# *Joining the "Galactic Club": What Price Admission?* – A hypothetical case study of the impact of human rights on a future accession of humanity to interstellar civilisation networks

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Abstract

If humanity ever encountered extraterrestrial civilisations who had already formed an interstellar network with others and which had its own interstellar legal framework, would we want to accede to that framework, with the likely effect of having to adapt our own laws? Can there be a joint view of what a global human position should look like or is it impossible to arrive at a consensus? Aspects of questions like these have been hinted at in the literature in a generic sense but an analysis of the costs to human identity of taking out membership in a "Galactic Club" has so far not been attempted. As an extreme hypothetical case study based on a direct contact scenario, this paper aims to close at least part of the gap by addressing one facet of human normativity and identity that will inevitably exert a major influence on any future negotiations with ETI: Human rights. The curious nigh-total absence of this particular field of law in any SETI-related research has been conspicuous for some time. The article can only offer first reflections meant to help shape the future debate. It will try to chart a course across the existing terrain of human rights law, looking at the fundamental aspects of individual human rights guarantees and how they might be affected by contact with an interstellar legal regime.

## 1. Introduction

Will contact with extraterrestrial intelligence (ETI) "render us heirs to a galactic culture", and will it "set us on a new and higher path", as Ronald N. Bracewell asked in 1974 in the final chapter of his book "The Galactic Club"?[1] If, as Michael A.G. Michaud wrote in 2007, we "encounter civilizations that already have formed a Galactic Club [and who] offer us an interstellar legal framework", would we accede to it, knowing that it might "require significant changes in our own laws"?[2] Is the scenario of humanity speaking "with many voices [while] congruent with individual rights and cultural diversity […] [possibly] bad policy" in an interstellar and interspecies context?[3] Can there be a joint view of what a global human position should look like or is it factually – and legally – next to impossible to arrive at a grand consensus if we are currently nowhere near anything that resembles a unified world government? Is there any point in speculating at this time about basic rules of a joint cosmic metalaw, as has been done since the early second half of the 20th century, and pinning humanity's hopes for a contact event on the expectation that every ETI would more or less share its views?[4]

Even assuming that we were to meet highly advanced ETI who are altruistically-minded and basically benign in nature, would their understanding of the terms "altruistic" and "benign" be identical to ours? Altruism, for example, can be directed at varying beneficiaries with varying degrees of primacy. More to the point of this paper, would they, for example, equally accept concepts such as individualism and minority protection, as is the case in many if not most of the current human rights regimes on Earth, or will they consider striving for forms of collective-minded frameworks or even of collective consciousness preferable?[5] Will collective entities view non-collective life-forms as truly sapient and on an equal moral footing with themselves at all – or would the oft-cited image of the human attitude to ants prevail?[6] As the author queried elsewhere, even the human debate of the subject has been, and continues to be, far from uniform or static:

> "Transposed to our current stage of species development, this may translate into increasingly questioning the old concerns over protecting human dignity, individuality, and personal autonomy vis-à-vis the demands of the collective and emphasising that the good of the whole and the goal of peaceful co-existence of all members of a community supersede the need for concepts such as a presumption of innocence and the attendant restrictions on intrusions by the collective, when it becomes ever more apparent that we may be on the path to redefining human and personal dignity and autonomy, this time not in an ideologically forced conversion to the interests of the whole as occurred during the time of the authoritarian regimes of the last century, such as, for example, the Nazi regime's *Volk* concept, but based on a paradigm shift in our own perception triggered by our immersion in the new and rapidly evolving environment of the 'freedom of information society'".[7]

Aspects of questions connected to the consequences for human society of contact with ETI like these have been hinted at in the literature[8] in a generic sense but an analysis of the nuts and bolts, as it were, and above all of the costs to human identity, of taking out membership in the Galactic Club has so far not been attempted. This may hardly be surprising, given that hardly anyone would appear to see a pressing need for answering such questions, because the general public – and quite possibly also the mainstream academic – consensus seems to be that musing about contact with ETI at such a level would mean wasting political energy on something that is very unlikely to happen anytime soon, if at all: After all, the search for extraterrestrial intelligence (SETI) in its many variations has been going on for decades without any tangible

results to show for. Furthermore, until contact occurs we will not know the extent of ETI's strangeness[9] compared to ourselves and hence such ideas are unwarranted speculation.

However, that argument, while understandable from a point of view of pragmatic priorities, appears short-sighted in principle for a number of reasons. Firstly, the fact that so far hard evidence of the existence of ETI continues to elude human science is neither here nor there: Absence of evidence is not evidence of absence – unless the search has been comprehensive, which it has not. This leads to the second reason: Given the overall still incomplete search parameters of mainly radioastronomy-oriented SETI, we may have been missing evidence because the search concentrated on the "wrong" regions of space, looked for the wrong signal indicators, omitted the search for extraterrestrial artefacts (SETA)[10], or because we are as yet technologically unable to detect the evidence. Thirdly, even if humanity was to make an effort at establishing a joint *a priori* legal position, the complex negotiations would take a very long time, if terrestrial politics and diplomacy are anything to go by. Beginning to think about it sooner rather than later might seem prudent. Fourthly, and perhaps *horribile dictu* for the traditionally still rather conservative[11] radioastronomical SETI community, all of this discounts the possibility that there might be some truth to even a small number of reports about unexplained aerial phenomena (UAP) or UFOs.[12] The terms of reference of the IAASETI Permanent Committee, for example, state: "These terms of reference exclude any consideration of UFO phenomena".[13]

Steven J. Dick, the former NASA chief historian, was correct when he said that "the possibility of contact is a strong argument that some form of metalaw must be developed in order to deal with interactions with aliens".[14] This paper is based on the author's experience as a comparative and international lawyer who has worked as a practitioner and as an academic in several jurisdictions, and has an interest in advancing the legal analysis of the post-detection environment as a member of the UK SETI Research Network. It is an extreme hypothetical case study based on a direct contact scenario and assumes the feasibility of communication with ETI – current expectations about contact and concerns in some parts of the scientific community about issues such as the possibility of interstellar travel are thus irrelevant for its argument. It will attempt to begin closing the gap by addressing one facet of human normativity and identity that will exert a major influence on any negotiations with ETI, bilateral or multilateral: Human rights. The nigh-total absence of this particular field of law in any SETI-related legal or ethical research has been conspicuous and difficult to explain.[15] The article can do no more than offer

first reflections on the future debate. It will try to chart a course across the fundamental aspects of human rights guarantees and how they might be affected by contact with an interstellar regime. Are there negotiable aspects that we might be willing to trade away and are there concessions humanity would not be prepared to make? Fulsome declarations about expected interspecies comity among advanced civilisations may still run afoul of even benign and advanced individual species' moral, ethical and legal traditions. Early reflection on the groundwork for effective and efficient trans-species conversations about the crucial factors determining individual species' identity appear apposite, even if humanity is still far from developing a cosmic species awareness, possibly because it has yet to meet the "other".[16] Finally, we need to be aware that there is a wide potential of possible transaction outcomes in the accession negotiations between humans and the ETI, based on the spectrum of situations as they may actually arise, and on the positions taken by the ETI who are already in the Galactic Club on certain issues, which may impact to differing degrees on human conceptions of what is and is not negotiable under human rights aspects. Much as in the Metalaw debate in the SETI literature mentioned above, there is such a thing as too much conjecture: Currently, even the most sophisticated human speculation cannot overcome the epistemological barrier that we have only our own history as the data base from which to extrapolate. In essence, we would still be talking only to ourselves proceeding from a human cognitive bias about what other intelligent entities might perceive as ethical principles, and to what extent they are negotiable. This particular discussion will by necessity have to be left to the moment when contact is made. The debate on this point is thus deliberately left at a more abstract level in this paper.[17]

On a terminological note, the paper deliberately does not employ words like "organisation", "empire" etc., because they have a tendency of transporting connotations from human traditions, social constructs and positionalities, such as hierarchical power structures, distribution of portfolios and responsibilities etc. It seems more appropriate to refer to the more neutral concept of a network which allows for the expression of some form of coordination but leaves its precise nature open.[18] In fact, such an interstellar network might well be the ultimate example of a Foucauldian *Heterotopia*.[19] Moreover, in an interspecies context, the term "human rights" obviously makes no sense anymore and could be replaced with "*humans'* rights" to signify that the debate is about the position of humans as a species.

## 2. Overview of possible factors affecting human rights guarantees

We shall look at some fundamental issues that may impact in the context of reconciling differing systems of rights protection. They can be divided into institutional and material factors. The selection does not claim to be comprehensive.

### 2.1. Institutional factors

#### 2.1.1. Network regulation density

An interstellar civilisational network that supplies its own legal framework to candidates and expects adherence from member civilisations may, of course, take different approaches to regulation density. It may, on the one hand, regulate even the most minute details of its members' legal rights and obligations, making the network into a de facto centralist form of governance, or a federation with strong central powers. It may, on the other hand, take the approach seen in some of human colonial history with the human colonisers only legislating in certain areas relevant to a smooth functioning of public life such as, for example, criminal law, tax law, administrative law etc., while leaving the local population a wide margin of discretion to regulate their own affairs in personal matters such as family law, law of succession, religious matters etc. Depending on the model adopted, different areas of freedom might be affected, and to differing degrees. Civilisations which do not subscribe to any concept of personal freedom and of individual rights as a defence against government intrusion at all may form networks which cater for that attitude and admit newcomers only if they are able and willing to support the collectivist framework unreservedly.

The presumption, however, would appear to point in the direction of minimum intrusion across different species and their civilisations if membership is voluntary and a choice of degree of involvement is available, in a sense, as in the European Union's (EU) general policy movement to an ever closer union, which, however, some (former) EU member states have historically resisted:

> "The Heads of State or Government, on the basis of an awareness of a common destiny and the wish to affirm the European identity, confirm their commitment to progress

> towards an ever closer union among the peoples and Member States of the European Community."[20]

As the solemn declaration of the European Council from 1983 makes clear by extrapolation, two of the central issues for the degree of any network coherence will be the strength of the desire for, and the awareness of, a "common destiny and a joint identity". The one does not necessarily imply the other, especially if one imagines an interstellar network spanning several solar systems possibly light years apart – assuming for argument's sake that the technological interstellar travel and communication problems based on the lightspeed barrier have been solved in an acceptable manner by all member civilisations and potential candidates, which is a factor that would indeed rule out humanity's (full) accession to any such multilateral network for the foreseeable future, even if contact was made, absent any transfer of advanced knowledge by the ETI. The question of a "common destiny and a joint identity" will in any event raise even larger questions than they do in the human context. The issue arguably remains live at the shorter term, however, for bilateral relationships with ETI capable of visiting Earth on a sustained level.

### 2.1.2. Rights hierarchies and enforcement mechanisms

Humanity has developed a number of regional and universal human rights regimes with different enforcement mechanisms and also different levels of subscription by states, which are after all the actors on the stage of international law. In addition, each state will typically have a civil liberties or fundamental rights section in its constitution, the domestic equivalent to international human rights. In some cases, these may remain below the level of protection guaranteed by a human rights convention, in some cases they may go above it. The relationship of the domestic constitution as being typically the highest law of the land to any international obligations the state may have entered into is another problem area. Some of the laws of the EU – which was not originally designed as a human rights protection framework and only developed its own Charter of Fundamental Rights decades after its inception[21] – have supranational character, i.e., they *eo ipso* supersede every domestic law of a member state.[22] Generally, international treaties, agreements or customary law have no such supranational effect. Lastly, if a state is based on a federal model of some sort, the member states may have their own constitutions and cases of conflict between the federal and the state level may be solved in different ways, depending on which one must give deference to the other. The German

constitution, the Basic Law (*Grundgesetz – GG*), for example, contains a very strong protection of human dignity (*Menschenwürde*) in Art. 1(1) GG, which reads:

> Article 1
>
> (1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.[23]

The protection of human dignity as a separate right as such is, for example, not guaranteed in this stark form in one of the most sophisticated existing human rights frameworks, the European Convention on Human Rights (ECHR)[24], of which Germany is also a member and which according to the case law of the German Federal Constitutional Court (*Bundesverfassungsgericht*) otherwise informs even the interpretation of the Basic Law.[25] The German Court has also in a line of cases, the so-called "*Solange*" (meaning "as long as") jurisprudence, reserved its power to scrutinise even legislation made in the jurisdictional framework of the EU against the Basic Law, as long as the EU protection does not reach that of the Basic Law, and not only on the basis of its civil liberties section.[26] The German Court, akin to its American counterpart, the United States Supreme Court, has the power to strike down even acts of parliament (primary legislation) for violations of the Basic Law – which to repeat it, is to be interpreted in line with the ECHR as far as possible.

Conversely, the United Kingdom Human Rights Act 1998 (HRA), in essence states that the British courts need take the settled jurisprudence of the Convention's guardian, the European Court of Human Rights (ECtHR), into account as much as possible in the interpretation of domestic law (section 3 of the HRA)[27] but even a declaration of incompatibility of primary legislation with the ECHR under section 4(6) of the HRA[28] does not make the legislation void. This is the effect of the British view on the absolute sovereignty of Parliament: British courts have no strike-down power with respect to primary parliamentary legislation.[29] Recourse to the ECtHR by an individual against the member state is available but a judgment in favour of the plaintiff will not affect the domestic validity of the impugned legislation and it would be up to the state to adapt its laws to Convention standards.

Similarly broad constellations of interdependent and interlacing normative hierarchies as well as varying forms of (quasi-)judicial enforcement mechanisms in the wider sense, with a wide range of powers of intervention of differing degrees of impact could reasonably be expected in

other rights-based civilisations who are members of an interstellar network adhering to some form of trans-species rule of law. It seems reasonable to assume that any network of a law-based nature would have made some provision for all of these eventualities – although it would not have to, or even wish to, accommodate all species idiosyncrasies, even if they are as basic, for example, as the principle of the separation of powers for humans. Some human constitutions provide for different protections of citizens and mere residents: This might arguably apply to a member of one species living under the jurisdiction of another. The legal system of the network may thus not look like anything humans would recognise as a familiar manner of arriving at an intelligible moral, let alone legal, set of principles.

### 2.2. Material factors: Individual rights

Humanity has developed a number of universal[30] and regional general human rights regimes, among them the ECHR. There are also, for example, the Universal Declaration of Human Rights (UDHR)[31], the International Covenant on Civil and Political Rights (ICCPR)[32], the American Convention on Human Rights[33], the Cairo Declaration on Human Rights in Islam[34], the Universal Islamic Declaration of Human Rights[35], the Arab Charter on Human Rights[36], the African Charter on Human and Peoples' Rights[37] and the ASEAN Human Rights Declaration[38]. It is outside the scope of this paper to list and analyse any and all of these and the more specific ones in detail[39]. Yet, as far as the generic fundamental rights are concerned, there is a lot of overlap and human rights courts and bodies often look to each other's decisions for persuasive authority. The ICCPR of 1966, which is legally binding, and as of September 2019 has 173 parties and six further signatories[40], comes close to an approximation to the legal views of the human species, even bearing in mind the manifold reservations individual states have made. We shall look, in the necessary brevity[41], at the Preamble and the material rights provisions of Articles 1 – 27 ICCPR, omitting the procedural part from Article 28 onwards.[42] The rights will be clustered into broadly cognate categories rather than examining them in turn by their numerical sequence.

One final caveat is apposite at this juncture: The entire exercise is dependent on whether and to what extent ETI recognise the concept of a "right", i.e., in very simple[43] terms the claim of a person that goes beyond a mere moral obligation on the part of the debtor and to which attaches the power of some form of enforcement against the will of the latter, even if the debtor is the collective or the entity exercising the role of governance, and vice-versa that of a "duty".

Different levels of rights-based relations might moreover arise: While a civilisation structured as an integrated collective consciousness, for example, a hive mind, may have no use for the concept of the rights of its members, it may still support the notion of one hive having rights against other hives or other civilisations, or indeed against the network. Relations between networks, unless there is a simultaneous and at least partial vertical subordination of a series of networks to a higher-ranking network (see the EU example above), would probably tend to be on the level of what humans call international political relations, including treaties among equals or possibly simple power politics, rather than rights.

2.2.1. Preamble of the ICCPR

The Preamble sets out the fundamental principles the parties to the ICCPR agreed upon, namely

> "[R]ecognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
>
> Recognizing that these rights derive from the inherent dignity of the human person,
>
> Recognizing that […] the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,
>
> Considering the obligation of States […] to promote universal respect for, and observance of, human rights and freedoms,
>
> Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant […]"

If – as we will do here merely once for the sake of illustration – one were to replace "human person" etc. in the ICCPR with a more generic term referring to a certain non-species-specific membership standard, such as, for example, something like "sapient *entity*" (to avoid stereotypes based on human attitudes to the concept of personhood), and "state" with "civilisation", the preamble could be rephrased into a text that would seem to evoke a rough framework concept capable of garnering the necessary "moral" respect in order to apply in a wider spectrum of rule-based interspecies environments[44]:

> "[R]ecognition of the inherent dignity and of the equal and inalienable rights of all sapient entities is the foundation of freedom, justice and peace in the universe,
> Recognizing that these rights derive from the inherent dignity of any sapient entity,
> Recognizing that […] the ideal of free sapient entities enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby every sapient entity may enjoy their civil and political rights, as well as their economic, social and cultural rights,
> Considering the obligation of Civilisations […] to promote universal respect for, and observance of, rights and freedoms of sapient entities,
> Realizing that any sapient entity, having duties to other sapient entities and to the community to which they belong, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant […]"

Any detraction from such high-minded ideals would, in human terms, very likely render the network either what based on human historical terminology may be called "fascist", dictatorial or colonialist/supremacist in nature and serve as a disincentive to humans, and possibly others, to consider joining the network at all. It stands to reason, however, that if the network was of such an aggressive nature, freedom of accession might be a moot point to begin with and refusal to join result in violence and possible pre-emptive annihilation of the relevant species. It would seem that under the current human rights *acquis*, the cluster of principles described above would fall among the non-negotiable parts of the human species identity, i.e. how humans would self-define the essential elements of what it means to be a human, if faced with an alien species and its self-perception (see also 2.3.3. below on self-determination and political activity).

2.2.2. Recognition as a person before the law

Closely related to the basic principles of personal freedom and agency enunciated in the Preamble, Article 16 ICCPR states that "[e]veryone shall have the right to recognition everywhere as a person before the law." This, together with the rules on slavery, servitude and compulsory labour in Article 8 (see below), for example, prohibits the treatment of humans as mere chattels or objects, rather than subjects, of the law in the wider sense; it does not prohibit making differences in the range of rights granted to citizens and residents, or discriminating on the basis of criteria such as age, mental health etc. in the context of civil law capacity, for example.[45] All rights in the ICCPR are ultimately based on the fundamental recognition of legal personhood. A civilisation network reserving the legal authority to withhold or withdraw legal

agency from some of its members is always in danger of falling into fascist and exploitative models of governance, and the *factual* withdrawal of person status alone is often a precursor or corollary to genocide. Having full access to legal protection on the basis of personal agency would thus also seem to be a candidate for a non-negotiable position.

2.2.3. Self-determination, political activity

Article 1 ICCPR contains the right to a people's[46] self-determination, and specific sub-categories of it, such as the exploitation of natural wealth and resources subject to agreements of economic co-operation based upon mutual benefit, as well as the prohibition on depriving a people of its means of subsistence. It would seem that in a mutually beneficial network based on voluntary accession, similar protections might be expected by any candidate species. The *actus contrarius* of the freedom of terminating one's membership should also be provided for under the statutes of the network. At the very least core aspects of the self-determination of a species would thus probably rank among non-negotiable positions.

The self-determination of a people is to a large extent based on the internal political processes of the state, and among those the political activity of its citizens, which is covered by Article 25 ICCPR[47]; the provision guarantees the right to vote and of access to public office. While clearly advocating a democratic style of governance, it does, however, not guarantee or require a specific form of government or citizen participation.[48] Yet, it would be fair to say that an absolute monarchy, dictatorship, theocratic government etc. without *any* form of citizen involvement would run afoul of Article 25. Hence, it seems that this particular right would tolerate quite some margin of variation, especially if the initial decision to accede to an interspecies network was made on the basis of an encompassing species-wide vote, such as, for example, a referendum with a high qualified majority threshold.

2.2.4. Equality and minority rights

Articles 2 ICCPR forbids any discrimination on the basis of "race, colour, sex[49], language, religion, political or other opinion, national or social origin, property, birth or other status", and requires member states to provide for an effective remedy in the case of a violation. Article 3 ICCPR repeats the equal treatment obligation explicitly for men and women. Article 26 ICCPR extends the guarantee to the equal protection of the law. Finally, Article 27 ICCPR, demands that "[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their

group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

It would appear to be incontestable that given the – above all still imperfect – development of equality rights of the manner described in Article 2 ICCPR among the human species, any network rules lagging behind the human effort at maximum equality would violate fundamental principles espoused by humans, even if human practice leaves a lot to be desired. Linked in essence to the proper understanding of personhood, the essence of general species equality rights would appear to be non-negotiable.

However, while already at times shown to be difficult to comply with in practice within one country or species, the ethnic cultural, linguistic and religious minority rights under Article 27 ICCPR, or indeed the wider remit of Article 2 ICCPR already, – for example, such apparently perennially controversial issues as *halal* and *kosher* killing of animals, circumcision of little boys, pervasive harmful cultural practices as female genital mutilation (FGM) etc., to name but a few – might become even more of a problem in a multi-species environment, where deep-seated sensitivities in cross-species settings may prove to be more fundamental than the internal record of experience of the human species could lead humans to expect, and cause irreconcilable tensions. Similar issues will arise in the context of the partially overlapping areas of privacy, religious freedom and freedom of speech rights under Articles 17 – 20 (see below). This will especially become virulent in high regulation-density networks. While it is hard to conceive of a scenario where, for example, a ban on FGM – or its equivalent – or other practices that a species considers bodily or mentally harmful to its own members would face censure from the network, the picture becomes more blurred when – from a human point of view non-harmful – practices cause mental harm or serious offence to the members of another species in ways humans cannot comprehend or anticipate. We shall leave the thorny issue here, not least because any more detailed considerations would involve excessive speculation about a myriad of factors that are unknowable at this time and will remain so until contact is made, and mutual comprehension reached at a level where such conversations can be properly and meaningfully held between different species. Suffice it to say that this is an area where some give and take may become necessary that would seem intolerable to many in the purely human context.

2.2.5. Right to life, ban on cruel and degrading treatment, torture and slavery

Articles 6 – 8 ICCPR address the "inherent" right to life, the protection against arbitrary killing and the death penalty (Article 6 ICCPR), the ban on torture and inhuman or degrading treatment (Article 7 ICCPR) and the ban on slavery and servitude (Article 8 ICCPR). It is important to note that the ICCPR does not require the abolition of the death penalty, even though the UN's political stance is clearly set against it.[50] It restricts it to the "most serious crimes" and puts certain procedural safeguards on its imposition and enforcement, especially against minors under 18 and pregnant women. The interpretation of what constitutes a "most serious crime" is not explained any further.[51] Nonetheless, given the fact that the death penalty is still being imposed and enforced in otherwise enlightened states such as the USA, and in a number of other jurisdictions for a variety of crimes – leaving aside the specific issue of the in theory relatively quick trigger finger of religion-based legal systems such as Islamic Shariah for what are in part petty offences, or more to the point conduct which most modern civilised nations no longer consider as justifying criminal liability such as apostasy, blasphemy etc. – it is conceivable that joining a network which uses it might not necessarily fall foul of a clear and overwhelming majority view against the death penalty. Torture and similar acts of cruel and degrading treatment, as well as slavery, are now part and parcel of crimes against humanity in international criminal law (see, for example, Article 7(1)(c), (f), (g) and (k) of the Statute of the International Criminal Court[52]) and the presumption would thus seem to be against any margin for negotiation.

2.2.6. Due process rights, right to liberty

Articles 9 – 11, 14 and 15 ICCPR deal with what are commonly called due process rights. Article 9 ICCPR on the liberty and security of the person requires certain safeguards for depriving a person of their liberty, while Article 10(1) ICCPR mandates that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Article 11 bans the institution of the debtor's prison for people who cannot pay their debts arising from a contractual obligation – but does not necessarily prohibit what may be called civil contempt sanctions, such as, for example, for non-disclosure of assets at the request of a creditor in the German Code of Civil Procedure (*Zivilprozessordnung* – ZPO): Sections 802g, 802j ZPO allow for imprisonment of up to six months, but renewals are possible under certain conditions (sections 802j(3), 802d ZPO). Article 14 ICCPR is the fundamental rule on fair trial guarantees such as the presumption of innocence, speedy trial, assistance of counsel, *ne bis in idem* etc. Given that the ICCPR does not mandate a certain

model of criminal proceedings (for example, adversarial or inquisitorial), and that comparative research across the world's criminal jurisdictions will easily show that there is a broad spectrum of manners in which a system can create compliance with the fair trial guarantees[53], there would appear to be some leeway in which adaptation to an interspecies network's rules could occur. The same would seem to apply in the case of the ban on retroactive criminalisation or punishment for conduct which was not a crime at the time the conduct occurred, i.e., Article 15 ICCPR. Article 15(2) ICCPR contains the so-called "Nuremberg Clause" – after the Nuremberg Tribunal post-WW II which to some extent retroactively applied crimes that had not been regulated before the acts were committed – which allows "the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations", which could rather easily be used to convince newcomers of a common view of what category of crimes fit that description across the species already in the network. In any event, insurmountable obstacles would be unlikely and at worst few and far between.

2.2.7. Freedom of movement

Articles 12 and 13 ICCPR regulate the right to liberty of movement and freedom to choose one's residence in a state's territory[54], to leave any country, to enter one's own country, as well as the expulsion of aliens (in the immigration law sense) from the territory of a state. Again, much like with the criminal procedure guarantees, comparative research shows a wide spectrum of compliant approaches, so it is not to be expected that this particular issue would cause tensions over non-negotiable positions, although, of course, the territory of a species or civilisation may now have to be characterised as a planet or even a whole star system, which will make especially the expulsion arrangements somewhat more onerous.

2.2.8. Privacy, freedom of religion and expression, assembly and association

Articles 17 – 20 ICCPR contain provisions on some of the most contentious and litigated rights in human jurisdictions. Article 17(1) ICCPR on privacy grants the right not to be "subjected to arbitrary or unlawful interference with [one's] privacy, family, home or correspondence, nor to unlawful attacks on [one's] honour and reputation". Again, collective-based species may have no use for the individualistic concerns of humans and, as is the case in some countries on Earth already, the practice of mass surveillance may be more common-place and less frowned upon than it is by humans.[55]

Article 18(1) and (2) ICCPR on religious freedom state that "[e]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching" and that "no-one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice". Article 18(3) ICCPR allows restrictions on (the manifestation of) these rights only to reasons that "are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". Article 18(4) ICCPR requires the state to respect the liberty of parents or legal guardians to ensure the religious and moral education of their children in conformity with their own convictions". These rights are already being regularly violated by numerous states and regimes on Earth, and they face grave danger from followers of other religions. One of the most glaring examples in present times is political Islamism, which in its extreme, violent Salafist forms does not shrink from the mass murder, and indeed genocide, of persons who are in the view of its followers unbelievers.[56] Article 20(2) ICCPR which requires that "[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law" is often more honoured in the breach, and those who call for a global jihad would also seem to fall foul of Article 20(1) ICCPR which prohibits propaganda for war. While humanity itself already appears to be unable to eradicate the religious roots of conflict, aggression and violence in its own species, the contact with ETI may add further tension, especially if they are philosophically highly advanced and taking a more sophisticated attitude to the issue of transcendence and what may be called spiritual things. Religion, or better religious faith, is one of the most powerful identifiers, both for individuals and for groups. Having to face an advanced species which either has no religious leanings at all, or one totally different from humans[57], can give rise to violence out of the fundamental desperation entailed by a perceived loss of identity, even if the network takes a liberal approach to the exercise of religions. Conversely, however, the members of an interspecies network who have in their view overcome or even suppressed religious practices, which they may have experienced as a cause for conflict, may wish to ensure that new candidates for accession do also renounce at the very least the public practice of any religious beliefs, something which is a core element of the current human understanding of religious freedom. The human criteria for restrictions permissible under Article 18(3) may as a corollary to accession to a network have to undergo serious revision. As above, the potential for ultimately unhelpful speculation is

obvious but it seems fair to say that this area will be one where the hardest battles will be fought about what is or is not negotiable.

Compared to these issues, those of freedom of opinion, expression and information regulated under Article 19 ICCPR almost pale in significance. There is ample experience in lawful free speech regulation and again a wide array of diverse approaches, so that this area would seem to fall under the negotiable category. The same can be said for the rights to assembly and association under Articles 21 and 22 ICCPR, which are often linked to the other freedoms in this section.

2.2.9. Family and personal status; child rights

Articles 23 ICCPR states that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State", tying the founding of the family unit to a union between men and women. Regardless of the human LGBTQ issues around equal marriage, this concept is one which, on the one hand, may not mean anything or at least not the same, to a species which reproduces asexually or through simultaneous spawning of many offspring, and on the other hand, species biology – possibly aided by medical technology – determines the mode of reproduction. There may thus not be much to negotiate in the first place, and as has been the experience from human times of colonisation, family affairs were often among those left to the local population to arrange according to their own customs. Article 24 ICCPR covers the protection of some basic children's rights, which again should be easy, and indeed natural, to arrange as remaining within the respective species' jurisdiction.

2.2.10. Restrictions on exercise of rights

Article 4(1) ICCPR allows – on the basis of strict proportionality – for derogations from certain human rights in time of a "public emergency which threatens the life of the nation and the existence of which is officially proclaimed" […] to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin". Furthermore, "[n]o derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18" may be made according to Article 4(2) ICCPR. However, the Human Rights Committee has also treated certain aspects of Articles 9, 10 and 14 as non-derogable.[58] By implication, Article 4(2) ICCPR is not derogable itself.[59] The relevance of this is that non-derogable rights would normally seem to be candidates for non-

negotiable status for our purposes, too. However, as indicated above, we found that the listed Articles 11 and 15 ICCPR might be susceptible to negotiations, and vice-versa the non-listed rights of Articles 1 – 3 might not be; Article 4(1) only lists a selection of the criteria from Articles 2 and 3 ICCPR upon which discrimination must not be based. Article 5(1) ICCPR contains an abuse prevention clause to the effect, on the one hand, that the rights set out in the ICCPR cannot be used by anyone to justify imposing any obligations not compliant with the ICCPR or, on the other hand, limiting or destroying the rights under it. Article 5(2) ICCPR clarifies that the ICCPR must not be used to justify reducing rights in domestic frameworks which exceed the requirements of the ICCPR. While Article 5(1) ICCPR seems to be just a matter of logic arising from the fact that the ICCPR is already a fine-tuned balance and compromise between its drafters, Article 5(2) ICCPR may in essence prove to be a moot rule, because "Article 5(2) [does not] require States to be permanently fastened to a higher standard of protection domestically. […] Article 5(2) does not preclude a State from eliminating from its national bill of rights a right not found in the Covenant, or even from denouncing particular international treaty obligations."[60] The provisions thus do not necessarily aid in our endeavour.

## 3. Conclusion

We have tried to interrogate the following questions based on the assumption that human rights standards could represent a valid starting point for reflections about which terms and conditions humanity might be willing to accept as a trade-off for membership of an interstellar network of civilisations: What if the admission to the Galactic Club requires subscription to club rules which are incompatible with human rights as currently interpreted by humans but which humanity might wish to have ring-fenced for its own species? This may be rephrased into the slightly less drastic scenario of what humans would do if adopting the galactic standard was optional but only full adherence would bring full network benefits. The answer, as expected, is not straightforward.

As a general point, human moral systems already differ from each other, sometimes substantially. One could thus realistically be thrown back upon a very few core rules accepted by all of them. Human rights may present one useful avenue of arriving at a more distilled essence, despite compliance with human rights standards being far from uniform. Looking at one widely accepted human rights instrument, the ICCPR, it became clear that certain rights would be relatively uncontested candidates for negotiation while others would not. There are

many human rights instruments which cover more specific areas of great importance to the groups protected by them and would merit inclusion in an exercise such as this but it would be counter-productive to proceed from a lower level of abstraction for negotiations between species, as opposed to within our species alone. The network may be rather liberal in its requirements and low in regulation density and confine itself to general co-operation and non-aggression rules between member civilisations, but otherwise leave matters in a state of horizontal autonomy and voluntary power sharing. It may be highly hierarchically organised and require adherence to a large number of rules with direct effect in its member civilisations. The spectrum could contain structural constellations humans are entirely unfamiliar with and which will become known only once sustained contact occurs.

Humanity may be alone in the galaxy or universe for all practical intents and purposes if the next ETI is so far away that contact will not occur in reasonable time periods or at all – or humanity may just be alone, full stop. That question is still awaiting a solid answer based on verifiable evidence. We may never know, may at best receive a signal from afar and never have direct contact, or may never be in a position to join the club, and this paper may be seen as taking the 25th step before the first. There are other issues to be tackled, such as, for example, a proper post-detection protocol to manage the risk arising for global society from the public confirmation of any form of contact. We may need to consider re-imagining "planetary defence" for the possibility of hostile contact etc.. These steps are equally important and in their impact not necessarily sequential but rather overlapping or parallel.

Given the highly complex internal negotiations which preparing a unified human response to an invitation to join a network of extraterrestrial civilisations will entail and that direct contact could in theory occur at any time, there may not be a lot of time left to take steps 2 – 24 anymore, depending on the nature of contact. We afford ourselves the financial extravagance – even if privately funded – of the Breakthrough Programme[61] in the search for ETI. Scientists, without any prior democratic oversight, have been sending out messages into space for decades not knowing who will receive them and what their intentions and reactions will be. We speculate, without any reliable foundation, about what ETI's philosophy could be and what a cosmic law would look like. All of this logically means we seriously entertain the idea that there is something and someone to be found and that one day contact might be made. Yet, we do not think about the things we can consider with some degree of confidence and which precautionary wisdom would counsel we do engage with. One of those questions is where the moral pain

threshold for us as a species would lie in the relationship with other species. There will be no benefit of hindsight if contact finds us unprepared, and the carelessness born of Seth Shostak's famous "giggle factor"[62] could well turn out to have been wilful blindness.

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[1] Ronald N. Bracewell, The Galactic Club: Intelligent Life in Outer Space, (Norton & Co.), 1976, 129.
[2] Michael A. G. Michaud, Contact with Alien Civilizations – Our Hopes and Fears about Encountering Extraterrestrials (Copernicus Books, New York) 2007 – reprint 2010 (hereafter Michaud, Contact), 375.
[3] Michaud, Contact, 369.
[4] See Andrew G. Haley, 'Space Law and Metalaw – A Synoptic View, (1956) Harvard Law Record, November 8; id., Space Law and Government, 1963 (hereafter "Haley, Space Law"); Ernst Fasan, Weltraumrecht, 1965, 141 – 154; id., Relations with Alien Intelligences: The Scientific Basis of Metalaw, 1970 (hereafter: "Fasan, Relations") cited after the version printed in Patricia M. Stearns/Leslie I. Tennen (eds.) Private Law, Public Law, Metalaw and Public Policy in Space, 2016, 181 – 246; id., Discovery of ETI: Terrestrial and Extraterrestrial Legal Implications, Acta Astronautica 21(2) (1990) 131–135, id., Legal Consequences of a SETI Detection, Acta Astronautica 42 (10–12) (1998) 677– 679; George S. Robinson, METALAW: From Speculation to Humankind Legal Posturing with Extraterrestrial Life, Journal of Space Philosophy 2, no. 2 (Fall 2013) 49 - 56, Adam Korbitz, Altruism, Metalaw, and Celegistics: An Extraterrestrial Perspective on Universal Law-Making, in Douglas A. Vakoch (ed.), Extraterrestrial Altruism, 2014, 231 – 247; Anna Frammartino Wilks, Kantian Foundations for a Cosmocentric Ethic in, James S J Schwartz/Tony Milligan (eds.), The Ethics of Space Exploration, 2016, 181 – 194.
[5] The issue of collective decision-making etc. is already currently being studied under the term of "eusociality": Nicola Plowes, An Introduction to Eusociality, (2010) Nature Education Knowledge 3(10):7 – online at https://www.nature.com/scitable/knowledge/library/an-introduction-to-eusociality-15788128/. On some tendencies in SF literature of moving away from individualism as an unassailable civilisational requirement see, for example, Michael Bohlander, Blood Music on Darwin's Radio – Musings on Social Network Data Transparency, Cyborg Technology, Science Fiction and the Future Perception of Human Rights, (2013) THE GLOBAL COMMUNITY Yearbook of International Law & Jurisprudence, 45 – 64 (hereafter: Bohlander, Blood Music) at 50 – 51: "It seems telling that apart from the dystopian segment of the genre such as *1984* and the like, which warns about a *Gleichschaltung* of all individuals into a mass of indistinguishable social automatons, there is another stream of thought that addresses the matter from the point of view of the next step in human evolution which is meant to go towards a collective consciousness, sometimes called a hive mind. In such a hive mind, every member of the hive is connected to everyone else and knows everything about every member of the collective, in effect making any idea such as the presumption of innocence or a right to privacy in general into largely meaningless concepts. While we are, of course, nowhere near accomplishing such a state of mental unity and may well never reach it, the point of interest is that humanity's striving for and reaching such a state is mostly if not uniformly presented as something desirable by the relevant authors, as a higher state of existence worth striving for – as opposed, for example, to the forced assimilation strategy embraced by *Star Trek's Next Generation's Borg.* […] Nonetheless, cyborg technology, especially in the form of surgically embedded communication implants, may soon bring us closer to such a state of affairs than we currently think." – Italics in the original, footnotes omitted.
[6] Again, SF writing provides hypothetical scenarios worth considering. Orson Scott Card, at the end of his novel *Ender's Game*, has the Hive Queen of the alien species who tried to colonise Earth and killed millions in the process say: "We did not mean to murder, and when we understood, we never came again. We thought we are the only thinking beings in the universe, until we met you, but never did we dream that thought could arise from the

lonely animals who cannot dream each other's dreams. How were we to know?" – Orson Scott Card, Ender's Game, 1977 (Author's Definitive Edition, Tor Books, 1994), 321.

[7] Bohlander, Blood Music, 51. – Italics in the original, footnotes omitted.

[8] See, for example, Mark Neal, Preparing for extraterrestrial contact, Risk Management, Vol. 16, No. 2 (May 2014), 63 – 87; Allen E Goodman, Diplomatic and political problems affecting the formulation and implementation of an international protocol for activities following the detection of a signal from extraterrestrial intelligence, Acta Astronautica 21 (1990) 103-108; id., Diplomacy and the search of extraterrestrial intelligence (SETI), Acta Astronautica 21 (1990) 137-141; Karim Jebaria/Niklas Olsson-Yaouzis, A Game of Stars: Active SETI, radical translation and the Hobbesian trap, Futures 101 (2018) 46 – 54; Janne M.Korhonen, MAD with aliens? Interstellar deterrence and its implications, Acta Astronautica 86 (2013) 201 – 210; Douglas A.Vakoch/Timothy A. Lower et al., What should we say to extraterrestrial intelligence?: An analysis of responses to ''Earth Speaks", Acta Astronautica 86 (2013) 136 – 148; Iván Almár/Margaret S Race, Discovery of extra-terrestrial life: assessment by scales of its importance and associated risks, Phil. Trans. R. Soc. A (2011) 369, 679 – 692; Martin Dominik/John C Zarnecki, The detection of extra-terrestrial life and the consequences for science and society, Phil. Trans. R. Soc. A (2011) 369, 499 – 507; Albert A Harrison, Fear, pandemonium, equanimity and delight: human responses to extra-terrestrial life, Phil. Trans. R. Soc. A (2011) 369, 656 – 668; Simon Conway Morris, Predicting what extra-terrestrials will be like: and preparing for the worst, Phil. Trans. R. Soc. A (2011) 369, 555 – 571; Mazlan Othman, Supra-Earth affairs, Phil. Trans. R. Soc. A (2011) 369, 693 – 699; Christopher P Mackay, The search for life in our Solar System and the implications for science and society, Phil. Trans. R. Soc. A (2011) 369, 594 – 606.

[9] See Michael Schetsche/Andreas Anton, Die Gesellschaft der Außerirdischen – Einführung in die Exosoziologie (Springer, Wiesbaden) 2019, 16, with further references. The question of strangeness may receive an additional qualification if we imagine that some civilisations may consist of machine entities controlled by AI, or possibly even what may be called sapient software; see also fn. 17 below.

[10] A documented example from the year 2000 is the prima facie artificial-looking object photographed by the NEAR Shoemaker probe during its mission to 433Eros. See the "View from Low Orbit" description and photo at https://nssdc.gsfc.nasa.gov/planetary/mission/near/near_eros_3.html.

[11] See, for example, the views of Avi Loeb expressed in his highly controversial book Extraterrestrial: The First Sign of Intelligent Life Beyond Earth (Houghton Mifflin Harcourt, Boston/New York), 2021, 101 – 102, about the relationship of SETI and science academia in general. Some might say similar things about attitudes within the SETI community of the UAP/UFO issue.

[12] It should be remembered, however, that even sceptical research conducted in this area has failed to discredit every reported incident; see Leslie Kean, UFOs – Generals, Pilots and Government Officials Go on the Record (Three Rivers Press, New York), 2010; Michaud, Contact, 143 – 161. In 2017, the US government admitted to having run its own official investigation with some inconclusive occurrences, see www.nytimes.com/2017/12/16/us/politics/pentagon-program-ufo-harry-reid.html.

[13] At https://iaaseti.org/en/terms-reference/.

[14] Steven J Dick, Astrobiology, Discovery, and Societal Impact, (CUP) 2018 (hereafter: Dick, Astrobiology), 301.

[15] Francis Lyall/Paul B Larsen, Space Law – A Treatise, 2nd ed., 2018, 506 fn. 131.

[16] See on this Dick, Astrobiology, 310 – 311, and more broadly 209 – 239.

[17] *Colorandi causa*, however, one anonymous reviewer posed the pertinent following question which highlights the range of potential speculation: "My last comment is that the central theme of my preferred scenario about contact with an interstellar civilization is that their demands extend way past human rights into areas of ethics and morality that we have spent even less time thinking about. What if they required us to allow human DNA or any DNA from any species on earth to be merged with chemistry that underlies their alien lifeforms to create hybrid earth-alien experiments and new creatures? Conversely, what if they held all life in more sanctity that humanity currently does and prohibited the slaughter of animals for food or even the unintentional harming of a butterfly? What if they believed that lifeforms that we consider non-sentient also have rights? What if they hold that machine intelligences are citizens? What if they had a prohibition against the infinite reproduction by machine intelligences? What if the penalty imposed for illegal time travel was complete obliteration of earth? What could we learn from extending the hypothetical to encompass these types of questions?"

[18] As the author has shown previously in the context of the discussion between Islamic law and secular legal systems, the idea of a loose network of corresponding sources based on the botanical feature of root webs or "rhizomes" as an avenue to constructing an overarching legal framework can also be found in human intercultural legal discourse. – Michael Bohlander, Sisters in Law – Using Maqāṣid al-Shari'ah to Advance the Conversation between Islamic and Secular Legal Thinking, (2014) 28 Arab Law Quarterly, 257 – 277, at 271 – 272.

[19] Michel Foucault, Of other spaces, 1967, in M. Dehaene/L. De Cauter, (eds.) Heterotopia and the City, (London and New York: Routledge) 2008, 13 – 30.

[20] European Council, Solemn Declaration on European Union [1983] Bulletin of the European Communities 6-1983, 25 – 29.

[21] At https://eur-lex.europa.eu/eli/treaty/char_2012/oj.

[22] See the landmark decision of the European Court of Justice in *Costa v E.N.E.L.* of 15 July 1964, at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61964CJ0006.
[23] At www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0019. – Note that Article 1 of the Universal Declaration of Human Rights of 1948 (UDHR) provides: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". This statement does, however, not have the legally binding force the German law has.
[24] At www.echr.coe.int/documents/convention_eng.pdf.
[25] BVerfGE vol. 111, 307 (317); vol. 131, 286, (295).
[26] The two basic cases were: *Solange I*, Decision of 29 April 1974, BVerfGE vol. 37, 271 (271 = [1974] 2 CMLR 540; *Solange II*, Decision of 22 October 1986, BVerfGE vol. 73, 339 = [1987] 3 CMLR 225.
[27] At www.legislation.gov.uk/ukpga/1998/42/section/3
[28] At www.legislation.gov.uk/ukpga/1998/42/section/4
[29] On the general understanding of human rights underlying the UK system, see Benedict Douglas, Too Attentive to our Duty: The Fundamental Conflict Underlying Human Rights Protection in the UK, (2018) 38 Legal Studies, 360 – 378.
[30] When we talk about "universal" instruments, we must, however, not forget the debate about human rights relativism which queries whether a concept such as universally accepted rights does even exist. See R. J. Vincent, Human Rights and International Relations, (CUP), 2009; Andreas Follesdal, Human Rights and Relativism, in A. Follesdal and T. W. Pogge, (eds.), Real World Justice – Grounds, Principles, Human Rights, and Social Institutions, 265 – 283, (Springer), 2005.
[31] At www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf.
[32] At www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.
[33] At www.cidh.oas.org/basicos/english/basic3.american%20convention.htm
[34] At http://hrlibrary.umn.edu/instree/cairodeclaration.html.
[35] At www.alhewar.com/ISLAMDECL.html.
[36] At http://hrlibrary.umn.edu/instree/loas2005.html.
[37] At https://au.int/en/treaties/african-charter-human-and-peoples-rights.
[38] At https://asean.org/asean-human-rights-declaration/.
[39] For a non-exhaustive overview of further human rights instruments, see www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx
[40] With the notable absence of one permanent member of the UN Security Council, namely the People's Republic of China. – Ratification status at https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-4.en.pdf
[41] For reasons of space, an analysis of the equally relevant International Covenant on Economic, Social and Cultural Rights of 1966 must await another occasion.
[42] The analysis will not engage in the details of the interpretation the individual elements of the provisions have found in the human context. Further reading can be found in the commentaries on the ICCPR, for example, Paul M Taylor, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights, (CUP), 2020 (hereafter: Taylor, ICCPR) which will be cited here as authority. See also William A. Schabas, Nowak's CCPR Commentary: U.N. International Covenant on Civil and Political Rights, 3rd ed; (N. P. Engel), 2019. An explanation of the ECHR can be found in Bernadette Rainey/Pamela McCormick/Clare Ovey, Jacobs, White, and Ovey: The European Convention on Human Rights, 8th ed. (OUP), 2021.
[43] See for an introduction to the different understandings and meaning of the term "right"the Stanford Encyclopedia of Philosophy, online at https://plato.stanford.edu/entries/rights/.
[44] However, it may well be that other civilisations might go further in their approach than humans and grant some rights to sentient but not sapient entities, akin to the debate about animal rights. The human debate itself is, however, already moving forward on this issue; see, for example, John Millburn/Alasdair Cochrane, Should we Protect Animals from Hate Speech?, (2020) Oxford Journal of Legal Studies, doi:10.1093/ojls/gqab013 (advance online article).
[45] Taylor, ICCPR, 445 – 446.
[46] It is thus a collective right, and the only such right under the ICCPR – Taylor, ICCPR, 41.
[47] Article 25 applies *strictu sensu* only to citizens. – Taylor, ICCPR, 693.
[48] Ibid.
[49] This includes sexual orientation. It is an interesting fact, however, that the ICCPR itself, even in 2021, does not use gender-inclusive language but employs the male (possessive) pronoun throughout in the section examined here. The words "she", "her" or "woman" do not appear even once, the term "women" only three times. While this may possibly be explained by the customs prevailing at the time of its drafting in 1966, it would not have been outlandish to expect a linguistic update in the decades that have since passed.
[50] See only the overview at www.ohchr.org/EN/Issues/DeathPenalty/Pages/DPIndex.aspx.

[51] However, the Human Rights Committee in its General Comment No. 36 of 2019 has provided guidance on what may be regarded as a "most serious crime": https://undocs.org/CCPR/C/GC/36 at paras. 35 – 36.
[52] At www.icc-cpi.int/resource-library/documents/rs-eng.pdf
[53] See the seminal work by Mirjan Damaska, The Faces of Justice and State Authority, (NYU Press), 1986.
[54] Assuming the concepts of "state" and "territory" have a meaning at all to ETI that would compare to the human idea behind them.
[55] See on the wider ramifications of mass surveillance Michael Bohlander, "The Global Panopticon" Mass surveillance and data privacy intrusion as a crime against humanity? in Martin Böse/Michael Bohlander et al. (eds.), Justice without Borders: Essays in Honour of Wolfgang Schomburg. (Leiden Boston: Brill | Nijhoff), 2018, 73 – 102; on the self-caused erosion of privacy concerns through the mushrooming use of social networks Bohlander, Blood Music.
[56] See for the Islamist positions, for example, Michael Bohlander, Murder by YouTube - Anti-Islamic Speech and Homicide Liability, (2014) 10 Journal of Islamic State Practices in International Law, 7 – 42; id., Political Islam and Non-Muslim Religions - A Lesson from Lessing for the Arab Transition, (2014) 25 Islam and Christian-Muslim Relations, 27 – 47; id., "There is no compulsion in religion" – Freedom of religion, responsibility to protect (R2P) and crimes against humanity at the example of the Islamic blasphemy laws of Pakistan, (2012) 8 Journal of Islamic State Practices in International Law, 36 – 66.
[57] It is difficult to see how any of the great human religions with a claim of exclusivity and their own redemption narrative can survive contact with alien cosmologies unchallenged, or indeed unchanged, especially if these cosmologies are already shared in their essence by a wide interstellar community of ETIs. Fundamentalists of all sides, especially those of revelation-based religions, will at the very least struggle with the realisation that their religion is at best restricted to the planet Earth (Mohammed and Christ, for example, are unlikely, to say the least, to have walked on other planets), or at worst that all human religions have, to put it in the words of St. Paul, been looking through a glass, darkly and not recognising much. ("For now we see through a glass, darkly; but then face to face: now I know in part; but then shall I know even as also I am known." – 1 Corinthians 13:12).
[58] Taylor, ICCPR, 123.
[59] Ibid.,
[60] Taylor, ICCPR, 135. – This paper does not address the question of human legal protections for ETI living under human jurisdiction, especially if they go beyond the standards of the respective network that ETI belongs to. There might be an issue of reciprocity involved and since we do not know anything about what ETI might wish to concede or seek under human law, the matter is too speculative.
[61] At https://breakthroughinitiatives.org/.
[62] Seth Shostak, SETI and the Media, in R. P. Norris and F. H. Stootman (eds.), Bioastronomy 2002: Life Among the Stars – IAU Symposium, Vol. 213, 2004, 534 – 541, at 541.