor of California, and he believed that there was a ghost in Lincoln’s bedroom. *Id.*

230. Newcomer superiority seems to parallel that believed of Asian Americans, about whom other groups regularly complain in California. See Tulika Bose, *Daily Bruin*, *New UC Rules Worry Some Asian Americans*, <http://www.dailybruin.com/articles/2009/5/11/new-uc-rules-worry-some-asian-americans/> (posted May 11, 2009) (noting that changes in California University admissions rules, which began in the 1980s, seemed to fall more harshly on Asian-American applicants, and with the passage of Proposition 209, appear to have become more severe).

cards, and they may appeal to the police for and receive assistance.²³¹ But they cannot vote.²³²

Ultimately, what makes the racial, gender, and social messages in *Alien Nation* most powerful is that it is apparent that the social and legal arguments we make every day for and against extending equality to human groups on this planet could so easily be made against sentient life that might suddenly materialize here. Identifying the “other” seems quite easy in *Alien Nation*, precisely because the “other” is so different in appearance and in origin. Those who might have battled among themselves before the Newcomers arrived could now find it easy to band together. Some humans in the series take the position that the Newcomers can easily take away jobs, food, and opportunities that should be reserved to human Americans. The cry, “America for Americans” easily translates into today’s society, which is the point.²³³

The most obvious analogy for American viewers is to the position of African Americans (either slave or free) in the nineteenth-century United States,²³⁴ although we might make other parallels to Asian Americans, Native Americans, and Hispano and Latino Americans. We can make another analogy—less obvious to the

231. *Alien Nation Series*, *supra* n. 12.

232. By the time the TV movie *The Udara Legacy* is screened, they apparently have the right to vote, based on a comment by the character, Cathy Frankel. *The Udara Legacy*, *supra* n. 64.

233. “America for Americans” is nothing new. Whenever some individuals feel threatened, they react in this way and many politicians and legislators respond with slogans and protective legislation. See David E. Sanger, *Senate Agrees to Dilute ‘Buy America’ Provisions*, N.Y. Times A22 (Feb. 4, 2009). Consider movements such as the protection trade legislation of the early Republic, identified most notably by the Monroe Doctrine, the Trade Act of 1930 (the Smoot–Hawley Tariff Act), and more recently, demands for protection of American jobs and American goods brought on by the economic downturn. *Id.*; see generally Detlev F. Vagts, *International Economic Law and the American Journal of International Law*, 100 Am. J. Intl. L. 769 (2006) (discussing American economic and international law including the Monroe Doctrine and the Trade Act of 1930). In addition, battles over immigration often flare when the economy falters or when ethnic tensions run high. See Daniel González & Dan Nowicki, *Labor Battle Looming on Immigration*, <http://www.azcentral.com/news/articles/2009/04/29/20090429immig0429.html?wired> (posted Apr. 29, 2009, 12:00 a.m. MDT) (discussing the Obama administration’s immigration reform); *Say Arizona Bill Violates Treaties: Ambassadors File Protests against Proposals to Restrict Foreign Labor There*, N.Y. Times 16, (Dec. 5, 1914) (describing a bill that would require eighty percent of jobs be set aside for citizens).

234. Obviously, African Americans had similar, though less intense, problems in other societies, such as Canada, but the average American television viewer is unlikely to be aware of this fact.

American public, but still useful—to the caste and class systems, most prominently in India,²³⁵ but also in Great Britain, in Brazil, in South Africa, and in other nations.

Alien Nation also makes frequent allusions to recent world history through its use of analogies to the Third Reich, to slavery, and to racism and sexism. But, as survivors of the Holocaust and the Second World War die and as more and more individuals and groups challenge the actual existence of the Holocaust, and is less common as a feature of popular memory, some viewers may not recognize, or accept, these analogies.²³⁶ *Alien Nation* engages viewers in thought about whether and how far we are willing to extend affirmative action as well as the right to work, marry, and to be left alone.²³⁷

VI. 3rd ROCK FROM THE SUN

The late 1990s comedy series *3rd Rock from the Sun* postulates a visit from an alien crew investigating “new life and new civilizations,”²³⁸ which it encounters on Earth. As already discussed, a visit from aliens is not a unique television series storyline: *My Favorite Martian*, *The Invaders*, *Alf*,²³⁹ *Out of This World*,²⁴⁰ *Aliens in the Family*,²⁴¹ *Roswell*,²⁴² and *V*²⁴³ all make use

235. Bayly, *supra* n. 152, at ch. 4; Milner, *supra* n. 152, at ch. 1.

236. On the matter of preserving the memory of the Holocaust for future generations, see Edward T. Linenthal, *Preserving Memory: The Struggle to Create America's Holocaust Museum* (Colum. U. Press 2001) (describing, among other issues, who should define the Holocaust as an event in popular memory). See also Deborah E. Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* (Penguin Bks. 1994) (discussing the growing trend to deny the existence of the Holocaust). David Irving lost a defamation case against Lipstadt in 2000. See *Irving v. Penguin Books Ltd.*, [2000] EWHC QB 115 (11th April 2000) (deciding in favor of the defendants).

237. *Alien Nation* creator Rockne O'Bannon stated,

The [*Alien Nation*] TV series[,] which evolved from the original film[,] continued to examine these themes. I don't know that any of the writers on the TV series had legal backgrounds, but the central question of [*Alien Nation*], “Do you have to be ‘human’ to possess ‘humanity’?” certainly remained foremost in their choice of story subject matter.

O'Bannon E-mail, *supra* n. 166.

238. This is a familiar phrase from the opening lines of the original series of *Star Trek*. See *Star Trek Series*, *supra* n. 149 (featuring William Shatner, as Captain Kirk, giving the opening monologue).

239. *Alf* (Alien Prods. 1986–1990) (TV series).

240. *Out of This World* (MCA TV 1987–1991) (TV series) (featuring a young teen (Maureen Flannigan) who discovers that she is the daughter of a human woman (Donna Pe-

of the idea that extraterrestrials are currently among us and that one of their purposes is the study of humans, either for benign or nefarious purposes. *3rd Rock from the Sun* suggests that an alien civilization engaged in systematic exploration of the Universe decides to send a small team of scientists and military personnel to live among humans and gather data.²⁴⁴

Neither parody nor satire is new to the SF genre. *Mars Attacks!*²⁴⁵ is just one of the space-film parodies. Indeed, SF filmmaking is now so familiar to moviegoers that it has spawned, not just parodies of the genre, but parodies of sub-genres. As early as the 1960s with *The Dick Van Dyke Show* episode “It May Look Like a Walnut!”²⁴⁶ television spoofed itself by featuring Danny Thomas as the alien Kolak whose minions take over Rob Petrie’s family and friends à la *Invasion of the Body Snatchers*.²⁴⁷ In addi-

scow) and an alien (Burt Reynolds)). The show, primarily a family comedy, combines teen angst with the “fun” of supernatural powers. *Id.*

241. Two series shared this name. The earlier aired in the United Kingdom in 1987. See British Film Inst., *Aliens in the Family*, <http://ftvdb.bfi.org.uk/sift/series/41016> (accessed Apr. 11, 2010) (displaying information about this series). The later series, created by Andy and Susan Borowitz, aired on ABC in 1996. See IMDb, *Aliens in the Family*, <http://www.imdb.com/title/tt0115090/> (accessed Apr. 11, 2010) (displaying information about this series).

242. *Roswell* (Fox Broad. Co. 1999) (TV series). The series was distributed by Warner Brothers Television Network between 1999 and 2001 and by United Paramount Network between 2001 and 2002. IMDb, *Roswell*, <http://www.imdb.com/title/tt0201391/companycredits> (accessed Apr. 11, 2010).

243. The television series *V* is one of the most obvious examples of the “nefarious purposes” visits. *V*, *supra* n. 49.

244. See generally *3rd Rock from the Sun*, *supra* n. 13 (telling the story of four traveling aliens who land on Earth and take on human form). The initial mission apparently is supposed to last only one day, but the “High Commander” (John Lithgow) is so entranced by humans, particularly Dr. Mary Albright (Jane Curtin), that he decides to extend the mission by one day, then indefinitely. *Id.* In one episode, John Cleese, masquerading as “Dr. Liam Neesam,” guest stars as an alien from a different planet bent on conquest of Earth. “Dick and the Other Guy,” *supra* n. 71. Dick Solomon recognizes him as a threat and stops him, but the humans who know of Dick’s feat believe he is an ordinary human with extraordinary courage. *Id.* “Dr. Neesam” also believes that Dick is a human, and Dick eventually does not disabuse him of the notion, telling the other alien that he is Canadian—literally, an alien. *Id.* Whether or not aliens might do so, and this fiction is certainly common in popular culture, it is something that human beings dream about doing. Currently, NASA is engaged in revitalizing the “mission to Mars” project. See NASA, *Mars Exploration Program*, <http://marsprogram.jpl.nasa.gov/missions/>; select “Beyond 2011” (accessed Apr. 11, 2010) (discussing exploration programs in Mars beyond 2011).

245. *Mars Attack!* (Tim Burton Prods. 1996) (motion picture).

246. *The Dick Van Dyke Show*, “It May Look Like a Walnut!” (CBS Feb. 6, 1963) (TV series).

247. *Invasion of the Body Snatchers*, *supra* n. 20.

tion, we have parodies of the *Star Wars* saga: Mel Brooks' *Spaceballs*,²⁴⁸ Ernie Fosselius' *Hardware Wars*,²⁴⁹ and Steve Oedekerk's *Thumb Wars: The Phantom Cuticle*,²⁵⁰ a parody using puppets. Stanley Kubrick's *2001: A Space Odyssey*²⁵¹ becomes fodder for Leslie Nielsen in *2001: A Space Travesty*.²⁵² *Free Enterprise*²⁵³ and *Galaxy Quest*²⁵⁴ send up *Star Trek* and its progeny. Finally, films such as *Invasion*,²⁵⁵ *Meet the Applegates*,²⁵⁶ and *Coneheads*²⁵⁷ turn "alien invasion" narratives such as *I Married a Monster from Outer Space*²⁵⁸ on their (cone) heads.²⁵⁹ All of these films poke fun both at the instinctive reactions of humans to distrust or dislike beings not like themselves and at the political messages of mainstream SF cinema.

An issue that *3rd Rock from the Sun* addresses repeatedly is that of identity—legal, ethnic, social, national, gender, and racial.²⁶⁰ The *3rd Rock from the Sun* aliens "choose" their human identities when they arrive on Earth (the "third rock from the sun" of the show's title), selecting their names ("Tom," "Dick," "Harry," and "Sally"), which blend in with normal, everyday, middle-class American culture.²⁶¹ The aliens choose their last name

248. *Spaceballs* (Brooksfilms 1987) (motion picture).

249. *Hardware Wars* (20th Cent.-Fox 1977) (motion picture).

250. *Thumb Wars: The Phantom Cuticle* (O Ent. 1999) (TV movie).

251. *2001: A Space Odyssey* (MGM 1968) (motion picture).

252. *2001: A Space Travesty* (Cinevent 2000) (motion picture).

253. *Free Enterprise* (Mindfire Ent. 1998) (motion picture).

254. *Galaxy Quest* (DreamWorks SKG 1999) (motion picture).

255. *Invasion* (Upstart Pictures 1999) (motion picture). This is also known as *Top of the Food Chain. Id.*

256. *Meet the Applegates* (Cinemarque Ent. 1990) (motion picture).

257. *Coneheads* (Paramount Pictures 1993) (motion picture). This is a feature-film adaptation of the *Saturday Night Live* skits featuring aliens from the planet Remulak (including Jane Curtin, who also stars as the human female, Dr. Mary Albright, in *3rd Rock from the Sun*). See IMDb, *Episode List for "Saturday Night Live" (1975)*, <http://www.imdb.com/title/tt0072562/episodes> (providing synopses of episodes that include Conehead sketches).

258. *I Married a Monster from Outer Space* (Paramount Pictures 1958) (motion picture).

259. The short-lived television series *Quark* also parodied SF conventions, but it featured a space-going garbage scow captained by an earthling who yearned for a better gig than picking up other people's trash. See *Quark* (Columbia Pictures TV 1977) (TV series) (following the adventures of a garbage collector from outer space).

260. *3rd Rock from the Sun*, *supra* n. 13.

261. *3rd Rock from the Sun*, "Lonely Dick" (NBC Feb. 20, 1996) (TV series). Indeed, Dick, the "High Commander" of the mission, often reminds Sally that she's "the woman," and as such, responsible for discovering any gendered information associated with females,

from the side of a delivery truck. As Harry notes, “We could have been the Walmarts.”²⁶² Tommy, the information officer, manufactures documents to give them a human past, although it only covers the last five or six months because, as he tells Dick, he had a school assignment due.²⁶³ The aliens just happen to select Caucasian bodies, calculating that pale skin would be cooler in summer.²⁶⁴

In the episode “Hotel Dick,”²⁶⁵ they attend a showing of the (imaginary) film *Dawn of the Aliens*, which “portrays aliens as vicious monsters.”²⁶⁶ All the aliens are horrified except for Tommy, who finds the special effects phenomenal.²⁶⁷ Harry proposes an “alien pride parade,” which will persuade the humans they should respect aliens.²⁶⁸ Dick calls the local paper to object to the movie critic’s review and tells his faculty colleague Mary Albright that the movie’s portrayal of aliens is off target, and that aliens are actually kind.²⁶⁹ The aliens decide to attend a SF convention in Cleveland where attendees can “[m]eet all the aliens from [their] favorite TV shows and movies,” and where actor George Takei²⁷⁰ (playing himself), who played Lieutenant Sulu in

such as the use of cosmetics. *Id.*

262. *3rd Rock from the Sun*, “Dick Like Me” (NBC Apr. 23, 1996) (TV series) [hereinafter “Dick Like Me”].

263. *Id.* The writing is not as tight as it could be, although this might also be intentional on the part of the show’s creators. For example, why is Tommy already enrolled in school within a day of the aliens’ arrival on Earth and why does Dick have a position as a physics professor? The mission seems intended to last only a day or two. Why not simply state that the mission is intended to last a certain amount of time? See “Brains and Eggs,” *supra* n. 69 (showing the facts behind these questions in the pilot episode).

264. *3rd Rock from the Sun*, “Dick, Who’s Coming to Dinner” (NBC Nov. 23, 1996) (TV series) [hereinafter “Dick, Who’s Coming to Dinner”].

265. *3rd Rock from the Sun*, “Hotel Dick” (NBC Sept. 29, 1996) (TV series) [hereinafter “Hotel Dick”].

266. *Id.*

267. *Id.*

268. *Id.*

269. *Id.*

270. Takei is not the only *Star Trek* alumnus to appear on the show; William Shatner eventually takes on the role of The Big Giant Head, ruler of the aliens’ home planet, and (given the number of allusions to his power) apparently a force to be reckoned with in the Universe. *3rd Rock from the Sun*, “Dick’s Big Giant Headache, Part 1” (NBC May 25, 1999) (TV series) (using “Stone Phillips” as the Big Giant Head’s name during his visits to Earth); *3rd Rock from the Sun*, “Dick’s Big Giant Headache, Part 2” (NBC May 25, 1999) (TV series); *3rd Rock from the Sun*, “Dick’s Big Giant Head Returns” (NBC Feb. 22, 2000) (TV series); *3rd Rock from the Sun*, “Dick’s Big Giant Head Returns Again, Part 1” (NBC May 23, 2000) (TV series); *3rd Rock from the Sun*, “Dick’s Big Giant Head Returns Again,

the series *Star Trek*, is speaking on his (completely imaginary) “new book,” *Warp Speed, Dammit: The Complete Rants of William Shatner*.²⁷¹ Harry suggests that the venue would be perfect to demonstrate how wrong human perceptions of aliens are, or suggests, “We could blow the whole place up.”²⁷² Harry is anxious to make his stand at the convention and Tommy asks him if he thinks he is “some sort of alien Martin Luther King.”²⁷³ “I too have a dream, and in that dream I’m naked on a Ferris wheel.”²⁷⁴ Harry does not simply suggest that he is a human rights leader—he is a prophet.

Early in their mission, the aliens discover that the humans around them think they are extremely odd and that they do not “fit in,” in the words of Tommy’s teacher, Mr. Randall.²⁷⁵

“Of course I’m not fitting in. To fit in, you have to *be* something.”²⁷⁶ Dick is mystified. “We’re something. We’re human beings. Why? Has anyone said differently? Isn’t that enough?”²⁷⁷ To the aliens, all these humans look alike. Tommy explains, “No, no, it’s just everyone at school is something extra. You know, they’re African-American, or Italian-American, Asian-American, Audio-Visual-American.”²⁷⁸

Since Dick is completely at sea, the conversation continues:

Dick: We’re Human-American. That should be enough.

Part 2” (NBC May 23, 2000) (TV series). Allusions to SF and SF shows are common, as one would expect of space aliens visiting; they might be interested in what humans think of them. As the Solomons note, they have been picking up over the air Earth transmissions for some time. But the self-referential comments also allow more social commentary as well.

271. “Hotel Dick,” *supra* n. 265.

272. *Id.* Again, the show spoofs SF notions of aliens. If, as the 3rd Rock aliens suggest, “aliens are kind,” why would they “blow the place up”? If they hold the notion of blowing worlds up in reserve, why engage in a public relations campaign? These are notions that are ultimately human, not alien, approaches, but they reflect the fears that humans have projected onto SF aliens for decades.

273. *Id.*

274. *Id.*

275. “Dick Like Me,” *supra* n. 262.

276. *Id.*

277. *Id.*

278. *Id.*

Tommy: Dick, it's part of my mission, as an adolescent, to rebel against my upbringing, and if you don't tell me what we are, then I can't do my job.

Dick: All right, if we have to be part of some group, we will be. I'll do some research. I'll ask around. I'll find out what the best thing to be is, and by the end of the week, we'll be that.

Tommy: Wait . . . what should I be until then?

Dick: Well, we're carbon based life forms. Just tell everyone we're Carbo-Americans.²⁷⁹

This conversation spoofs the suggestion that ethnic identity is a matter of choice, which is such a feature of current surveys.²⁸⁰ Note, however, that according to liberal theory, we are attempting to advance toward a colorblind world²⁸¹—that is, after all, the intent behind affirmative action.²⁸² In *Grutter v. Bollinger*,²⁸³ the Court noted:

We take the Law School at its word that it would “like nothing better than to find a race-neutral admissions formula” and will terminate its race-conscious admissions program as soon as practicable It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased We expect that 25 years from now, the use of racial prefer-

279. *Id.*

280. See e.g. Evergreen St. College, *Evergreen New Student Survey 2007*, <http://www.evergreen.edu/institutionalresearch/pdf/Surveys/nss/nss2007results/nss2007olraceethnicity.pdf> (accessed Apr. 11, 2010) (displaying the results of a racial and ethnic identity survey for students).

281. Cedric Merlin Powell, *Rhetorical Neutrality: Colorblindness, Frederick Douglass, and Inverted Critical Race Theory*, 56 Clev. St. L. Rev. 823, 834 (2008). Contrast the *3rd Rock* crew's impressions of humans with Sikes' impressions of the Newcomers, and consider the *3rd Rock*'s attempts to carve out a hyphenated “identity” while on Earth with Sikes' inability to understand why the Newcomers cannot accept the Eenos.

282. *Id.* at 848.

283. 539 U.S. 306 (2003).

ences will no longer be necessary to further the interest approved today.²⁸⁴

Episodes such as “Dick Like Me,” a takeoff on the John Griffin book *Black Like Me*,²⁸⁵ explore what ethnic identity might mean to a culture that has no emotional or intellectual understanding of the concept.²⁸⁶ “Red, White & Dick” explores the idea that an emphasis on equality can become so exaggerated that the concept ceases to mean anything at all.²⁸⁷ Thus, the scriptwriters use satire and SF to explore racially and ethnically charged issues. So much of what humans know—even if raised in different countries, cities, or neighborhoods—comes from shared values as human beings that they could not expect alien beings to understand all of it, no matter how long they walk among us. Our own human understanding is limited by language, geography, culture, age, and experience.

But, when someone, in this case an alien (unknown to the humans around him), truthfully proclaims colorblindness, the humans who hear him wrongly disbelieve him.²⁸⁸ They do not understand how he could be colorblind, and in their defense, we must admit that they are right to question him. Since they do not know that he is not human, so that his color and ethnic blindness comes naturally to him, they evaluate him as just another example of a liberal white man, but one who is more than a little out of touch.²⁸⁹

Mary Albright’s instinct tells her that Dick and his family are different. As a trained anthropologist she should probably have been able to spot some glaring problems with their story, as she tries to do early on, in “The Dicks, They Are A-Changin’,” when she thinks she has identified Dick as a 1960s radical named Manny Rosenberg.²⁹⁰ She cannot make sense of Dick’s behavior

284. *Id.* at 343.

285. See generally John Howard Griffin, *Black Like Me* (Signet 1976) (exploring the black experience by changing from a white man to a black man and living in the south).

286. See “Dick Like Me,” *supra* n. 262 (exploring identity through the eyes of the aliens).

287. *3rd Rock from the Sun*, “Red, White & Dick” (NBC Dec. 19, 2000) (TV series).

288. “Dick Like Me,” *supra* n. 262.

289. *Id.*

290. *3rd Rock from the Sun*, “The Dicks, They are A-Changin’” (NBC Apr. 9, 1996) (TV series).

other than to classify him as someone who is hiding something; what else could it be other than a mysterious past?²⁹¹ As the series proceeds, she falls in love with him, and the romance blinds her.²⁹² Similarly, police officer Don Orville, who becomes involved with Sally, fails to see the very serious problems with the aliens' cover story.²⁹³ Whether believing that someone is an alien is a good explanation for the Solomons' weird behavior is another question. Even in today's increasingly dysfunctional society, jumping to the conclusion that one can explain one's colleague's, neighbor's, or lover's odd behavior by postulating that he or she is from outer space is not the first hypothesis a rational human being adopts.

Finally, *3rd Rock from the Sun* pushes the twin and contradictory notions of ethnic identity and cultural assimilation to their comedic limits. In the episode, "Dick Who's Coming to Dinner," the Solomons re-investigate the phenomenon of ethnic identity, first broached in "Dick Like Me."²⁹⁴ Dick asks his secretary Nina to take him to a Black Students Union (BSU) meeting, a request she refuses, telling him that the event would be meaningless to him because he is not black.²⁹⁵ He pursues the issue, asking his student, Karen, why she attends BSU meetings since she

291. *Id.* Mary tells Dick several times that his behavior is "off". There is something about him that is "not quite right." He is "other," in spite of his and the other aliens' attempts to fit in, but she is quite unable to figure out what it is. *Id.*

292. *3rd Rock from the Sun*, "Sally and Don's First Kiss" (NBC May 6, 1998) (TV series).

293. *See id.* (ignoring inconsistencies in the aliens' cover story).

294. "Dick, Who's Coming to Dinner," *supra* n. 264. A good many of the *3rd Rock* titles, including this one, allude to well known popular culture symbols. In this case, the episode title refers to a famous film starring Katharine Hepburn, Spencer Tracy, and Sidney Poitier. *See Guess Who's Coming to Dinner* (Columbia Pictures 1967) (motion picture) (showing a white liberal couple whose daughter brings home a black fiancé for dinner). The public knew both Hepburn and Tracy for their association with liberal causes, and Poitier for groundbreaking roles. Poitier played opposite Tony Curtis in *The Defiant Ones* (Curtleigh Productions 1958) (motion picture), for which he received an Academy Award nomination in 1958. He won the Oscar for *Lilies of the Field* (Rainbow Productions 1963) (motion picture). *Moments in time: The History Channel*, Cloverdale Reveille 10 (Oct. 31, 2007) (available at <http://news.google.com/newspapers?nid=1089&dat=20071031&id=gFM1AAAAIBAJ&sjid=GhUGAAAAIBAJ&pg=3324,4233517>) (noting that Poitier received the award two years after testifying before the House of Representatives to "condemn[] the lack of opportunities for black actors in Hollywood"). He was the first black actor to receive an Academy Award for Best Actor. *Id.*

295. "Dick, Who's Coming to Dinner," *supra* n. 264.

is “barely cocoa brown at best.”²⁹⁶ He fails to understand her attempt to explain the notion of ethnic identity and association,²⁹⁷ but ferrets out the fact that humans like to associate with their own kind.²⁹⁸ He then seeks out a “White Power” rally, to which he takes the other aliens.²⁹⁹ Although speech at the rally is protected under the *Brandenburg v. Ohio*³⁰⁰ case, the rhetoric at the rally is as incomprehensible to the Solomons as was black student rhetoric.³⁰¹ When Dick, having obtained information on the location of the “White Power” rally, says that he plans to go, the bartender who has given him the information tells him that the Solomons should leave the premises, saying that he does not want “their kind” around.³⁰²

When Dick mentions their attendance, Mary is horrified and refuses to listen to his attempts to explain that he was simply trying to find a place to “fit in.”³⁰³ “White” just sounds to him like an adjective that simply describes the aliens’ chosen skin color for their visit—just as “Black” sounds like an adjective describing Karen and other students. For Dick and the other aliens, the

296. *Id.*

297. By refusing to take Dick to the BSU meeting, Karen is asserting her right of association, a right that Americans hold dear. Further, Karen and the other students may not want to associate with professors during their non-class hours. But Dick’s interest in and desire for knowledge about what happens at the BSU meeting is genuine, and his request is benign, even if Karen does not recognize it as such. Of course, Dick’s behavior in class has been notoriously annoying and harassing, so we understand why Karen is reluctant to bring him along. See “Dick Like Me,” *supra* n. 262 (exploring the Solomons’ ethnic identity). We do not know if Pendleton is a state university, nor if the student groups are taxpayer funded. But the scene raises issues of inclusion and exclusion, not simply for the aliens, but for the humans. Note that even private associations may be required to open their doors to those they would prefer not to admit. See *Bd. of Dirs. of Rotary Intl. v. Rotary Club of Duarte*, 481 U.S. 537, 548–549 (1987) (holding that the state statute did not violate the First Amendment by requiring a club to admit women since the club allowed nonmembers access to many functions).

298. “Dick, Who’s Coming to Dinner,” *supra* n. 264.

299. *Id.*

300. 395 U.S. 444, 449 (1969). Non-lawyers may not understand the legal reasoning that protects speech at the “White Power” rally, which the Supreme Court decided nearly thirty years before the episode aired. But, generally, viewers understand the analogy between the right of the attendees at the “White Power” rally to come to the rally and listen to the speakers and the right of the students to attend the BSU meeting and listen to its speakers. They also understand that they do not have to associate with either group.

301. “Dick, Who’s Coming to Dinner,” *supra* n. 264. Tommy wonders why the “White Power” attendees hate the “upside-down letter T,” a remark that signifies just how out of touch the aliens are with the symbolism of the speech at the rally. *Id.*

302. *Id.*

303. *Id.*

words “White” and “Black” have no cultural or ethnic meaning. They are simply adjectives.³⁰⁴

Once Dick finally understands that although he may not have caused the problems on Earth between races, and that he could assist in resolving differences, Dr. Albright assures him that his efforts will be rewarded, saying with amusement, “After all, it’s not as if we choose the color of our skin.”³⁰⁵ But of course, the aliens *have* “chosen” their skin color, in perhaps a much more affirmative way than others, like Karen, choose their identities. That one may decide to associate with a particular group exclusively or more than others for emotional, historical, personal, financial, or other reasons may be a legitimate indicator of true ethnic identity. Indeed, the 2000 and 2010 United States Census have emphasized ethnic identification to a much greater extent than in previous surveys, prompting many objections that such identification was both useless and constituted pandering to minorities.³⁰⁶ The Office of Management and Budget’s justifications appear in one of its directives, stating:

Numerous studies reveal that identification of ethnicity is fluid and self-perceptions of race and ethnicity change over time and across circumstances for many people. This is especially true among persons with heterogeneous ancestries. A study of the Current Population Survey showed 1 in 3 people reported an ethnicity in 1972 that was different from the one they had reported in 1971. This level of inconsistency reflects the fluidity of ethnicity as well as the effect of question design.³⁰⁷

304. *Id.*

305. *Id.* (admitting they had chosen their skin color because they thought that white would be cooler in the summer).

306. Tamar Jacoby, *Viewpoints: Census’ Ethnic Emphasis Outrageous*, *Newsday* A45 (Mar. 30, 2000). 2010 Census Form Questions at <http://2010.census.gov/2010census/how/interactive-form.php> (accessed Apr. 11, 2010). Whether the census designations accomplish what their designers intend is a question. See Tanya Kateri Hernandez, “*Multiracial Discourse*”: *Racial Classifications in a Era of Colorblind Jurisprudence*, 57 *Md. L. Rev.* 97 (1998) (arguing that census questions about race confuse cultural identity with sociopolitical identity, thus muddying the waters).

307. 60 *Fed. Reg.* 44674, 44675 (Aug. 28, 1995).

In the episode, “The Loud Solomon Family: A Dickumentary,”³⁰⁸ the aliens appear in Albright’s anthropological video, even though they fear exposure as aliens.³⁰⁹ Dick suggests that Albright’s selection of them means that they have actually succeeded in their mission, which is to “melt” into the human population.³¹⁰ Note that the idea of anthropological documentaries is to study humans; unknown to her, Albright’s research in this case is on non-humans and, therefore, completely worthless.³¹¹ The documentary becomes as much a satire on anthropologists and popular culture as is the rest of the series.³¹² The “loud” in the episode title refers both to the customary noise with which the crew, especially Dick, operates, and to the famous 1970s PBS

308. 3rd Rock from the Sun, “The Loud Solomon Family: A Dickumentary” (NBC Jan. 11, 2000) (TV series) [hereinafter “The Loud Solomon Family”].

309. *Id.*

310. *Id.*

311. Interestingly, some anthropologists have been looking at SF and its reflection of popular culture since the early 1970s. See *Anthropology through Science Fiction* (Carol Mason, Martin Harry Greenberg & Patricia Warrick eds., St. Martin’s Press 1974) (introducing basic concepts and viewpoints in anthropology through SF literature); *Cultures Beyond the Earth* (Magoroh Maruyama & Arthur Harkins eds., Vintage Bks. 1975) (exploring nontraditional concepts of society to develop thinking about extraterrestrial human communities); *Aliens: The Anthropology of Science Fiction* (George E. Slusser & Eric S. Rabkin eds., S. Ill. U. Press 1987) (exploring whether there is an anthropological alien).

312. “The Loud Solomon Family,” *supra* n. 308. All of the episode titles are takeoffs on popular sayings, television shows, movies, books, and events. Similarly, the 1960s television series, *My Favorite Martian*, used current events and contemporary popular culture for its episode titles, including: “The Sinkable Mrs. Brown” (CBS Apr. 5, 1964) (recalling the Broadway play and film, *The Unsinkable Molly Brown* (MGM 1964) (motion picture)); “Dial M for Martian” (CBS Oct. 26, 1964) (a reference to the film *Dial M for Murder* (Warner Bros. 1954) (motion picture)); “The Great Brain Robbery” (CBS Nov. 15, 1964) (*The Great Train Robbery* (Edison Mfg. Co. 1903) (motion picture) and *Brinks: The Great Robbery* (Warner Bros. 1976) (TV movie)); and “How’re Things in Glocca Martin?” (“How are Things in Glocca Mora” from the play and film, *Finian’s Rainbow* (Warner Bros. 1968) (motion picture)). IMDb, *Episode List for My Favorite Martian*, <http://www.imdb.com/title/tt0056775/episodes> (accessed Apr. 11, 2010). Note that *My Favorite Martian* ran on CBS from 1963–1966, and went off the air shortly before *Star Trek: The Original Series* first aired. J.H. Harrison, *A TV Classic My Favorite Martian Starring Ray Walston and Bill Bixby*, http://members.tripod.com/~jhh_2/TVVMFM.htm (last updated Mar. 14, 2010). *My Favorite Martian* currently airs on the TVLand network. *Id.* Another series that explored the strangeness of human popular culture and our basic desire to “fit in” was *Mork and Mindy*, in which Mork, an alien from the planet Ork, visits the U.S. during the 1970s. *Mork & Mindy*, *supra* n. 6. Mork made his debut on the nostalgic series *Happy Days*, in order to study the United States in the 1950s. *Happy Days*, “My Favorite Orkan” (ABC Feb. 28, 1978) (TV series) [hereinafter *My Favorite Orkan*]. The character, played by Robin Williams, was so popular that the network decided to air a spin-off. *Mork & Mindy*, *supra* n. 6.

documentary series *An American Family*,³¹³ during the course of which the husband and wife divorced and the oldest son revealed his homosexuality.³¹⁴

Charlotte Everly and her son Ned (played by Kathy Bates and Chuck Roy), first claim to be journalists, but then reveal themselves to be “alien hunters.”³¹⁵ Highly suspicious of the Solomons, they invade the family’s apartment and tie them up, threatening to dissect them, the fate that the aliens have feared ever since their arrival on Earth.³¹⁶ Although Charlotte has tried to disinvite the guests to Dick’s birthday party, they come anyway, as does the FBI, hot on Charlotte’s trail; she’s a well-known nut who has accused many other people of being aliens.³¹⁷ This time she’s correct, but the Solomons benefit from the fact that she has “cried wolf” once too often.

Likewise, Vicki Dubcek’s jealous boyfriend Randy (Phil Hartmann) discovers Harry’s peculiar “transmission” powers when he kidnaps him, although he does not know quite what to do with them, other than to try to make money out of the discovery.³¹⁸ But the journalist from the *World Globe*,³¹⁹ to whom Vicki Dubcek tries to hand the story of Harry’s life, refuses to bite.³²⁰ Instead he tells her that the baby looks completely normal, and asks in annoyance, “Do you even *read* our paper?”³²¹

313. (PBS 1973) (TV series).

314. PBS, *Lance Loud! A Death in An American Family*, <http://www.pbs.org/lanceloud/american/> (accessed Apr. 11, 2010).

315. *3rd Rock from the Sun*, “Alien Hunter” (NBC May 4, 1999) (TV series).

316. *Id.*

317. *Id.*

318. *3rd Rock from the Sun*, “Eat, Drink, Dick, Mary” (NBC May 20, 1998) (TV series) [hereinafter “Eat, Drink, Dick, Mary”].

319. Journalists who track down and investigate aliens in science fiction are, not unexpectedly, a recurring theme—from Tim O’Hara, the rescuer and friend in *My Favorite Martian*, to reporters such as this one. See e.g. *Kolchak: The Night Stalker* (ABC 1974–1975) (TV series) (depicting a newspaper reporter who investigates crimes that have mysterious causes—the types of crimes traditional authorities will not pursue). Rarely does these journalists’ work see the light of day.

320. “Eat, Drink, Dick, Mary,” *supra* n. 318.

321. *3rd Rock from the Sun*, “The Baby Menace” (NBC Sept. 21, 1999) (TV series). While the aliens are concerned about protecting their identity, they are not so concerned about intruding on the privacy of the humans they observe. In several episodes, they engage in snooping, trespassing, and otherwise invasive behavior in order to gather data about humans. For example, in “Angry Dick,” they watch their next-door neighbors making love and do not understand why the neighbors object. *3rd Rock from the Sun*, “Angry Dick” (NBC Apr. 2, 1996) (TV series). In “Dick Puts the ID in Cupid,” Dick begins seeing

Neither Randy nor the team of alien hunters is entirely rational. Perhaps their irrationality allows them to detect the Solomons' quite obvious inability to "pass" as humans. In our increasingly accepting, tolerant, even fearful "go along to get along" society, we have a disinclination to challenge those who seem odd. They might be litigious. They might be dangerous. In any case, they certainly have a right to be left alone, as long as their peculiarities do not interfere with our well-being or our own rights.³²² That the aliens have a "Prime Directive" not to interfere, as Tommy reminds Dick several times, seems not to prevent the aliens from allowing other aliens from their home world to infiltrate Earth society.³²³ At least two do so during the series and remain after the team terminates its mission.³²⁴ Taken in its en-

Mary Albright's therapist to find out more about Mary, including her secret thoughts and "to get gift ideas," and cannot fathom why either Mary or the therapist would go into a rage on discovering his betrayal. *3rd Rock from the Sun*, "Dick Puts the 'Id' in Cupid" (NBC Feb. 8, 2000) (TV series). Finally, in "InDickcretion," Dick and Sally share sexual secrets about Mary and Don on a double date. *3rd Rock from the Sun*, "InDickcretion" (NBC Nov. 14, 2000) (TV series). In each of these cases, human individuals also may easily cross the line of privacy and/or intimacy. Watching other individuals engaged in sexual intercourse violates so-called "Peeping Tom" statutes. For a survey of Peeping Tom statutes, see generally H. Morley Swingle & Kevin M. Zoellner, *Criminalizing Invasion of Privacy: Taking A Big Stick to Peeping Toms*, 52 J. Mo. B. 345 (Nov./Dec. 1996) (discussing Missouri's privacy law and the state's lead in criminalizing and prosecuting peeping toms). Entering into a confidential relationship with a health professional without disclosing a prior relationship with someone that the therapist also treats causes legal and ethical problems for the therapist. Treatment of couples assumes that the therapist knows that the individuals are involved in a relationship. See e.g. Jonathan D. Rubin, *Confidentiality Issues in Treatment of Couples in Marital Therapy*, 18 Med. Malpractice L. & Prac. 4 (2000) (expounding on the assumption that couples' therapists know about the relationship and the challenge therapists face as a result). Publication of private facts, such as the disclosure of personal sexual information is the kind of invasion of privacy that, while rarely actionable among friends, might lead to the courtroom in other contexts.

322. On the oddness of neighbors and our reluctance to interact with them in contemporary society, see Christine A. Corcos, *The People Next Door* (copy on file with *Stetson Law Review*).

323. See generally *3rd Rock from the Sun*, *supra* n. 13 (showing Tommy constantly reminding the other aliens that they cannot interfere with human society, only observe it).

324. *3rd Rock from the Sun*, "Fun With Dick and Janet, Part 2" (NBC Sept. 24, 1997) (TV series) (in which Janet, the Big Giant Head's niece, sent to Earth to be Dick's wife, leaves him to find happiness elsewhere on Earth); *3rd Rock from the Sun*, "My Mother, My Dick" (NBC Feb. 20, 2001) (TV series) (in which Sally and Harry are playing with the time portal and accidentally materialize a visiting alien, who eventually decides to stay on Earth). Note also that the visiting "Venusians" (played by various guest star supermodels) stay on Earth when the aliens destroy their means of escape after their plans to take all of Earth's "stuff" go awry. *Venusian Episode Part 1*, *supra* n. 70; *3rd Rock from the Sun*, "36! 24! 36! Dick!, Part 2" (NBC Jan. 25, 1998) (TV series) [hereinafter *Venusian Episode Part 2*].

tirety, *3rd Rock from the Sun* satirizes the traditional alien-invasion narratives.³²⁵

Other, more dangerous, aliens arrive to threaten Earth and its human population, whom the aliens finally learn to accept if not to love.³²⁶ Both “Liam Neesam” (played by John Cleese) and the Venusians represent threats to the planet that the Solomons forestall. Periodically, Sally herself decides to eradicate some human or other, usually a female, because she perceives that person as a threat to the mission.³²⁷ She is perpetually hostile to Mary Albright, whom she views not just as a distraction, but as inferior.³²⁸ But Dick falls hopelessly in love with Mary, since he is unable to deal with human emotion.³²⁹ Eventually, all the aliens fall prey to human feelings, apparently as a result of their human bodies.³³⁰

The aliens never consider ending the mission early. Sally, the security officer, simply believes that eradicating whatever threat the team faces is the rational response.³³¹ That humans would consider this response to be murder and prosecute the murderer seems not to concern her and, perhaps, it should not; the aliens

325. For example, after the aliens return from their home planet and forget to erase evidence of their landing (a crop circle), Officer Don’s commander sends him to investigate. *3rd Rock from the Sun*, “Fun With Dick and Janet, Part 1” (NBC Sept. 24, 1997) (TV series) [hereinafter “Fun With Dick and Janet, Part 1”]. He meets Tommy, Sally, and Harry at the crop circle; they have a feeble excuse to explain why they are there but, as usual, it does not trigger his suspicion. *Id.*

326. See “Dick and the Other Guy,” *supra* n. 71 (showing the Solomon family’s interactions with another alien whose aim is to conquer Earth); *Venusian Episode Part 1*, *supra* n. 70, (showing a group of beautiful female aliens who aim to take “stuff” from Earth back to their home planet); *Venusian Episode Part 2*, *supra* n. 324 (showing the continuation of the *Venusian Episode Part 1*).

327. See generally *3rd Rock from the Sun*, *supra* n. 13 (depicting Sally feeling threatened by other females). Clearly, Sally is the “unfriendliest” of the friendly aliens on *3rd Rock from the Sun*, but she has friendly feelings generally toward Officer Don, toward the landlady, Mrs. Dubcek, and toward other humans. Her unfriendly feelings toward human females originate from the human emotion of jealousy as well as from the necessity to protect the mission, a necessity which humans also share. The *3rd Rock from the Sun* aliens’ reactions, like the reactions of other “friendly aliens,” to human form is beyond the scope of this Article but is an interesting issue.

328. See generally *id.* (depicting Sally’s hostilities toward Mary).

329. See generally *id.* (depicting Dick’s difficulties when he has to deal with human emotions in a variety of new situations on Earth).

330. See e.g. *3rd Rock from the Sun*, “Post-Nasal Dick” (NBC Jan. 16, 1996) (TV series) (showing Tommy kissing a girl).

331. See *3rd Rock from the Sun*, “Feelin’ Albright” (NBC Oct. 14, 1998) (TV series) (featuring Sally inquiring after Don’s ex-girlfriends, feeling out her competition).

can leave via their portal within seconds, or they can (apparently) leave on a scheduled transport.³³² She would not face any consequences derived from United States or international law for the act and she would probably be doing her duty in protecting the integrity of the mission, as would a human security officer in her place. Similarly, humans eliminating “lesser” forms of life do not consider such acts murder. Like the owner who euthanizes a terminally ill pet,³³³ humans reserve to themselves alone the right to classify who is worthy of being considered a murder victim. Dick Solomon seems to have come to a different conclusion about the value of human life. Although he ruminates on the irony of the situation and his superiority to human beings after “Liam Neesam” (thinking he has eliminated his memory) spares Earth believing he is a superior sort of human, Dick still understands that human life really does have some sort of value and that it needs to be preserved.³³⁴

Ultimately, Dick’s love of Earth and the human beings he meets proves to be his downfall. In the episodes “Mary Loves Scoochie, Part 1” and “Mary Loves Scoochie, Part 2,” alien Liam Neesam returns with a diabolical plan to turn the Earth into “Planet Monkey World.”³³⁵ Dick defeats him by turning his weapon against him, but Mary sees Dick turn Liam into a chimpanzee.³³⁶ In “The Thing That Wouldn’t Die, Part I,” Dick decides to tell Mary about his real origins.³³⁷ The home planet bureauc-

332. *Id.* Indeed, some people believe that people as well as animals should have the dignity of leaving this world when pain and suffering reach a certain (subjectively intolerable) level. See Jennifer M. Scherer & Rita J. Simon, *Euthanasia and the Right to Die: A Comparative View* (Rowman and Littlefield Publg., Inc. 1999) (examining the philosophical, religious, and legal positions surrounding euthanasia and the physician-assisted suicide debate).

333. Persons who kill animals cruelly might face some jail time, or merely a fine. La. Stat. Ann. § 102.1(2)(a) (2009). They will not face murder charges, even if the animal is arguably sentient, and even if the animal suffered horribly. Louisiana state law requires the killing of a “human being” in order to conclude that first- or second-degree murder was committed. *Id.* at §§ 30–30.1 (2009). We humans reserve certain rights, including the right to classify who is worthy of being considered a murder victim, to ourselves alone.

334. “Dick and the Other Guy,” *supra* n. 71.

335. *3rd Rock from the Sun*, “Mary Loves Scoochie, Part 1” (NBC May 8, 2001) (TV series); *3rd Rock from the Sun*, “Mary Loves Scoochie, Part 2” (NBC May 15, 2001) (TV series).

336. *Id.*

337. *3rd Rock from the Sun*, “The Thing That Wouldn’t Die, Part 1” (NBC May 22, 2001) (TV series).

racy recalls the team and ends the mission, possibly because of Dick's admissions to Mary and certainly to respond to accusations that Dick has violated some kind of interstellar agreement by turning Liam into a chimp.³³⁸ The team members, particularly Dick and Sally, do not want to leave Earth, their friends, and the human rights regime they have enjoyed in the United States (even though they live under the radar) since they often complain about the situation on the home planet, including the "truth belt"³³⁹ and lack of voting rights.³⁴⁰ Throughout the episodes, they comment to one another about how life on Earth is different from life elsewhere and how this particular mission is different from other missions.³⁴¹ Sally and Dick seem particularly affected. Sally is worried about "what will happen" to her body when she leaves and finds little comfort in the response that it will just be an empty husk, left abandoned when she returns to the home planet to take up another mission, even though, as Tommy and Dick tell her, this is how all their missions have ended.³⁴² For Sally, the thought that the "real Sally" has left the body is truly crushing, even though, in an odd parallel to the story of *The Thing*, she as the alien is still alive, and the humans who may mourn her will know nothing of what has happened to the "real Sally."

In the last scene of the last episode broadcast, Dick leaves Mary Albright behind on Earth because she decides not to accompany the aliens to their home planet, and he erases her memories of the aliens both in order to assuage her regret at losing him and to prevent any danger that she might reveal any information about their visit or the presence of other aliens.³⁴³ In an alternate ending, available on DVD, he returns to take her with him.³⁴⁴

338. *3rd Rock from the Sun*, "The Thing That Wouldn't Die, Part 2" (NBC May 22, 2001) (TV series) [hereinafter "The Thing That Wouldn't Die, Part 2"]. Note that turning another alien into a chimp mimics "de-evolution." Apparently this really is an insult on an interstellar level, though to another superior group of beings, not to humans.

339. "Fun With Dick and Janet, Part 1," *supra* n. 325.

340. *3rd Rock from the Sun*, "Dick the Vote" (NBC Oct. 27, 1996) (TV series).

341. *Id.*; "Fun With Dick and Janet, Part 1," *supra* n. 325.

342. "Fun With Dick and Janet, Part 1," *supra* n. 325.

343. "The Thing That Wouldn't Die, Part 2," *supra* n. 338. Remember that other aliens are still on Earth, including "Janet," the Big Giant Head's niece. Similarly, in the film *Men in Black*, the investigator Agent K, played by Tommy Lee Jones, has a device that erases memory; he uses it constantly, which annoys his partner Agent J, played by Will Smith. *Men In Black* (Amblin Ent. 1997) (motion picture). The memory-erasing device is a staple of UFO lore, and is thus incorporated in alien parody films. See Alien Abduction Experi-

The suggestion that aliens have some sort of responsibility not to interfere with human society is one that has certainly settled in the popular consciousness. Similarly, the notion that humans are stewards of the Earth finds purchase in statements by non-governmental organizations, intergovernmental organizations, and governmental agencies such as the World Wildlife Fund³⁴⁵ and the Natural Resources Defense Council.³⁴⁶ We have not yet seen official government statements that suggest that if we find extraterrestrial life, we are responsible for not disturbing or destroying it. But SF writers, via novels, television, and film, have already done so. Quite obviously, the notion that aliens should not interfere with human society leads to an analogous idea—that humans, as we begin an exploration of space, should not interfere with any extra-terrestrial life we find. But could we recognize it if we encountered it?³⁴⁷

ence and Research, *Alien Abduction Survey*, <http://www.abduct.com/survey.php> (accessed Apr. 11, 2010) (identifying some of the abductees' common experiences); *but see* Skeptic Tank, *Space Aliens often Erase the Memories of People They Abduct*, <http://www.skepticfiles.org/ufo1/youabd.htm> (accessed Apr. 11, 2010) (asserting that, despite the erasing of memories, it is still possible for individuals to determine if they have been abducted by checking for certain signals and symptoms). Indeed one of the common symptoms of "alien abduction" is a memory loss or "missing time," presumably caused by such a memory erasing device. *Id.* On the television series *The X-Files*, government agents, rather than aliens, create the memory loss. *The X-Files*, "Jose Chung's 'From Outer Space'" (20th Cent.-Fox Apr. 12, 1996) (TV series).

344. "The Thing That Wouldn't Die, Part 2," *supra* n. 338. An alternative ending is available on the DVD version. He does not seem to consider that, since Mary has already refused to come with him to his home planet, his act constitutes kidnapping. Perhaps he believes that if she is a lower form of life, he is simply collecting a specimen.

345. World Wildlife Fund, *Reducing Humanity's Impact*, http://www.panda.org/what_we_do/footprint/ (accessed Apr. 11, 2010).

346. Natl. Resources Def. Council, *About NRDC: Mission Statement*, <http://www.nrdc.org/about/mission.asp> (accessed Apr. 11, 2010).

347. The United Nations adopted a resolution regarding the study of UFOs and extraterrestrial life, but it is unclear whether the UN made any additional efforts to follow up on the study. *See* Establishment of an Agency or a Department of the United Nations for Undertaking, Co-ordinating and Disseminating the Results of Research into Unidentified Flying Objects and Related Phenomena, GA Res. 33/426, UN GA, 33d Sess. Supp. 45. UN Doc. A/33/45 (1979) (available at <http://www.un.org/en/documents/>; search A/33/45; select English) (detailing the UN's establishment of an agency or department to research unidentified flying objects and related phenomena). Exobiologists and other scientists specializing in the study of extraterrestrial life now acknowledge that life that does not resemble humanoid life could develop elsewhere in the Universe. But the discussion is lively. *See Life As We Know It* (J. Seckbach ed., Springer 2006) (containing essays discussing how to define life, and how to recognize life in various terrestrial and extraterrestrial environments).

VII. CONCLUSION

I have examined in this Article only a few issues and only a few series (and in passing some films and books) that deal with “rights talk” as I continue a far broader exploration of the issue of rights talk and rights language in SF. Cultural anthropologists have begun to consider the likely impact of human contact with extraterrestrial beings³⁴⁸—as have exobiologists—but we must confront the possible negative or racist human responses to those beings, should they exist.³⁴⁹ We should make every attempt to deal with the results of our thinking here on Earth before venturing into space, or we will carry those results with us, and they will infect our encounters with extraterrestrial life, if it exists. Some humans already believe that extraterrestrial beings are here and that, contrary to beliefs in the 1960s and 1970s, they are here not to help us, but to exploit us.³⁵⁰

This Article mentions only a few of the issues through which SF movies and television series shape and reflect our notions of rights and justice. SF necessarily expresses both the aspirational and the critical views of its authors and its times. It offers us a forum in which we can confront all types of problems and examine solutions before a crisis arises. Thus, its role as disseminator and critic of rights issues and rights talk is invaluable.

348. *Cultures beyond the Earth*, *supra* n. 311.

349. See generally Steven J. Dick, *Life on Other Worlds: The 20th-Century Extraterrestrial Life Debate* (Cambridge U. Press 1998) (discussing the research findings and most significant events relating to the extraterrestrial life debate and noting the study of exobiology is at least 40 years old). Note also that the prefix “exo,” meaning “outside,” automatically labels the biology as “outside” or “other,” arguably, perhaps, not “the norm.” Equally, consider the plots of some television shows and films. *My Favorite Martian* puts the focus on Tim rather than on the Martian. See generally *My Favorite Martian*, *supra* n. 11 (defining the relationship between Tim and the Martian in terms of the Martian). *3rd Rock from the Sun* puts the focus on the Earth rather than on the aliens, since it identifies the planet in relation to its star (“the sun”). See generally *3rd Rock From the Sun*, *supra* n. 13 (telling the story of four aliens that study Earth from human bodies).

350. Brenda Denzler, *The Lure of the Edge: Scientific Passions, Religious Beliefs, and the Pursuit of UFOs* (U. Cal. Press 2001); C. G. Jung, *Flying Saucers: A Modern Myth of Things Seen in the Skies* (Princeton U. Press 1978); John E. Mack, *Abduction: Human Encounters with Aliens* (Macmillan Publ. Co. 1997); Whitley Strieber, *Communion: A True Story* (Beech Tree Bks. 1987); *Intruders* (Dan Curtis Productions 1992) (TV series).