

**THE EARTH ALLIANCE CONSTITUTION:
INTERNATIONAL HUMAN RIGHTS LAW AND BABYLON 5**

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I. INTRODUCTION

The legacy of our human civilization is one of great wonders, awe, and mysteries. History shows us that over the ages, humanity has shown a noble trait to pursue knowledge. This knowledge can be used to promote human rights. International human rights law is part of that legacy. Understanding its importance and its formative history allows us to assess the present and look toward a better future. The story of Babylon 5 analyzes this future possibility while considering humanity in all its glory and flaws. Our present international human rights law system is embodied in the Babylon 5 series legal system. This article studies very difficult ethical dilemmas directly related with the promotion and protection of civil and political rights. The Babylon 5 series represents the intersection of popular culture and international law while it considers the duties of nations-states to observe civil and political rights during states of emergencies.

II. BACKGROUND

“[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.”

– Justice Robert H. Jackson¹

* Assistant Professor of Law and Director of the Law Library at the David A. Clarke School of Law, University of the District of Columbia, Washington, D.C. I am very grateful for the motivation provided by J. Michael Straczynski, creator of *Babylon 5*. I am also grateful for the support provided by Dean Shelley Broderick & Associate Dean Ann Richardson of the David A. Clarke School of Law. I also want to give special thanks to Professor William McLain for his support during the drafting of this article. I dedicate this article to my wife, Melisande & to my mother, Ana Milagros. *Babylon 5* is a registered trademark of PTN Consortium and Warner Bros. Television.

¹ W. Va. State Bd. of Educ. v. Barnette, 319 U.S. 624, 642 (1943).

In the fall of 2000 I had the honor to meet Professor Paul R. Joseph² while working at the Shepard Broad Law Center of Nova Southeastern University. I wanted to meet him because he had written, what I considered, one of the best law review articles ever conceived. Joseph, I later discovered, understood the power behind popular culture as an avenue for legal education. The analysis he began in 1992 continued to develop over the years and expanded into other areas of the law. Joseph's examination represented a serious message first conceptualized in his groundbreaking article *The Law of the Federation: Images of Law, Lawyers, and the Legal System in Star Trek: The Next Generation*.³ The article, which Joseph cowrote with Professor Sharon Carton, took a closer look at the legal issues presented in *Star Trek: The Next Generation*. As they explained, “[w]e certainly never thought we would write about it. Yet, over time, we independently began to notice how often legal issues or ideas cropped up and how often they were worth a second look.”⁴ Professor Joseph recognized television as a powerful medium for education.⁵ Some television shows become memorable not just because of their popularity, but because their popularity is based on positive messages applicable to our present realities. Joseph said it best when he stated: “what is presented is not only what 20th century people do, but a vision of what we should do and who we should strive to become.”⁶ Indeed, what I discovered with *Babylon 5* is exactly what Joseph and Carton realized with *Star Trek: The Next Generation*, namely that the show was “a very interesting prism through which to view 20th-century institutions, and it becomes reasonable to ask whether the *Star Trek* future has anything to teach us about our present

² Before his death in 2003, Paul R. Joseph was the Associate Dean of International and External Programs and a Professor of Law at Nova Southeastern University Shepard Broad Law Center. *Paid Notices: Deaths JOSEPH, PAUL R.*, N.Y. TIMES, Sept. 8, 2003, at B8, available at 2003 WLNR 5663694. He coedited with Professor Robert Jarvis in 1998 the book *PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE* (Robert M. Jarvis & Paul R. Joseph eds., 1998).

³ Paul Joseph & Sharon Carton, *The Law of the Federation: Images of Law, Lawyers, and the Legal System in Star Trek: The Next Generation*, 24 U. TOL. L. REV. 43 (1992).

⁴ *Id.* at 47.

⁵ *Id.* (noting that the setting of *Star Wars: The Next Generation* “has something to say about what our law and legal system is or should be.”).

⁶ *Id.*

reality and the directions which our society should or should not take.”⁷ A legal system, they reasoned, “is not wholly separate from the general culture. It grows and changes in response to growth and change within the society which creates and uses it.”⁸

Two years later, Joseph and Carton’s work spread to the domain of international law through Michael Scharf and Lawrence Roberts in *The Interstellar Relations of the Federation: International Law and Star Trek: The Next Generation*.⁹ Their article recognized that a show “can be used as a pedagogical aid to international law teaching, just as the original Star Trek series has been used to teach ethics at the undergraduate level.”¹⁰ Scharf and Roberts reported that ethics courses based on Star Trek had been offered at some of the nation’s most prestigious colleges.¹¹

In 2001, the idea of correlating Star Trek to the law was extended into the realm of naval law by Thomas C. Wingfield in *Lillich on Interstellar Law: U.S. Naval Regulations, Star Trek, and the Use of Force in Space*.¹² There is no doubt that the stories presented in Star Trek and Babylon 5 trace a course that parallels our present times and forms a vision into the future. “However, as the future unfolds, it will serve as the foundation for legal reasoning in situations now contemplated only by science fiction authors.”¹³ This type of legal learning is now utilized by the Georgetown University Law Center in one of its

⁷ *Id.*

⁸ *Id.*

⁹ Michael P. Scharf & Lawrence D. Roberts, *The Interstellar Relations of the Federation: International Law and Star Trek: The Next Generation*, 25 U. TOL. L. REV. 577 (1994).

¹⁰ *Id.* at 578.

¹¹ *Id.* at 578, n.10 (citing Jeffrey H. Mills, *Star Trek in the Classroom*, in THE BEST OF THE BEST OF TREK 324 (Walter Irwin & G.B. Love eds., 1990) (describing a course entitled “The Cultural Relevance of Star Trek” taught at Oberlin’s Experimental College in Ohio)).

¹² See generally 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). See also 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).

¹³ Wingfield, *supra* note 12, at 72.

courses for the National Security Law Certificate Program.¹⁴ Adjunct Professor Walter G. Sharp utilizes scenes from the television program 24 to discuss the scenarios presented in the show and analyze its legal issues.¹⁵

Today, international human rights law is considered a necessary area of international law study designed for the development of humanity.¹⁶ This area of the law will continue to serve our civilization in the protection of human dignity for years to come.¹⁷ Writers, scholars, and professors all concur in their desire to bring forward a message of change and hope. This message can be taught through popular culture in legal education.

“Science fiction presents an inconceivable situation, or it takes a modern-day problem and stretches it to allegorical dimensions, free of the limitations of nonliterary reality.”¹⁸ International law in the twenty-third century is well-suited for this type of analysis. Thus, this article is a serious examination of the writings of J. Michael Straczynski, which inspired the television program *Babylon 5*. He explores and describes numerous legal issues, such as freedom of thought, freedom of expression, and the right to a fair trial. The show’s message undoubtedly exposes the student of international law to the tenets of the International Bill of Human Rights.¹⁹

¹⁴ See Georgetown Law, National Security Law Certificate, <http://www.law.georgetown.edu/graduate/NationalSecurityLawCert.htm> (last visited Aug. 29, 2008); Georgetown Law, Courses, http://www.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=1534 (last visited Aug. 29, 2008) (describing Law of 24).

¹⁵ See Georgetown Law, Courses, http://www.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=1534 (last visited Aug. 29, 2008); see also Peter Lattman, *The Law of 24: Will Justice Scalia Guest Lecture?*, WALL ST. J. LAW BLOG, Sept. 6, 2007, <http://blogs.wsj.com/law/2007/09/06/> (last visited Sept. 15, 2008).

¹⁶ See Diana Ayton-Shenker, *The Challenge of Human Rights and Cultural Diversity*, U.N. DEP’T OF PUB. INFO., <http://www.un.org/rights/dpi1627e.htm> (last visited Aug. 31, 2008).

¹⁷ See *id.*

¹⁸ Wingfield, *supra* note 12, at 72.

¹⁹ “The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols.” Office of the High Comm’r for Human Rights, Fact Sheet No. 2 (Rev. 1),

Babylon 5 is a celebrated television series created by Straczynski and distributed by Warner Bros. Television Distribution.²⁰ Babylon 5 tells the story of a space station built in neutral territory for the cause of peace.²¹ In a time set around the year 2258,²² we find a message that addresses the protection of human rights and explores the potential danger to a society once those rights have been blurred. The Babylon 5 story brings to the forefront the analysis of human existence in times of conflict and addresses considerations that loudly echo our times.

III. CONSTRUCTING OPPORTUNITIES: THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

“He preferred the hard truth to his dearest illusions.”

– Carl Sagan, 1980²³

This article considers the duties of nations to observe civil and political rights within various states of emergency. Further, this work considers the importance of human rights in a civilized society. The International Covenant on Civil and Political Rights (ICCPR) emphasizes the inherent dignity and inalienable rights of all members of the human family.²⁴ The ICCPR is a progressive and comprehensive treaty, providing the best criteria against which to measure a legal system’s

The International Bill of Human Rights, *available at* <http://www.unhchr.ch/html/menu6/2/fs2.htm> [hereinafter Fact Sheet No. 2].

²⁰ See, e.g., *Dust to Dust* (PTEN television broadcast Feb. 8, 1996) (noting that *Babylon 5* was created by J. Michael Straczynski); see also *Babylon 5*, Info on the Cast and Crew, <http://babylon5.warnerbros.com/> (last visited Sept. 22, 2008) (noting that *Babylon 5* belongs to PTN Consortium and Warner Bros. Television).

²¹ See *Dust to Dust*, *supra* note 20 (noting that *Babylon 5* was the last best chance for peace).

²² See, e.g., *Babylon 5: Midnight on the Firing Line* (PTEN television broadcast Jan. 26, 1994) (“The year is 2258, the name of the place is *Babylon 5*.”).

²³ During the Thirty Years War the grave of Johannes Kepler was obliterated. The author explained that “[i]f a marker were to be erected today, it might read, in homage to his scientific courage: ‘*He preferred the hard truth to his dearest illusions.*’” CARL SAGAN, *COSMOS 67* (Random House, Inc. 1980) (emphasis added).

²⁴ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), pmbl., U.N. Doc. A/6316 (Dec. 16, 1966).

human rights protections.²⁵ Though the ICCPR allows nations to derogate from certain human rights guarantees in times of emergency, such restrictions are permissible only to the extent required by the exigencies of the situation.²⁶ Even during states of emergency, member nations are still bound by the rules of the ICCPR.²⁷ Civil and political rights should always be protected, especially during times of strife.²⁸ In *Babylon 5*, Captain Sheridan confronted extremely difficult legal dilemmas during such times of emergency.

In *Babylon 5*, the Earth Alliance is a proud and democratically elected government.²⁹ The center of the Earth Alliance government is located in Earthdome, Geneva.³⁰ Its military branch is known as Earthforce.³¹ The government's hierarchy is set on a Senate, topped by a President with powers delineated by the Earth Alliance Constitution and supervised by the Senate.³² On January 8, 2259, Captain Sheridan was given new orders: command of the *Babylon 5* station.³³ Yet, it is not his ability as a military officer that made Captain Sheridan unforgettable. His abilities as a diplomat, military governor, and later President made him a true champion of human rights.

During Captain Sheridan's tenure as military governor of *Babylon 5*, his duties included enforcement of trade regulations, fighting raiders (pirates), supporting scientific expeditions, engaging in diplomatic exchanges, and protecting the guarantees of the Earth Alliance

²⁵ A.B.A. CENT. EUROPEAN & EURASIAN L. INITIATIVE, A TARGETED ANALYSIS OF THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) IN THE REPUBLIC OF MACEDONIA 2 (2004), available at http://www.abanet.org/rol/publications/macedonia_iccpr_3.30.05.pdf.

²⁶ International Covenant on Civil and Political Rights, *supra* note 24, art. 4.

²⁷ *See id.* (specifying the rights from which State Parties may not derogate, even in times of emergency).

²⁸ *See id.* (detailing specific protections for certain civil and political rights in times of emergency).

²⁹ *Babylon 5*.

³⁰ BRUCE GRAW, *BABYLON 5: THE EARTH ALLIANCE FACT BOOK 5-6* (Matthew Sprange & August Hahns eds., 2003).

³¹ *Id.* at 5.

³² GRAW, *supra* note 30, at 5-6.

³³ *See Babylon 5: Points of Departure* (PTEN television broadcast Nov. 2, 1994).

Constitution.³⁴ As Wingfield explained, “[w]hat may seem like an amusing intellectual frolic today may very well evolve into the framework for extending the best of our society beyond the Earth, and, if need be, for dealing with the worst of other societies we may encounter.”³⁵

The Babylon 5 universe showed us a tumultuous time of conflict for Earth. During this time, the law of the Earth Alliance Constitution found fruitful roots while facing conflict with Earth’s sovereignty.³⁶ The present concept of sovereignty can be traced back to the idea that nations must control their own affairs of state.³⁷ The history of state sovereignty highlights the importance of nation-states as major players. It is nation-states, in the historical sense, who initially defined the parameters of international law.

In the beginning, European nations were engaged in war until 1648, when a diplomatic solution was reached by a series of treaties known as the Peace of Westphalia.³⁸ The war between Catholics and Protestants was fueled by the desire to accumulate land and power.³⁹ Prior to the Peace of Westphalia, Europe was characterized by conflicts involving kings and queens, their territories, the power of Holy Roman Emperor, and the pope.⁴⁰ The Thirty Years War was catastrophic, bringing total misery “along with disease, famine, and migration caused by marauding armies and the resulting devastation of economies, [which] had reduced the population of central Europe by about a third.”⁴¹

³⁴ See, e.g., *Babylon 5: The Fall of Night* (PTEN television broadcast Nov. 2, 1995) (showing Captain Sheridan at work in his many capacities).

³⁵ Wingfield, *supra* note 12, at 73.

³⁶ See, e.g., *Babylon 5: No Surrender, No Retreat* (PTEN television broadcast May 29, 1997); see also *Babylon 5: Endgame* (PTEN television broadcast Oct. 16, 1997).

³⁷ See generally ALINA KACZOROWSKA, PUBLIC INTERNATIONAL LAW 95-97 (3d rev. ed. 2005).

³⁸ 1 THOMAS A. WALKER, A HISTORY OF THE LAW OF NATIONS, 147-48 (Cambridge 1899), available at <http://books.google.com/books?id=5i41AAAAIAAJ&printsec=titlepage&output=htm>.

³⁹ See SAGAN, *supra* note 23, at 65.

⁴⁰ See Walker, *supra* note 38, at 139-45.

⁴¹ STROBE TALBOTT, THE GREAT EXPERIMENT: THE STORY OF ANCIENT EMPIRES, MODERN STATES, AND THE QUEST FOR A GLOBAL NATION 86 (2008).

It was during these difficult times that science and the traditional religious beliefs came into conflict. Although the Greek astronomer and mathematician Aristarchus of Samos⁴² was the first *known* scientist to propose a heliocentric model of the solar system,⁴³—placing the sun, not the Earth, at the center of the known universe—this information was deemed subversive.⁴⁴ The observations of Nicholas Copernicus reveal that it was not until 1543 that humanity would rediscover the correct position of the Earth in relation to the universe.⁴⁵ The resistance to discover and learn new scientific ideas was enhanced by the Thirty Years War.⁴⁶ Shortly before that war, Johannes Kepler discovered the science behind the movements of the planets around the sun.⁴⁷ Yet, his views caused him to be excommunicated by his church, and he found himself without a home or means of support.⁴⁸ Against all odds, he left a legacy to humanity that reconnected our history with its past and propelled it into the future.

The Peace of Westphalia brought the precursor to the modern principles of international law. Nevertheless, two great wars would follow before human rights would be examined and considered closely. After World War I, and particularly World War II, international human rights law was catapulted to center stage. In this respect, treaties represent international law's strongest tool, although they are not the exclusive source of obligations for governments.⁴⁹ International

⁴² ARCHIVES OF THE UNIVERSE 18-19, 18 (Marcia Bartusiak ed. 2004).

⁴³ See Britannica Online Encyclopedia, Aristarchus of Samos, <http://www.britannica.com/EBchecked/topic/34377/Aristarchus-of-Samos#tab=active~checked%2Citems~checked&title=Aristarchus%20Of%20Samos%20—%20Britannica%20Online%20Encyclopedia> (last visited Sept. 20, 2008).

⁴⁴ See SAGAN, *supra* note 23, at 53 (explaining that Nicholas Copernicus's book proposing heliocentrism was placed by the Catholic Church on a list of forbidden books). In astronomy, heliocentrism is the theory that the Sun is at the center of the Universe and/or the Solar System. See *id.*

⁴⁵ *Id.* Nicholas Copernicus proposed once again the heliocentric hypothesis during the Middle Ages.

⁴⁶ See *id.* at 64-65 (explaining that astronomer Johannes Kepler was punished for his scientific work and many people, especially elderly women, were chosen as scapegoats and punished for witchcraft).

⁴⁷ *Id.*

⁴⁸ *Id.* at 64-65.

⁴⁹ See Statute of the I.C.J. art. 38, para. 1(a), 3 Bevens 1179; 59 Stat. 1031; T.S. 993; 39 AJIL Supp. 215 (1945).

customary law, as evidence of a general practice accepted as law, may be another powerful source of obligations.

As *Babylon 5* showed, the question of enforcing all rights applicable within human rights standards becomes a crucial and necessary exercise for a peaceful existence.⁵⁰ Our fragile existence becomes disrupted when particular nations in the world engage in actions that contravene the most basic human rights. Should a nation limit its applicability of human rights during times of civil strife? There are definitely limits to this potential practice. As we shall see, the members of the Earth Alliance quickly deteriorated into civil war after the supposedly accidental death of President Santiago aboard *Earthforce One*.⁵¹ Yet, the *Babylon 5* story is one of hope.⁵² It is a story that transcends legal and political considerations and delves into the values inherent to international human rights law. How to be and become better human beings is at the center of the story. To be a better human being is to recognize the importance of human dignity. In *Babylon 5*, this idea is centered in the Earth Alliance Constitution. At present, this ideal is centered in the ICCPR.⁵³

The ICCPR was drafted to provide standards of conduct for all nation members to the treaty in order to safeguard the rights of citizens.⁵⁴ Among these rights are self-determination,⁵⁵ life,⁵⁶ liberty,⁵⁷ avoidance of arbitrary arrests,⁵⁸ provision of fair trials,⁵⁹ privacy,⁶⁰ free-

⁵⁰ See *Endgame*, *supra* note 36; see also *Babylon 5: Voices of Authority* (PTEN television broadcast Feb. 1, 1996) (dealing with the issue of civilian injuries in a time of war).

⁵¹ See *Endgame*, *supra* note 36.

⁵² See *Babylon 5: GROPOS* (PTEN television broadcast Feb. 9, 1995); see also *Babylon 5: Dust to Dust* (PTEN television broadcast Feb. 8, 1996) (noting that *Babylon 5* began as the last hope for peace and now represents the last hope for victory).

⁵³ See International Covenant on Civil and Political Rights, *supra* note 26, pmbl. (noting that a goal of the ICCPR is "recognition of the inherent dignity . . . of all members of the human family . . .").

⁵⁴ See *id.* (recognizing the importance of civil and political freedoms, as well as the freedom from want).

⁵⁵ *Id.* art. 1.

⁵⁶ *Id.* art. 6.

⁵⁷ *Id.* art. 9.

⁵⁸ *Id.*

dom of thought,⁶¹ conscience,⁶² religion,⁶³ peaceful assembly,⁶⁴ prohibition of torture (“cruel, inhuman or degrading treatment or punishment”),⁶⁵ and slavery.⁶⁶ The Babylon 5 story touches on all of these.⁶⁷ The ICCPR belongs to an elite group of documents that deserves to be considered seriously. This group of documents is collectively known as the International Bill of Human Rights.⁶⁸

One of the most important documents ever drafted for the protection and furtherance of human rights and freedoms was the 1948 Universal Declaration of Human Rights (Universal Declaration).⁶⁹ The United Nations Economic and Social Council (ECOSOC) established the official Commission on Human Rights (Commission) in February 1946.⁷⁰ The Council of eighteen members included United States of America Delegate Eleanor Roosevelt as chairperson.⁷¹ The Commission worked extremely hard for several years to produce a document that would reflect the spirit of cooperation centered in human dignity.⁷² The ICCPR, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR), were later drafted to give legal force to

⁵⁹ *Id.* art. 14.

⁶⁰ *Id.* art. 17.

⁶¹ *Id.* arts. 18, 19.

⁶² *Id.* art. 18.

⁶³ *Id.*

⁶⁴ *Id.* art. 21.

⁶⁵ *Id.* art. 7.

⁶⁶ *Id.* art. 8.

⁶⁷ See, e.g., *Babylon 5: Intersections in Real Time* (PTEN television broadcast Jun 19, 1997) (Captain Sheridan was subject to torture without access to the judicial system).

⁶⁸ Fact Sheet No. 2, *supra* note 19, background.

⁶⁹ See Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948), available at <http://www.un.org/Overview/rights.html>.

⁷⁰ ECOSOC Res. 5(1), ¶ 5, U.N. Doc. E/20 (Feb. 15, 1946), available at <http://dacce.ssdds.un.org/doc/RESOLUTION/GEN/NR0/041/47/IMG/NR004147.pdf?OpenElement>.

⁷¹ Franklin and Eleanor Roosevelt Institute, Basis of Human Rights, Drafting and Adoption, <http://www.udhr.org/history/default.htm> (last visited Aug. 30, 2008).

⁷² See *id.* (stating that the U.N. Commission on Human Rights “strove to forge a declaration that might successfully encompass the hopes, beliefs and aspirations of people throughout the world.”).

the ideas contained in the Universal Declaration.⁷³ The ICCPR is probably one of the most comprehensive and authoritative documents in existence that enshrines the protection of civil and political rights. The preamble indicates that the rights outlined in the ICCPR focus on human dignity.⁷⁴

Human dignity should never be placed in jeopardy, and the rights supported should never be suspended in any circumstance. Although the ICCPR allows nations to derogate from certain human rights guarantees, under specific circumstances, this is done under special conditions and guided by clearly defined guidelines.⁷⁵ In declaring a state of emergency, the ICCPR continues to bind a government.⁷⁶ What happens when a government ignores the limits laid down by the ICCPR? Some of the worst violations of human rights occurred during a state of emergency.⁷⁷

In the *Babylon 5* story, the Vice President of the Earth Alliance assumed power, while the former President's death left many open questions.⁷⁸ Some members in the government and military, including Captain Sheridan, began to investigate this shift in power.⁷⁹ The President, as leader of Earthforce, had power over the military.⁸⁰ This power was offset by the legislative control vested in the Senate.⁸¹ Eventually, evidence surfaced that Vice President Clark had been involved in the

⁷³ See International Covenant on Civil and Political Rights, *supra* note 24, pmbl. (recognizing that the ICCPR was drafted in accordance with the Universal Declaration); see also International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), pmbl., U.N. Doc. A/6316 (Dec. 16, 1966), available at http://www.unhcr.ch/html/menu3/b/a_cescr.htm (stating that the ICESCR was drafted in accordance with the Universal Declaration).

⁷⁴ International Covenant on Civil and Political Rights, *supra* note 24, pmbl.

⁷⁵ See *id.* art. 4.

⁷⁶ See *id.* art. 40(1)(b) and 41.

⁷⁷ See Amnesty International, One Year On: Human Rights in Bangladesh Under the State of Emergency, <http://www.amnesty.org/en/for-media/press-releases/one-year-human-rights-bangladesh-under-state-emergency-20080110> (last visited Aug. 30, 2008).

⁷⁸ See *Babylon 5: Voices of Authority* (PTEN television broadcast Feb. 1, 1996).

⁷⁹ See *id.*

⁸⁰ Graw, *supra* note 30, at x.

⁸¹ *Id.*

assassination of President Santiago.⁸² The Earth Alliance seems to be a government that respects human rights and humanitarian law. Although not perfect, its citizens and military personnel live by a code of conduct. This standard of behavior was respected and enforced for centuries.

Babylon 5 depicts a system of government reminiscent of the United States, while demonstrating the importance of international law as viewers discover Earthgov and its relations with other civilizations. The Earth Alliance Constitution provides as inference what the Vienna Convention loudly states as a fact.⁸³ Under international law, a nation-state cannot rely on its internal laws in order to rationalize its unwillingness to perform legal obligations.⁸⁴ Once a nation ratifies the ICCPR, the nation agrees to perform the obligations contained in the ICCPR in the spirit of *pacta sunt servanda* or good faith.⁸⁵ The ICCPR sets forth a desired set of treaty-based standards to be followed.⁸⁶ Even if a nation has not signed the treaty, an argument could be made in some circumstances that it could be bound by customary law.⁸⁷ Thus, after international legal standards have been drafted and affirmed by international consensus, individual nations no longer have the option to declare customary law nonbinding.

A principle or rule of customary law may be embodied in a bipartite or multipartite agreement so as to have, within the stated limits, conventional force for the States parties to the agreement so long as the agreement is in force; yet it would continue to be binding as a principle or rule of customary law for other States.⁸⁸

⁸² See *Voices of Authority*, *supra* note 78.

⁸³ See, e.g., *id.* (throughout the entire show, Captain Sheridan advocates for the good faith adherence to the Earth Alliance Treaty).

⁸⁴ Vienna Convention on the Law of Treaties art. 27, May 23, 1969, 1155 U.N.T.S. 331 [hereinafter Vienna Convention].

⁸⁵ See *id.* art. 26.

⁸⁶ See International Covenant on Civil and Political Rights, *supra* note 24, art. 1–53.

⁸⁷ See Kari P. Kammel, *Rebuilding the Mental Health System in Iraq in the Context of Transitional Justice*, 11 DEPAUL J. HEALTH CARE L. 369, 377 (2008).

⁸⁸ Manley O. Hudson, *Article 24 of the Statute of the International Law Commission*, 2 Y.B. Int'l L. Comm'n 24, 25, U.N. Doc. A/CN.4/16.

For example, a state of emergency during times of conflict always provides dangerous legal grounds. The line between security and the infringement of civil rights can be distorted, even if declared with well-meaning intentions.

In Babylon 5, when a policy of control by propaganda, misinformation, and denial of truth began to spread throughout the Alliance territories,⁸⁹ Earthgov utilized a perceived threat to planetary security to create fear and tighten the grip of control over its citizens.⁹⁰ Captain Sheridan, along with a group of supporters and allies, began to take action.⁹¹ Shortly afterwards, President Clark declared martial law throughout the Earth Alliance, and then he dissolved the Senate, which forced its members to go flee as fugitives.⁹²

The conflict within the Earth Alliance provides a clear example of the mishaps that surround a declaration of a state of emergency. At first, the signs of upcoming violence were almost unnoticeable. In his desire to stretch and extend his power, President Clark utilized a new government branch called the Ministry of Peace.⁹³ The Ministry, operating through a group of individuals called the Nightwatch, created an environment of paranoia where all citizens were subject to surveillance and the slightest perceived sign of dissatisfaction was severely suppressed.⁹⁴ The Nightwatch created a deceitful propaganda campaign loaded with misinformation, which worked to spread the thought that any form of criticism against the government should and would be considered an act of sedition.⁹⁵ Using fear to refrain freedom of speech, the Nightwatch created confusion and oppression among Earth's citizens.⁹⁶

⁸⁹ See *Babylon 5: Dust to Dust* (PTEN television broadcast Feb. 8, 1996) (In this episode an enforcement officer threatens a civilian for having a poster advocating that President Clark be put in jail because of his involvement in the death of former President Santiago, noting that this kind of opinion is mutiny.).

⁹⁰ See, e.g., *Babylon 5: Messages from Earth* (PTEN television broadcast Feb. 22, 1996) (President Clark alleged that a new alien presented a threat to planetary security and extreme measures may be needed to protect the Earth.).

⁹¹ See *id.*

⁹² See *Babylon 5: Point of No Return* (PTEN television broadcast Feb. 29, 1996).

⁹³ See *id.*

⁹⁴ See *id.*

⁹⁵ See *id.*

⁹⁶ See *id.*

These activities spread toward the colonies of the Alliance.⁹⁷ Earthgov ultimately surrendered to nationalism, authoritarianism, militarism, totalitarianism, xenophobia, and opposition to political tolerance.⁹⁸ As a consequence, a group of Earthforce officers rebelled, thus marking the beginning of the civil war.⁹⁹

Looking to the *Travaux Préparatoires* for the ICCPR, we see that there was debate as to the drafting of article 4.¹⁰⁰ The ICCPR, in article 4, allows for *derogation* of some of the rights protected only in times of national emergency.¹⁰¹ A national emergency is defined in article 4 as a set of circumstances that threatens the existence of a nation.¹⁰² This means, derogation is only permitted under exceptional circumstances.¹⁰³ It is likely that the ongoing crisis supposedly perceived by President Clark of the Earth Alliance would not have met this high threshold. Moreover, article 4's legislative history reveals that at some point, the derogation provisions were considered unnecessary.¹⁰⁴ The drafters considered that governments would have to face difficult situations in times of war and "instances of extraordinary peril or crisis"¹⁰⁵ Above all, the legislative history shows that State parties should not feel free to "decide for themselves when and how they would

⁹⁷ *See id.*

⁹⁸ *See id.*; *see also, e.g.,* *Voices of Authority*, *supra* note 78 (These problems were evidenced by the involvement of Vice President Clark in the death of President Santiago). The members of the Nightwatch at the Babylon 5 station faced a formidable opponent in Captain Sheridan, who conspired to round them up and, with great difficulty, managed to disarm and expel them from the station. *See Babylon 5: Point of No Return*, *supra* note 92.

⁹⁹ *See Endgame*, *supra* note 36.

¹⁰⁰ *See generally* MARC J. BOSSUYT, GUIDE TO THE "TRAVAUX PRÉPARATOIRES" OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS 81-102 (1987). (detailing the legislative history of article 4).

¹⁰¹ International Covenant on Civil and Political Rights, *supra* note 24, art. 4 ¶ 1 (emphasis added).

¹⁰² *Id.*

¹⁰³ *See id.*; U.N. Human Rights Comm. [CCPR], *General Comment No. 29 State of Emergency (Article 4)*, ¶ 2, U.N. Doc. CCPR/C/21/REV.1/ADD. 11 (AUG. 31, 2001), available at [http://www.unhchr.ch/tbs/doc.nsf/0/71eba4be3974b4f7c1256ae200517361/\\$FILE/G0144470.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/71eba4be3974b4f7c1256ae200517361/$FILE/G0144470.pdf) ("Measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature.").

¹⁰⁴ BOSSUYT, *supra* note 100, at 83.

¹⁰⁵ *Id.* at 83.

exercise emergency powers because it was necessary to guard against States abusing their obligations under the covenant.”¹⁰⁶ President Clark had such freedoms and he chose to exercise his emergency powers in an abusive manner.¹⁰⁷ These actions precipitated the unexpected secession of several colonies from the Earth Alliance, including Babylon 5, and further fueled the civil war within the Alliance.¹⁰⁸

Was the declaration of martial law by Clark necessary? Earthgov and the Earth Alliance Constitution seemed to lack constitutional safeguards (treaty safeguards) to protect human rights and civil rights. Governmental actions may be necessary to avoid irreparable damage in times of war, unrest, or natural catastrophes. However, history shows that derogation has often been misused for illegitimate purposes under the guise of national security.¹⁰⁹ Looking carefully at the Babylon 5 story, and comparing it to our own global history, we find that the Earth Alliance seemed to misuse its equivalent to article 4 of the ICCPR through its declaration of martial law. Earthgov was now subject to the dictates of the martial law declaration and the Earth Alliance Constitution was twisted into a rationalization for abuse of human rights.¹¹⁰

The ICCPR, article 4, paragraph 2 prohibits derogations of the right to life, freedom from torture and slavery, imprisonment for acts not previously legislated as a crime and freedom of thought, conscience, and religion.¹¹¹ President Clark disregarded (or discarded) similar standards.¹¹² The government must make a formal declaration of emergency and communicate it to the other State Parties to the Covenant

¹⁰⁶ *Id.*

¹⁰⁷ See *Babylon 5: Severed Dreams* (PTEN television broadcast April 4, 1996) (noting that President Clark required that anyone speaking against him be arrested and charged with treason).

¹⁰⁸ See *id.* (Specifically, the colonies were angered by the bombing of civilian targets on Mars.).

¹⁰⁹ See *infra*, notes 218-224 and accompanying text (detailing the case of the Greek government).

¹¹⁰ See, e.g., *Messages from Earth*, *supra* note 90 (depicting arrests made arbitrarily and based solely on anonymous tips).

¹¹¹ See International Covenant on Civil and Political Rights, *supra* note 24, art. 4, ¶ 2.

¹¹² See *Dust to Dust*, *supra* note 20 (allowing punishment for civilian opinions contrary to the interests of President Clark).

through the Secretary-General of the United Nations.¹¹³ This action would be later reviewed, and if necessary, criticized by the United Nations Human Rights Committee.¹¹⁴

Governments must make periodic reports to the Human Rights Committee regarding their compliance with the ICCPR.¹¹⁵ The Human Rights Committee has the authority to independently assess whether the emergency is legitimate and if the government needs to take exceptional measures pursuant to an emergency declaration.¹¹⁶ In the Babylon 5 story, Captain Sheridan's actions served as the equivalent to the scrutiny of the Human Rights Committee.¹¹⁷ The Human Rights Committee's monitoring role is one of authority over actions of derogations.¹¹⁸ Under article 40, the Human Rights Committee directs the burden of proof toward governments.¹¹⁹ Above all, the ICCPR makes clear that not all perceived disturbances qualify as a public emergency which may threaten the life of the nation.¹²⁰ The Human Rights Committee made clear that when derogating from the provisions of the ICCPR, a government's actions must be of an "exceptional and temporary nature."¹²¹ Furthermore, the government has to include in its report, submitted under article 40, "sufficient and precise information" so the Human Rights Committee is allowed the opportunity to assess the situation.¹²²

Interestingly, the legislative history of this article explains that "[i]t was further agreed that since the use of emergency powers had often been abused in the past, a mere notification would not be

¹¹³ International Covenant on Civil and Political Rights, *supra* note 24, art. 4, ¶ 3.

¹¹⁴ *See id.* art. 40 (detailing the requirements of State reports).

¹¹⁵ *Id.*

¹¹⁶ *See id.*

¹¹⁷ *See No Surrender, No Retreat*, *supra* note 117; *see also Endgame*, *supra* note 36 (Captain Sheridan scrutinizes President Clark's violations of human rights).

¹¹⁸ International Covenant on Civil and Political Rights, *supra* note 24 (The Human Rights Committee receives and reviews reports of State parties).

¹¹⁹ *See id.* (noting that State parties "to the Covenant should include in their reports submitted under article 40 sufficient and precise information about their law and practice in the field of emergency powers.").

¹²⁰ *Id.* ¶ 3.

¹²¹ *Id.* ¶ 2.

¹²² *Id.*

enough.”¹²³ Along the way, Earthgov lost its sense of direction and the consequences were catastrophic in the ambit of human rights protection. Thus, the derogating government is expected to furnish the reason by which its derogation was actuated.¹²⁴ Captain Sheridan, even during the heat of battle, was always concerned with being humanitarian.¹²⁵ The Human Rights Committee follows this reasoning, explaining that in times of “armed conflict, whether international or non-international, rules of international humanitarian law become applicable”¹²⁶

These considerations are supplemented by the notion, also explained by the Human Rights Committee, that there are non-derogable rights “not listed in article 4, paragraph 2,” that fall within a norm of general international law not subject to derogation, and thus, “cannot be made subject to lawful derogation under article 4.”¹²⁷ It is worth recognizing that today, a new kind of international law is emerging, giving prominence and power to non-state actors such as individuals and multinational organizations.¹²⁸ The law of human rights presents a radical change where a primary judicial assumption shows that individuals enjoy rights directly from international law.¹²⁹ In fact, international human rights law reminds us that, as a remedy for the enjoyment of rights, individuals find human dignity is not negotiable.¹³⁰

IV. LAMENTATIONS OF DEROGATION

“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.”

-Universal Declaration of Human Rights¹³¹

¹²³ BOSSUYT, *supra* note 100, at 97.

¹²⁴ *Id.*

¹²⁵ *See No Surrender, No Retreat, supra* note 117 (Captain Sheridan indicates a genuine concern for the lives of soldiers and civilians, even in a time of emergency); *see also Endgame, supra* note 36.

¹²⁶ International Covenant on Civil and Political Rights, *supra* note 24, ¶ 3.

¹²⁷ *Id.* ¶ 13.

¹²⁸ *See* THEODOR MERON, *THE HUMANIZATION OF INTERNATIONAL LAW* 314. (2006).

¹²⁹ *Id.* at 314-15.

¹³⁰ *See id.* (noting the importance of individual rights in international law).

¹³¹ Universal Declaration of Human Rights, *supra* note 69, art. 1.

Fear and misinformation are extremely powerful tools. In the hands of an oppressor, they can cause devastating results. The ICCPR directly opposes the sources of fear. This is where Earthgov failed.¹³² Human rights reflect the international law concept that there are particular rights that never should be suspended while responding to public emergencies. Once Clark assumed the presidency, he endorsed a campaign of deceitful propaganda and misinformation that spread through the Alliance. Any voice of discontent was severely silenced using fear or force disappearance to refrain the freedom of speech. As mentioned earlier, members of Earthforce were divided and fighting one another in a bloody civil war.¹³³ While this was happening, Mars decided not to implement martial law as directed by Earthgov.¹³⁴ In response, President Clark ordered his forces to bomb civilian targets on Mars.¹³⁵ In turn, the colonies of Proxima 3 and Orion 7 seceded from the Earth Alliance.¹³⁶ Captain Sheridan joined them and declared Babylon 5 an independent state.¹³⁷ President Clark decided to attack the station, and the battle was fought with great loss of life.¹³⁸

The Human Rights Committee, in its *General Comment Number 30: Reporting Obligations of States Parties under article 40 of the[International] Covenant,[on Civil and Political Rights]* explained that governments undertake obligations under the treaty “to submit reports in accordance with article 40 of the Covenant within one year of its entry into force, and thereafter, whenever the Committee so requests.”¹³⁹ Article 40 of the ICCPR no doubt encompasses the efforts

¹³² See *Messages from Earth*, *supra* note 90 (President Clark announced through the media that there was a new alien race that presented a threat to planetary security and extreme measures may be needed for Earth’s protection.).

¹³³ See, e.g., *Severed Dreams* (PTEN television broadcast April 4, 1996) (Ambassador Delenn noted “[e]ven the humans are fighting each other.”).

¹³⁴ See *id.*

¹³⁵ See *id.*

¹³⁶ See *id.* (Captain Sheridan announced that Babylon 5 would “remain an independent state until President Clark [was] removed from office.”).

¹³⁷ See *id.*

¹³⁸ See *id.* The arrival of four Minbari Cruisers led by Ambassador Delenn brought an end to the battle and added protection to Babylon 5. See, e.g., *Messages from Earth*, *supra* note 90 (Ambassador Delenn and other Minbari assist Captain Sheridan and Babylon 5.).

¹³⁹ U.N. Human Rights Comm. [CCPR], *General Comment 30: Reporting Obligations of State Parties under article 40 of the Covenant*, ¶ 1, U.N. Doc. HRI/

of the Human Rights Committee to be watchful of the progress made by governments to protect and promote human rights.¹⁴⁰ The main objective of the ICCPR is to see the return of the government to normalcy as soon as possible, once an emergency is declared.¹⁴¹

Earthgov, under President Clark, was created as a government inclined to avoid any access to the truth. From the point of view of the ICCPR and the Human Rights Committee, in evaluating the Babylon 5 situation, citizens reported no information, or alternatively, asked no questions or made no comments regarding article 4 (or something similar) human rights violations by Earthgov.¹⁴² Educational standards and access to information help create an informed society, thus, a society that respects and helps protect the security and integrity of a nation-state. One central consideration for an informed society is whether or not it encourages the free flow of information. The continuing impact of science and technology on society, in a historical context, can only be equated to the present need for more access to information. People need to know now, more than ever, that they enjoy the protection of civil and political rights. The same ideals can be identified in the World Summit on the Information Society (WSIS).

The WSIS, as a concept, is based on information access and openness.¹⁴³ It is a direct reflection of the United Nations goals borne out of the United Nations Millennium Summit, held in New York from

GEN/1/Rev.7, (May 12, 2004). *available at* [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/ca12c3a4ea8d6c53c1256d500056e56f/\\$FILE/G0441302.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/ca12c3a4ea8d6c53c1256d500056e56f/$FILE/G0441302.pdf).

¹⁴⁰ *See id.* art. 40.

¹⁴¹ *See id.* art. 4 (allowing derogation of rights only “to the extent strictly required by the exigencies of the situation . . .”).

¹⁴² *See, e.g., Severed Dreams, supra* note 107. The Optional Protocol to the CCPR today complements the actions reviewed under the reporting process for those member governments. *See* Optional Protocol to the International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (Dec. 16, 1966), *available at* http://www.unhchr.ch/html/menu3/b/a_opt.htm (noting that this Protocol was set up to “further achieve the purposes of the [CCPR] . . . to receive and consider . . . communications from individuals claiming to be victims of violations of any rights set for in the [CCPR].”).

¹⁴³ *See* World Summit on the Information Society, Geneva, Switz., Dec. 10-12, 2003, *Declaration of Principles*, U.N. Doc. WSIS-03/GENEVA/DOC/4-E (Dec. 12, 2003), *available at* http://www.itu.int/dms_pub/itu-s/md/03/wsis/doc/S03-WSIS-DOC-0004

September 6th to 8th in 2000.¹⁴⁴ The goals evolved further during the WSIS¹⁴⁵ and its product, the creation of the Internet Governance Forum (IGF).¹⁴⁶ The eradication of illiteracy around the world rises to primary concern within the Internet governance discussion. An illiterate populace is prone to poverty, disease, famine, war, and without a doubt, ignorance as to the benefits of new technologies.¹⁴⁷ Technology can be a catalyst to human rights development, and international human rights law is the fuel.

It has been recognized that human rights are the spinal column of the United Nations era.¹⁴⁸ “We judge the legitimacy of a government by whether it lives up to the international standards of human rights.”¹⁴⁹ Indeed, Myres S. McDougal commented that while the ICCPR was being drafted for presentation to the ECOSOC, it was “conceived as a treaty committing signatories to specific obligations.”¹⁵⁰ Yet, he noted it was regrettable that, in terms of content, the draft of the ICCPR fell

!!PDF-E.pdf (noting that the goal was to build an Information Society “where everyone can create, access, utilize and share information and knowledge . . .”).

¹⁴⁴ See *id.* ¶ 2 (declaring that the challenge of the WSIS is to promote development of the goals of the Millennium Declaration). See generally United Nations Millennium Summit, 6-8 September 2000, <http://www.un.org/millennium/backgrounder.htm>.

¹⁴⁵ The World Summit on the Information Society was held in two phases: the first in Geneva from December 10 to 12, 2003, and the second in Tunis, from November 16 to 18, 2005. See World Summit on the Information Society, Basic Information: About WSIS, <http://www.itu.int/wsis/basic/about.html> (last visited August 29, 2008).

¹⁴⁶ The first meeting of the IGF took place in Athens, Greece from October 30 to November 2, 2006. See IGF Greece 2006, <http://www.igfgreece2006.gr/?tid=22&aid=36> (last visited August 29, 2008). The second meeting of the IGF took place in Rio de Janeiro, Brazil from November 12 to 15, 2007. See IGF Brazil 2007, Welcome to IGF Brazil 2007, <http://www.igfbrazil2007.br/> (last visited August 29, 2008).

¹⁴⁷ See World Summit on the Information Society, Tunis, Tunisia, Nov. 16-18, 2005, *Tunis Commitment*, ¶ 2, available at <http://www.itu.int/wsis/docs2/tunis/off/7.pdf> (“[A]ccess to information and sharing and creation of knowledge contributes significantly to strengthening economic, social and cultural development . . .”).

¹⁴⁸ Lung-chu Chen, *In Affectionate Memory of Professor Myres McDougal: Champion for an International Law of Human Dignity*, 108 YALE L.J. 953, 956 (1999).

¹⁴⁹ *Id.*

¹⁵⁰ Myres S. McDougal & Gertrude C. K. Leighton, *The Rights of Man in the World Community: Constitutional Illusions Versus Rational Action*, 59 YALE L.J. 60, 70-72 (1949).

far short of the promise of the Universal Declaration.¹⁵¹ “It neither guarantees participation in government, the *sine qua non* of freedom, nor stipulates any aspirations about that economic well-being upon which today depends the fulfillment in fact of any human rights.”¹⁵² These are challenges that the international community continues to tackle fifty-nine years later.

Earthforce ships in orbit around Proxima 3 formed a blockade and later destroyed five refugee ships carrying civilians.¹⁵³ This forced Captain Sheridan to begin a campaign to depose President Clark.¹⁵⁴ He began by liberating all colonies, starting with Proxima 3.¹⁵⁵ This caused him to become a target. He eventually fell into a trap and was captured by President Clark’s agents.¹⁵⁶ Although eventually rescued, during Captain Sheridan’s interment he was subjected to torture.¹⁵⁷ Derogation can have serious implications, and it is precisely at times of internal conflict and emergency that citizens are likely to be arrested and detained.¹⁵⁸ These detentions present a delicate proposition in balancing international human rights law and sovereignty.

The Human Rights Committee hinted that the requirements of particular clauses of article 14 for fair trials under the ICCPR are non-derogable, stating that governments may not reserve the right to arbitrarily arrest or detain persons, or presume a person guilty.¹⁵⁹ Nonethe-

¹⁵¹ *Id.* at 72.

¹⁵² *Id.*

¹⁵³ *See No Surrender, No Retreat*, *supra* note 117

¹⁵⁴ *See id.*

¹⁵⁵ *See id.*

¹⁵⁶ *See Babylon 5: The Face of the Enemy* (PTEN television broadcast June 12, 1997).

¹⁵⁷ *Babylon 5: Between the Darkness and the Light* (PTEN television broadcast Oct. 9, 1997).

¹⁵⁸ *See General Comment No. 29*, *supra* note 103 (noting that it is essential that the State party officially declare a state of emergency in order to invoke article 4 in order to preserve “the principles of legality and rule of law at times when they are most needed.”).

¹⁵⁹ U.N. Human Rights Comm. [CCPR], *General Comment No. 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant*, ¶ 8, U.N. Doc. HRI/GEN/1/Rev.7, available at [http://www.unhchr.ch/tbs/doc.nsf/0/ca12c3a4ea8d6c53c1256d500056e56f/\\$FILE/G0441302.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/ca12c3a4ea8d6c53c1256d500056e56f/$FILE/G0441302.pdf).

less, while on Mars, Captain Sheridan was subject to physical abuse as well as intensive drug and psychological torture.¹⁶⁰ The ICCPR prohibits these actions in article 7,¹⁶¹ as does the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture).¹⁶² Article 2 of the Convention Against Torture expressly prohibits torture during times of emergency, essentially making this practice illegal at all times.¹⁶³ Presumably, a reservation by Earthgov to such derogation provisions in human rights treaties would fail as contrary to their object and purpose.¹⁶⁴

The Human Rights Committee considered the issue in *General Comment Number twenty-four*, stating that “[w]hile there is no hierarchy of importance of rights under the [ICCPR,] . . . some provisions are non-derogable exactly because without them there would be no rule of law.”¹⁶⁵ The Human Rights Committee further emphasized that making reservations to the ICCPR requires closer legal scrutiny.¹⁶⁶ The Human Rights Committee recognized that “Article 20, paragraph 4, of the Vienna Convention on the Law of Treaties 1969 contains provisions . . . on acceptance of and objection to reservations. This provides for the possibility of a State to object to a reservation made by another State.”¹⁶⁷ The Human Rights Committee also noted in paragraph 17 that “the Vienna Convention on the Law of Treaties that provides the definition of reservations and also the application of the *object and purpose test* in the absence of other specific provisions.”¹⁶⁸ But the Human Rights Committee explained that the Vienna Convention on the Law of

¹⁶⁰ See *Intersections in Real Time*, *supra* note 67.

¹⁶¹ See International Covenant on Civil and Political Rights, *supra* note 24, art. 7 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”).

¹⁶² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 2, U.N. Doc. A/39/46 (December 10, 1984) available at http://www.unhcr.ch/html/menu3/b/h_cat39.htm.

¹⁶³ See *id.* art. 2.

¹⁶⁴ See *General Comment No. 24*, *supra* note 159, ¶ 18 (explaining that the Human Rights Committee must “determine whether a specific reservation is compatible with the object and purpose of the [ICCPR].”).

¹⁶⁵ See *id.* ¶ 10 (“[A] State has a heavy onus to justify . . .” a reservation contrary to the object and purpose of the ICCPR.).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* ¶ 16.

¹⁶⁸ *Id.* ¶ 17 (emphasis added).

Treaties (Vienna Convention) provisions “on the role of State objections in relation to reservations are inappropriate to address the problem of reservations to human rights treaties. Such treaties, and the Covenant specifically, are not a web of inter-State exchanges of mutual obligations. They concern the endowment of individuals with rights.”¹⁶⁹ What’s more, the Human Rights Committee declined to assume that a non-objecting government finds a particular reservation acceptable.¹⁷⁰

This analysis is reinforced by the findings of the International Court of Justice (ICJ) in the *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*.¹⁷¹ In that case, the ICJ explained that the objects of such a Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) were “for a purely humanitarian and civilizing purpose.”¹⁷² The ICJ reasoned that with this type of treaty “the contracting [governments] do not have any interests of their own[, but rather,] they . . . have . . . a common interest, [in] the accomplishment of those high purposes which are the *raison d’être* of the convention.”¹⁷³ “Consequently . . . one cannot speak of . . . the maintenance of a perfect contractual balance between rights and duties.”¹⁷⁴ The ICJ, most importantly, emphasized the incompatibility of a reservation with the object and purpose of the Genocide Convention, stating that it “must furnish the criterion for the attitude of a State in making the reservation on accession as well as for the appraisal by a State in objecting to the reservation.”¹⁷⁵ However, the ICJ explained that even though it has been argued “that any State entitled to become a party to the Genocide Convention may do so while making any reservation it chooses by virtue of its sovereignty,” the ICJ itself did not share this view.¹⁷⁶

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ See *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion*, 1951 I.C.J. 15, 24 (May 28) (“[I]t is the compatibility of a reservation with the object and purpose of the Convention that must furnish the criterion for . . . making the reservation . . . as well as . . . in objecting to the reservation.”).

¹⁷² *Id.* at 23.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 24.

¹⁷⁶ *Id.*

So, it is starting to become clear that a government's intention to exclude articles from human rights treaties may be overturned by international human rights law standards, customary law, the treaty in question, and human rights regional agreements.¹⁷⁷ Additionally, relevant to our discussion is paragraph eighteen of *General Comment Number twenty-four*, which concluded that the Human Rights Committee is the entity charged with the mission to determine if a reservation is compatible with the object and purpose of the ICCPR.¹⁷⁸ Applying the "object and purpose" standard, the Human Rights Committee decided that in order to determine "the scope of its duty to examine a State's compliance under article 40 . . . the Committee [would have to take into consideration] the compatibility of a reservation with the object and purpose of the Covenant and with general international law."¹⁷⁹ The Human Rights Committee mentioned a key component that helps answer whether, hypothetically, Earthgov would be bound by international human rights principles.

While watching Babylon 5, one will infer that the Earth Alliance Constitution is similar to the United States Constitution. Yet, an inference could be made that all treaties signed by the United States could be considered as incorporated in the Earth Alliance Constitution. *General Comment Number twenty-four* explains that "[t]he number of reservations, their content and their scope" could undermine the effectiveness of the ICCPR by weakening the enforcement of obligations by governments.¹⁸⁰ The Human Rights Committee noted it is desirable that States accept the full range of obligations within the ICCPR, being that "human rights norms are the legal expression of the essential rights that every person is entitled to as a human being."¹⁸¹ In conclusion, the Human Rights Committee made clear its feelings about reservations when it explained that the ICCPR is an instrument that articulates many civil and political rights, which secure the objectives of the ICCPR.¹⁸²

¹⁷⁷ See *id.* (allowing the Human Rights Committee to disapprove a State's derogation that is contrary to the object and purpose of the CCPR).

¹⁷⁸ *General Comment No. 24*, *supra* note 159, ¶ 18.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* ¶ 1.

¹⁸¹ *Id.* ¶ 4.

¹⁸² See *id.* ¶ 7 (noting that the articles of the CCPR that articulate civil and political rights "secure[] the objectives of the Covenant.").

A number of nations declared emergencies over the years. The government of Paraguay took such action for almost thirty-five years.¹⁸³ Lengthy periods of emergency are questionable at best and abusive at worst. Human Rights Committee members reviewed the Chilean government's activities about a state of emergency that continued for an extended duration.¹⁸⁴ Captain Sheridan's efforts proved fruitful when his forces, after being rescued, went on to the final engagements in the battle for Earth.¹⁸⁵ The final analysis follows: Babylon 5 is a great learning tool and stands as a reminder that abuses will not be accepted as legitimate during periods of conflict.

V. CRIMES AGAINST THE HUMAN PERSON

"The care of human life and happiness, and not their destruction, is the first and only object of good government."

-Thomas Jefferson¹⁸⁶

The world is a global community of many voices. Through this community, we can learn to live better or suffer greatly. Together we can achieve greatness, and this greatness can be seen all over the world. The African (Banjul) Charter on Human and Peoples' Rights contains no derogation clause from the rights it enshrines, and the only emer-

¹⁸³ Adam Bernstein, *Former Paraguayan Dictator Alfredo Stroessner Dies at 93*, WASH. POST, Aug. 17, 2006, at B05; *see also* U.N. Econ. & Soc. Council [ECOSOC], Sub-Comm'n on Prevention of Discrimination & Prot. of Minorities, *Study of the Implications for Human Rights of Recent Developments Concerning Situations Known as States of Siege or Emergency*, ¶ 114, U.N. Doc. E/CN.4/Sub.2/1982/15 (July 27, 1982) (*prepared by* Nicole Questiaux).

¹⁸⁴ Report of the Human Rights Committee, U.N. GAOR, 34th Sess., Supp. No. 40, at 19, 20, 23, U.N.Doc. A/34/40 (1979).

¹⁸⁵ *See Endgame*, *supra* note 36. Seeing that he was about to lose the war, Clark committed suicide before he could be captured. *Id.* Before dying, Clark turned the planetary defense system against Earth. *Id.* Sheridan's fleet proceeded to destroy the defense platforms before they could fire on the planet. *Id.* Many ships were damaged or destroyed in the process. *Id.*

¹⁸⁶ Thomas Jefferson., U.S. President, To The Republican Citizens of Washington County, MD, Assembled at Hagerstown on the 6th Instant (March 31, 1809) *available at* <http://etext.virginia.edu/jefferson/quotations/jeff0650.htm>.

agency clause addresses human rights violations.¹⁸⁷ In the Americas, the American Declaration of the Rights and Duties of Man (American Declaration) echoes the values presented in the International Bill of Rights.¹⁸⁸ The AMERICAN CONVENTION ON HUMAN RIGHTS (AMERICAN CONVENTION)¹⁸⁹ permits its contracting parties to suspend guarantees, with limitations.¹⁹⁰ It is important to keep in mind that the Inter-American Court of Human Rights (Inter-American Court) and the Inter-American Commission on Human Rights (Inter-American Commission) stated that “although originally adopted as a declaration and not as a legally binding treaty, the American Declaration [of the Rights and Duties of Man] is today a source of international obligations for the OAS member States.”¹⁹¹ Therefore, except in limited situations, human rights may not be suspended because the Inter-American Court defined them as guarantees.

The Inter-American Court explained that lack of effective means of fighting “violations of the rights recognized by the Convention is

¹⁸⁷ See Organization of African Unity, African [Banjul] Charter on Human and Peoples’ Rights art. 58, June 27, 1981, 21 I.L.M. 58.

¹⁸⁸ See American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (1948), *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 17 (1992) (recognizing the importance of “the dignity of the individual . . .”) [hereinafter American Declaration].

¹⁸⁹ Organization of American States, AMERICAN CONVENTION ON HUMAN RIGHTS, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 [HEREINAFTER AMERICAN CONVENTION].

¹⁹⁰ See *id.* art. 27, ¶ 2) (Article 27(2) limits the derogation by not authorizing any suspension of the following articles: “Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from Ex Post Facto Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.”).

¹⁹¹ See Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion OC-10/89, 1989 Inter-Am. Ct. H.R. (ser. A.) No. 10, ¶¶ 35-45 (July 14, 1989); see also Inter-American Commission on Human Rights, Statute of the Inter-American Commission on Human Rights, Article 20, O.A.S. Res. 447 (IX-0/79), O.A.S. Off. Rec. OEA/Ser.P/IX.0.2/80, Vol. 1 at 88 (1992).

itself a violation of the Convention”¹⁹² The Inter-American Court further makes the point of observing circumstances where the written law is not enforced by governments. “A remedy which proves illusory because of the general conditions prevailing in the country, or even in the particular circumstances of a given case, cannot be considered effective.”¹⁹³ It is also ineffective in situations that immobilize the judiciary, or permit unjustified delays in the decision-making process, or deny victims access to judicial remedies.¹⁹⁴ Captain Sheridan encountered this problem while he was subjected to torture in Mars.¹⁹⁵

The Inter-American Court stated that unlawful detentions may place detainees in jeopardy by putting them at risk of torture. In an Advisory Opinion regarding *Habeas Corpus in Emergency Situations*, the Inter-American Court noted that “under certain circumstances the suspension of guarantees may be the only way to deal with emergency situations . . . however . . . abuses may result from the application of emergency measures”¹⁹⁶ Furthermore, “[t]he suspension of guarantees lacks all legitimacy whenever it is resorted to for the purpose of undermining [democracy.]”¹⁹⁷ A suspension of guarantees is not a *carte blanche* provided to governments. Rather, it is a limited and temporary suspension of the rule of law that does not authorize a government to disregard human rights standards by which they are always bound.¹⁹⁸ In the *Babylon 5* story, Earth’s citizens experienced wider periods of arrest and detention.¹⁹⁹

¹⁹² See JUDICIAL GUARANTEES IN STATES OF EMERGENCY (ARTS. 27(2), 25 AND 8 OF THE AMERICAN CONVENTION ON HUMAN RIGHTS), Advisory Opinion OC-9/87, 1987 Inter-Am. Ct. H.R. (ser. A.) No. 9, ¶ 24 (OCTOBER 6, 1987).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ See *Babylon 5: Intersections in Real Time* (PTEN television broadcast June 19, 1997) (Captain Sheridan was tortured with no access to counsel.).

¹⁹⁶ See *Habeas Corpus in Emergency Situations* (Arts. 27(2) and 7(6) of the American Convention on Human Rights), Advisory Opinion OC-8/87, 1987 Inter-Am. Ct. H.R. (ser. A) No. 8, ¶ 20 (January 30, 1987).

¹⁹⁷ *Id.*

¹⁹⁸ See *id.* ¶ 24 (noting that a government cannot be deemed “to have acquired absolute powers that go beyond the circumstances” justifying the suspension of guarantees).

¹⁹⁹ See, e.g., *Messages from Earth*, *supra* note 90 (Nightwatch states that many will be arrested based on anonymous tips).

Against this background, what considerations do we face when analyzing governmental actions in times of civil strife? The American Declaration and the ICCPR specify what rights need to be protected and whether any of those rights may be temporarily limited.²⁰⁰ The key word is *emergency*.²⁰¹ Nevertheless, although there are acceptable measures within the spirit of the American Declaration which are not in direct conflict with the American Convention, leaders continue to go beyond the permissible boundaries. A good example to study would be the situation in Peru in the 1990s.²⁰² Governments cannot assume “to have acquired absolute powers that go beyond the circumstances justifying the grant of such exceptional legal measures.”²⁰³

Arbitrary arrests, disappearances, and torture occurred in many American countries. “In order for habeas corpus to achieve its purpose . . . it is necessary that the detained person be brought before a competent judge or tribunal with jurisdiction over him”²⁰⁴ Further, “habeas corpus performs a vital role in ensuring that a person’s life and physical integrity are respected, in preventing his disappearance or the keeping of his whereabouts secret and in protecting him against torture”²⁰⁵ Abuses around the world are not new; yet, their existence in this day and age is troubling.

No other case presents the terrible reality of the denial of human rights more than the *Loayza Tamayo Case* from Peru.²⁰⁶ Captain Sheridan’s torture and drug induced interrogations made viewers particularly uncomfortable; a normal reaction to abuse of a human being. Some of

²⁰⁰ See generally American Declaration, *supra* note 188, ch. 1 (specifying the rights protected by the American Declaration). See also International Covenant on Civil and Political Rights, *supra* note 24, chs. 2, 4 (specifying the rights protected and the rights which may be derogated during times of emergency).

²⁰¹ American Convention, *supra* note 189, art. 41 (allowing suspension of guarantees only “[i]n times of war, public danger, or other *emergency*”) (emphasis added).

²⁰² See *Second Report on the Situation of Human Rights in Peru, Chapter III, International Obligations: Peru and the Inter-American Human Rights System*, OEA/Ser.L/V/II.106, Doc. 59 rev. June 2, 2000, available at <http://www.cidh.org/countryrep/Peru2000en/TOC.htm>.

²⁰³ *Id.*

²⁰⁴ *Id.* ¶ 35.

²⁰⁵ *Id.*

²⁰⁶ See *Loayza-Tamayo Case*, 1996 Inter-Am. Ct. H.R. (ser. C) No. 25 (January 31), available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_25_ing.pdf.

the facts of the *Loayza Tamayo Case* are reproduced below to completely illustrate the problem. The Inter-American Commission presented to the Inter-American Court the following tragedy:

a. On February 6, 1993, María Elena Loayza-Tamayo, a Peruvian citizen and a professor at the Universidad San Martín de Porres, was arrested . . . by officers of the National Anti-Terrorism Bureau (DINCOTE) of the Peruvian National Police The police officers did not produce an arrest warrant issued by a court or any order from a competent authority. The arrest was based on a charge made to the police authorities by Angélica Torres García, alias “Mirtha,” that María Elena Loayza-Tamayo was a collaborator of the subversive group Shining Path [Sendero Luminoso].

b. María Elena Loayza-Tamayo was detained by the DINCOTE from February 6 to 26, 1993. During that period she was held *incommunicado* for ten days and subjected to torture, inhuman and degrading treatment and unlawful pressure. All this was done for the purpose of forcing her to incriminate herself and confess that she was a member of the Peruvian Communist Party-Shining Path (PCP-SL). Despite this, the victim . . . declared her innocence, denying membership of the PCP-SL

c. During those ten days she was allowed no contact with her family or her attorney, nor were they informed of her arrest. María Elena Loayza-Tamayo’s family learned of her arrest through an anonymous telephone call²⁰⁷

This is precisely what the American Convention tried to avoid by safeguarding important human rights such as the right to life (article 4), the right to humane treatment (article 5), the right to personal liberty (article 7), the right to a fair trial (article 8), the right to judicial protection (article 25), and finally, the issue of suspension of guarantees (arti-

²⁰⁷ *Id.* ¶ 14.

cle 27).²⁰⁸ The *Loayza-Tamayo Case* is by no means an isolated incident; rather, it is part of an unfortunate pattern of behavior that affected and continues to affect nations around the world.

The Inter-American Court provided great information on the issue at hand with an advisory opinion originally requested by the government of Uruguay in the *Judicial Guarantees in States of Emergency Advisory Opinion*.²⁰⁹ In the opinion, we find the Inter-American Court's analysis after the government of Uruguay requested an interpretation of the scope of the American Convention's prohibition of the suspension of the judicial guarantees and its connection to the protection of rights.²¹⁰ The Inter-American Court took into consideration a government's duty "in time of war, public danger, or other emergency that threatens the independence or security of a State Party."²¹¹ The Inter-American Court explained that "Article 25(1) incorporates the principle recognized in the international law of human rights of the effectiveness of the procedural instruments or means designed to guarantee such rights."²¹²

Indeed, looking back at the *Loayza-Tamayo Case*, we find that the situation deteriorated further when Miss Tamayo was "transferred to the Penitentiary's maximum-danger pavilion, . . ." while being "held in continuous solitary confinement, . . ." a fact that the Inter-American Court declared "an arbitrary and unlawful deterioration in detention conditions, thereby violating, among other instruments, the American Convention on Human Rights and the Standard Minimum Rules for the Treatment of Prisoners."²¹³ As the Inter-American Court has already pointed out, according to the American Convention, governments "have an obligation to provide effective judicial remedies to victims of human rights violations"²¹⁴ A purported judicial remedy that proves to be

²⁰⁸ See American Convention, *supra* note 189.

²⁰⁹ See *Judicial Guarantees in States of Emergency*, *supra* note 192.

²¹⁰ *Id.* ¶¶ 1-2.

²¹¹ *Id.* ¶ 2 (internal quotation marks omitted).

²¹² *Id.* ¶ 24.

²¹³ *Tamayo v. Peru*, Order of the President of June 12, 1996, ¶ 4(c), reprinted in 1996 Annual Report of the Inter-Am. Ct. H.R. [115], OEA/Ser.L./V/III.35, doc. 4 (1997), available at <http://www1.umn.edu/humanrts/iachr/Annuaire/app11-96.html>.

²¹⁴ *Godínez-Cruz Case*, 1987 Inter-Am. Ct. H.R. (ser. C) No. 3, ¶ 93 (June 26, 1987), available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_03_ing.pdf.

illusory because of the general conditions prevailing in the country is not an effective remedy, and thus, cannot be used by a government as a defense to detract from terrible human rights violations. Any situation that accepts the denial of justice should be eradicated.

While the American system provides hope for the future with regard to protecting human rights, the European system provides the world with an even greater potential for hope in the form of the European Court of Human Rights. At the heart of its jurisprudence is the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention), signed by members of the Council of Europe.²¹⁵ “In time of war or other public emergency threatening the life of the nation,” article 15 of the European Convention allows signatories to “take measures derogating from its obligations under [the] Convention”²¹⁶ Analogous to the ICCPR, article 15 enumerates rights that may not be derogated.²¹⁷

The *Greek Case*, provides an example of a government that derogated from its obligations under the European Convention. In April 1967, Greece’s new military government declared martial law, imprisoned citizens for their political views, dissolved political parties, and instituted widespread censorship, while suspending civil rights protected under the Greek Constitution.²¹⁸ The Greek government went on to declare a state of siege, which was a derogation from its obligations under the European Convention.²¹⁹ “The coup in the early morning” of April 21, 1967, sent shockwaves across the planet.²²⁰ Soon after the coup, the Greek Parliament was closed, the political parties dissolved,

²¹⁵ European Court of Human Rights, Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 2889.

²¹⁶ *Id.* art. 15(1).

²¹⁷ *See id.* art. 15(2).

²¹⁸ *Id.* at 19-20; see also Council of Europe, European Commission of Human Rights, The Greek Case, Application No.3321/67 - Denmark v. Greece, Application No.3322/67 - NORWAY v. Greece, Application No. 3323/67 - Sweden v. Greece, Application No.3344/67 - Netherlands v. Greece, Report of the Sub-Commission, 1969 Y.B. Eur. Conv. on H.R. 71-72 (Eur. Comm’n on H.R.), ¶¶ 115-19.

²¹⁹ Greek Case, *supra* note 218, at 19.

²²⁰ Thomas Hammarberg, *The Greek Case Became a Defining Lesson for Human Rights Policies in Europe*, COUNCIL OF EUROPE, Apr. 18, 2007, http://www.coe.int/t/commissioner/Viewpoints/070418_en.asp.

and the media came under strict censorship.²²¹ Approximately six thousand “politicians, journalists, and others were taken prisoner,” many of whom were subjected to torture.²²² Fortunately, “[a] coup of this kind could of course not happen in today’s Greece and probably not in any other Council of Europe member state.”²²³

In 1967 the European Commission of Human Rights (European Commission) confronted the issue of whether the Greek government faced a public emergency, thereby permitting derogation from the obligations under the European Convention. Applying a four prong test, the European Commission considered whether the situation was “actual or imminent,” whether it “involved the whole nation,” whether the organized life of the community was threatened, and whether the crisis or danger was exceptional.²²⁴ In conducting a tremendous case analysis, the European Commission examined facts, interviewed witnesses, and considered various articles of the European Convention.²²⁵ The European Commission, in presenting its findings, explained that it could not find, based on the evidence at hand “a scale threatening the organized life of the community.”²²⁶ In the final analysis the European Commission concluded that the Greek government in power was not permitted to derogate from the European Convention because there was no evidence of a public emergency threatening the life of the Greece.²²⁷

The same analysis used by the European Commission can be extrapolated to facts surrounding Earthgov’s declaration of martial law. Under political pressure from the newly appointed, acting President Luchenko, Captain Sheridan resigned his Earthforce commission.²²⁸ The new President offered amnesty for all officers who followed Captain Sheridan, and he was allowed to retire with full honors.²²⁹ He was

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ *Greek Case*, *supra* note 218, at 24.

²²⁵ *Id.* at 72.

²²⁶ *Id.* at 44-103.

²²⁷ *Id.* at 104.

²²⁸ *See Babylon 5: Rising Star* (PTEN television broadcast Oct. 23, 1997).

²²⁹ *See id.*

elected shortly after as President of the newly formed Interstellar Alliance.²³⁰

VI. CONCLUSION

It was an early Earth president, Abraham Lincoln, who best described our situation: The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise to the occasion. We cannot escape history. We will be remembered in spite of ourselves. The fiery trial through which we pass will light us down in honor or dishonor, to the last generation. We shall nobly save, or meanly lose, our last best hope of Earth.²³¹

The preceding assessment of international human rights law issues seen in *Babylon 5* teaches us that declaring a state of emergency, and the problems that such action brings, provides striking similarities to present day situations. The *sine qua non* of any society is the protection of the human person. *Babylon 5* illustrates how a lack of respect for international human rights law, particularly civil and political rights, impacted Earthgov's domestic policies.²³² Earthdome pretended to observe a *rights system*, but it refused to permit this system to improve the rights of Earth's citizens.²³³ Human rights law in all its forms represents a call that we all must answer. While the logic behind the repressive actions of a government may motivate the *legality* to suspend protection of civil and political rights, international human rights law steps in to compensate. There will always be those willing to sacrifice life and liberty in order to promote dangerous, indeed, deadly agendas.

²³⁰ See *id.*

²³¹ See *Babylon 5: Points of Departure*, *supra* note 33 (Captain Sheridan made his first speech to his new crew on *Babylon 5*.) (quoting Abraham Lincoln's Annual Message to Congress on December 1, 1862, in ABRAHAM LINCOLN, COLLECTED WORKS OF ABRAHAM LINCOLN VOLUME 5 (University of Michigan Digital Library Production Services) (2001), available at <http://name.umdl.umich.edu/lincoln5>) (internal quotation marks omitted).

²³² See, e.g., *Babylon 5: The Fall of Night*, *supra* note 34 (requiring members of Nightwatch to report civilians for criticizing Earthgov's policies).

²³³ See, e.g., *id.* (allowing Earthgov's policies to severely limit the freedom of its citizens, particularly in restricting freedom of speech).

The messages of Babylon 5 call for the protection of humanity. Some television shows become memorable not just because of their popularity, but because their popularity is based on positive messages that have a great utility for our present legal education. Joseph demonstrated that a show like Babylon 5 could make us consider our own existence, while asking about a future and a direction for our society.²³⁴ Due to the great popularity of the series, and because of its clear presentation of legal issues, Babylon 5 can be an effective tool for teaching international human rights law. What Straczynski envisioned, and what Joseph understood in 1992, is now an avenue that can help us realize all nations draw inspiration from the cultural development of humanity. The Babylon 5 story encompasses the best of cultural development. It is a story that endures!

²³⁴ See *Joseph, supra* note 3 (discussing the relevance of *Star Trek* in legal education).