

Articles

The Right to Read

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Reading—for education and for pleasure—may be framed as a personal indulgence, a moral virtue, or even a civic duty. What are the implications of framing reading as a human right?

Although novel, a rights-based framing finds strong support in international human rights law. The right to read need not be defended as a “new” human right. Rather, it can be located at the intersection of more familiar guarantees. Well-established rights to education, science, culture, and freedom of expression, among others, provide the necessary normative support for recognizing a universal right to read as already implicit in international law.

This article argues that reading should be understood

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as a universal human right. Once recognized in principle, it remains necessary to translate the right to read from a vague ideal into concrete content. As a starting point, the right to read requires that every person be entitled to education for literacy and the liberty to freely choose the reading material they prefer. Less obviously, but crucially, the right to read also means that everyone must have access to an adequate supply of reading material. Law and policy must be designed to ensure that books, ebooks, and other reading material are made widely available and affordable—even to the poor and to speakers of minority languages. Reframing reading as a human right also points to a reorientation of copyright law, and obligations upon publishers and technology companies to facilitate access for readers of all income levels and in every language. Even in legal jurisdictions where international human rights law is not self-executing, the normative framework of a right to read can help to guide legislative reforms and private-sector initiatives.

A conceptual elaboration of the right to read also holds broader lessons for human rights theorists and advocates. The right to read may be seen as an example of a broader trend toward “intersectional” human rights. Far from undermining traditional human rights guarantees, as proponents of the dilution theory contend, intersectional approaches to human rights theory and practice hold particular promise to help transform rights from rhetoric into reality.

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INTRODUCTION

In 1969, President Nixon’s education commissioner called for a national campaign to realize “the right to read” for all Americans. Speaking to an audience of state education policymakers, he challenged:

Imagine, if you can, what your life would be like if you could not read . . . if for you the door to the whole world of knowledge and inspiration available through the printed word had never opened. For more than a quarter of our population this is true These individuals have been denied a right—a right as fundamental as the right to life, liberty, and the pursuit of happiness—the right to read.¹

1. James E. Allen, Jr., U.S. Comm’r of Educ., *The Right to Read—Target for the Seventies*, Speech at the 1969 Annual Convention of the National Association of State Boards of Education (Sept. 23, 1969), in *RIGHT TO READ COMMITTEES OF THE AMERICAN ASSOCIATION OF SCHOOL LIBRARIANS, CHILDREN SERVICES DIVISION, PUBLIC LIBRARY ASSOCIATION, THE RIGHT TO READ AND THE NATION’S LIBRARIES 1–3* (1974) [hereinafter *THE RIGHT TO READ AND THE NATION’S LIBRARIES*]. This edited volume collects articles describing a large number of projects that had emerged under the Right to Read umbrella, identifying its origins with Allen’s 1969 speech.

Within a month, the U.S. Office of Education announced the National Right to Read Effort.² The initiative had its share of critics, disappointments, and failures.³ Yet the moral appeal of a “right to read” remained, as did policymakers’ embrace of the goal of universal literacy. In 1975, the U.S. Congress approved more than \$300 million to fund the Right to Read effort.⁴

This invocation of a “rights” frame for efforts to promote reading could be seen as purely a rhetorical flourish, not intended to acknowledge or establish any legally cognizable entitlements. The historical context, however, suggests a more nuanced view. As the United States was pursuing its Right to Read Effort, the international community was finalizing the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR established a binding legal obligation to respect, protect, promote, and fulfill the rights of everyone to education and to participation in cultural life.⁵ The domestic push to realize the “Right to Read” for all Americans was therefore a natural corollary to the international trend emphasizing universal entitlements to education and cultural participation.

In this article, I seek to outline a conceptual framework for understanding reading not merely as a virtuous activity generally to be promoted by public policy, but as a legally protected human right. As a starting point, this means that every person has the right to education for literacy and the right to freely choose the reading material they prefer. Less obviously, I argue that the right to read also means

2. THE RIGHT TO READ AND THE NATION’S LIBRARIES, *supra* note 1, at 5.

3. See THE RIGHT TO READ AND THE NATION’S LIBRARIES, *supra* note 1, at v–vi (“Right to Read has not operated without criticism—in some cases amounting to downright attack. . . . We hope to give a guide to a large number of [projects that have come under the Right to Read umbrella], some successful, some not so successful.”).

4. National Reading Improvement Program, Pub. L. No. 93-380, §§ 701–33 (1974) (codified as amended in scattered sections of 20 U.S.C. (1975)); see also U.S. DEP’T OF HEALTH, EDUC. & WELFARE, OFFICE OF EDUC., ANNUAL REPORT: THE RIGHT TO READ—FISCAL YEAR 1976, at iii, 1–3 (Aug. 1976) (explaining the funding and organization of the National Right to Read Effort).

5. G.A. Res. 2200A (XXI), annex, art. 15, International Covenant on Economic, Social and Cultural Rights (Dec. 16, 1966) [hereinafter ICESCR]. The ICESCR was finalized and opened for signatures in 1966, finally gathering enough signatories to come into force in January 1976. President Carter signed the treaty during his first year in office, in October 1977, but the U.S. Congress never ratified it; the treaty is thus not legally binding on the United States. ICESCR Article 13 enshrines the right to education; Article 15(1)(a) the right to cultural participation. For greater background on the right to take part in cultural life, see generally Lea Shaver, *The Right to Science and Culture*, 2010 WIS. L. REV. 121 (2010); Lea Shaver & Caterina Sganga, *The Right to Take Part in Cultural Life: On Copyright and Human Rights*, 27 WIS. INT’L L.J. 637 (2010).

that every individual must enjoy access to an adequate supply of reading material for both learning and pleasure. This means, in turn, that governments have a duty to create a legal and policy environment ensuring that reading material will be widely available and affordable—even to the poor and even to speakers of those languages that tend to be neglected by the for-profit publishing industry.⁶ The right to read thus has characteristics of both negative rights as well as positive rights—it implicates both liberty interests and social welfare entitlements. This makes it similar in some ways to the right to health care or the right to education, both of which can be realized only through government involvement. Similarly, situating reading as a human right is precisely to insist that it must not be left entirely to market forces. Rather, legal and policy measures are required to bring reading opportunities within reach of all people. The right to read is satisfied when every individual is empowered to engage with an ample selection of texts on the topics of interest to them, in their language of choice.

There is currently no international human rights treaty or interpretative document that uses the phrase “the right to read.” Yet neither would it be correct to view the project of this article as the invention of a *new* human right. Instead, the right to read is better understood as a more specific application or interpretation of broader rights already recognized in international human rights law. These more generic human rights include: freedom of expression, the right to education, minority rights, the right to science and culture, and children’s media rights. I suggest that the right to read is already implicit at the intersection of these well-established human rights, awaiting recognition and fuller theoretical development. Part I of this article therefore begins by exploring how each of these well-recognized human rights principles should inform an understanding of the right to read, and conversely, how a theorization of the right to read can inform the interpretation of these broader human rights claims.

Part II builds upon that textual foundation to begin to define the scope of the right to read. I conceptualize the right to read as having three distinct dimensions: liberty, capacity, and availability. *Liberty* refers to whether individuals are free to read without government interference, such as censorship. *Capacity* refers to literacy skills, and implies a government duty to provide adequate education-

6. For a further discussion of these challenges and possible solutions, see Lea Shaver, *Copyright and Inequality*, 92 WASH. U. L. REV. 117 (2014) (exploring how copyright law drives up the price of books and fails to incentivize publishing in languages spoken primarily by poor people).

al opportunities to all people. *Availability* refers to whether all individuals can effectively access reading materials that suit their needs and preferences, including dimensions of affordability and language. The right to read is not effectively enjoyed by a person who cannot afford to buy books, or has no access to the Internet, or if the available reading material is in a language that he or she does not understand.

Both the liberty and capacity dimensions of the right to read are relatively familiar. The challenges of protecting civil liberties and promoting literacy are already well understood. The availability dimension of the right to read, however, is much less well understood as a problem of public policy. My emphasis on the availability dimension is also more likely to be controversial as a normative matter. Yet I argue that this dimension of the right is also the most urgent to recognize and promote, precisely because its importance is so underappreciated.

Identifying the availability of reading materials as a key barrier to reading may strike many readers as counterintuitive. If you have come across this article, it is likely that your life experience involves ready access to a much greater quantity of reading material than you could ever hope to process in a lifetime. Most of the world's population, however, does not enjoy this luxury. In many parts of the world, books (including ebooks) remain scarce, expensive, and difficult to obtain. Sixty percent of the world's population has no access to the Internet.⁷ Language barriers pose an additional problem. As an English speaker, you enjoy access to the largest body of literature in the world, both in print and online.⁸ Yet most of the world's population is not fluent in English, nor the other major languages of international publishing such as Spanish or French. Making reading material available in a broader set of languages is both particularly challenging and particularly important.⁹

These problems of book scarcity and unequal access to reading material—along linguistic, geographic, and financial dimensions—have not yet received sufficient attention as a matter of law or

7. INT'L TELECOMMS. UNION, MEASURING THE INFORMATION SOCIETY 11 (2014), <http://www.itu.int/en/ITU-D/Statistics/Pages/publications/default.aspx>.

8. See ETHAN ZUCKERMAN, REWIRE: DIGITAL COSMOPOLITANS IN THE AGE OF CONNECTION 135–40 (2013) (casting doubt on the much-cited statistic that seventy percent of the Internet's content is in English, pointing out that non-English content is rising rapidly, especially within social media websites, but noting that English still holds a privileged place within Internet content).

9. See *id.* at 139–40 (offering an anecdote of one online organization's efforts to address language barriers to reach a global readership).

policy.¹⁰ It is here that the notion of a right to read may prove most helpful, by focusing attention on the urgent problem of availability and possible solutions. Fleshing out the availability dimension of the right to read is therefore a central task of Part II.

Finally, Part III explores several objections to and implications of recognizing a right to read along the lines proposed here. Is it wise to invoke the rhetoric and institutional structure of human rights law to promote opportunities to read? Do claims of a right to read constitute an example of “rights proliferation” that must be guarded against? Or can the right to read serve as a model for claiming and realizing other neglected human rights? Is the promotion of reading merely a desirable public policy goal that should not be confused with fundamental human rights? Does the right extend only to material directly useful for education and learning, or also to fiction and poetry, both high-brow and low-brow? What specific obligations would recognition of a right to read impose upon governments, in terms of policy efforts to promote the right? What human rights obligations are imposed upon corporations, such as publishers, by the right to read? How could these obligations be implemented, in the United States and in other countries? These are the sorts of questions and debates addressed in Part III of this article. The article then briefly concludes.

Before proceeding along the lines thus mapped out, I want to also highlight three important themes that will recur throughout this discussion. These are touchstones of my approach to conceptualizing the “right to read,” which deserve some early clarification and emphasis. They include points about linguistic diversity, comparative perspectives, and the meaning of human rights as legal principles.

First, a central contribution of this article is to highlight the fact of linguistic diversity as a central challenge that human rights advocacy must reckon with. English enjoys an exceptionally privileged place today as the preeminent global language of international communication and commerce. Only eight or nine languages in the world have more than 100 million speakers.¹¹ A substantial portion

10. Shaver, *supra* note 6, at 166–68 (noting that book policy has largely overlooked problems of affordability and linguistic barriers and arguing that the “inequality insight” needs to inform copyright scholarship).

11. Languages with at least 100 million speakers include (in descending order by population): Mandarin, Spanish, English, Bengali, Hindi, Portuguese, Russian, and Japanese. Arabic also makes the list if all varieties of Arabic are combined. Lenore Grenoble, *Endangered Languages*, in *THE ENCYCLOPEDIA OF LANGUAGES AND LINGUISTICS* 137, 138 (2nd ed. 2006), <http://www.mersindilbilim.info/wp-content/uploads/2011/09/Endangered-Languages.pdf>.

of the world's population is fluent only in what I term a "local language" such as Estonian, Malay, Quechua, Tagalog, or Zulu. Collectively there are thousands of these local languages: each used by millions of speakers within one or a handful of countries. For a variety of reasons, publishing in such local languages is dramatically more limited. As a result, speakers of local languages suffer a significant handicap when it comes to the availability of reading material.¹² For many people, actually exercising the right to read would require acquiring fluency in a new language more favored by global publishing dynamics. For much of the world's population, however, limited educational opportunities make such fluency an impossible dream. In short, language is a critical pathway to realizing the rights to educational, cultural, and political participation. If "the right to read" is to be meaningful, we must approach the challenge as one of realizing the right to read in every language. Moreover, even if every single Estonian speaker becomes fluent in English, there remains a cultural value to the development and enjoyment of Estonian literature.

Second, throughout this article I approach the "right to read" from a comparative perspective, considering the different challenges faced by countries with a diversity of economic and social realities. Many of the examples and topics I discuss are drawn from my own national context of the United States. But I also draw on and speak to the very different perspectives and experiences of other countries, particularly the developing countries of the global South. The challenges involved in realizing the right to read have both similarities and differences in the context of wealthier or poorer nations. The challenges are also different depending on the linguistic context of a particular country. In some nations, a majority of the population is born into homes that speak a language in wide international use, such as English in the United States or Spanish in most Latin American countries. In other parts of the world, most people acquire an international language as a second tongue, if at all. This is the case, for example, across Africa, where most families speak an African language at home, but most schooling and publishing takes place in European languages. Thus, although the right to read is a universal entitlement, successful approaches to realizing it will need to take different forms in different countries because of differing challenges and resources. This article draws on these diverse national contexts and challenges to provide a deeper and more nuanced understanding

12. A more extended discussion of this problem is provided in an earlier article of mine. See Lea Shaver, *Defining and Measuring A2K: A Blueprint for an Index of Access to Knowledge*, 4 I/S: J.L. & POL'Y. FOR INFO. SOC'Y 235, 251–53 (2008); see also Shaver, *Copyright and Inequality*, *supra* note 6.

of the right to read in a comparative perspective.

Third and finally, I wish to clarify a point about human rights generally and the right to read specifically. The so-called “second-generation” human rights—including the economic, social, and cultural rights such as the right to education or the right to read—are particularly unfamiliar and often confusing to American legal audiences. Americans are accustomed to thinking of rights claims as near-absolutes. For example, once an American court accepts the argument that a certain law limits the right to freedom of speech, it almost always proceeds to declare that law unconstitutional. In contrast, a legal opinion that upholds a law usually explains that the right allegedly at stake does not actually exist in that context. Thus we may see U.S. legal opinions stating that minors have no free speech rights to receive information deemed objectionable by their parents, or that there is no free speech interest in communicating deceptive advertising. The prevailing approach in modern U.S. constitutional law is to define rights narrowly, and nearly absolutely. The international human rights tradition takes an entirely different approach. Within this approach, adopted by the constitutional traditions of many countries, rights are purposefully defined much more broadly than in the U.S. Constitution, in order not to overlook any important values. But these rights are not absolutes. Thus, a right to education is recognized, but it does not mean that everyone is entitled to have the state subsidize his or her pursuit of a Ph.D. What exactly the right to education does mean is a more complex question, around which there will be significant debate but also some basic consensus. Issues of cost, and the need to take competing rights claims into consideration, are both relevant to determining these boundaries. So when I argue for the recognition of a right to read, I am not seeking to invoke a human rights “trump card” in a legal or policy debate. Rather, I seek the recognition that there are important human rights interests at stake regarding reading, which merit particular care in policymaking and judicial treatment. Within the framework of international human rights law, this is all taken for granted. The task of elaborating the law is understood as, in the first place, understanding when and where human rights are at stake so they can be given due consideration, and in the second place, determining exactly how far they should be interpreted to extend in concrete circumstances. This article seeks to advance along both lines, in the full understanding that establishing the existence of a universal human right to read is the beginning, not the end, of the legal and policy debate.

I. RELEVANT HUMAN RIGHTS PROVISIONS

Certainly, the argument from international human rights law is not the only way to frame calls to promote reading. Such arguments can also be made persuasively from more general notions of virtuous citizenship, distributive justice, equality of opportunity, participatory culture, social welfare, or even economic efficiency. There are, however, particular advantages to invoking international human rights law alongside these other normative frames. The rights framework can bring greater attention to problems of inequality and exclusion, because it insists not only on broadly maximizing utility, but ensuring that every individual receives their due, including the most marginalized and vulnerable. The human rights frame also offers a *legal* route to challenge government actions and inactions. This second point has less import in the United States, where international human rights law holds relatively little recognition or impact in our domestic legal order (although even here, the rhetorical frame of a universal right can shift political and legal discourse in powerful ways, with important results). In many other countries, however, international human rights norms are incorporated into the domestic constitutional order and strongly influence domestic political discourses.¹³ Thus, being able to make an argument from the standpoint of human rights *law*—rather than simply from arguments of justice or good public policy—opens up avenues for advocacy in the courts and provides a powerful frame for domestic policy debates. Finally, the human rights framework opens up new avenues for advocacy in international human rights fora and institutions.

Utilizing the human rights framework does not necessarily mean, however, that we must attempt to add the right to read to the list of rights recognized in the Universal Declaration of Human Rights (UDHR). Instead, the right to read can be justified as an application or extension of these well-established human rights. Philosophers, lawyers, and activists use the term “rights” to refer to a diverse range of claims that vary greatly in their degree of generality or specificity.¹⁴ Some scholars have used terms such as “generic rights”

13. See, e.g., John Dugard, *International Law and the South African Constitution*, 1 EUR. J. INT'L L. 77, 84–86 (1997), <http://www.ejil.org/pdfs/8/1/1426.pdf> (describing how South Africa's post-apartheid constitution reflects, and is interpreted in light of, international human rights law including both civil/political and socioeconomic rights guarantees). See generally CHRISTOPH H. HEYNS & FRANS VILJOEN, *THE IMPACT OF THE UNITED NATIONS HUMAN RIGHTS TREATIES ON THE DOMESTIC LEVEL* (2002) (offering descriptive accounts of the extent to which international human rights law has been integrated into domestic legal practice in twenty selected countries, including South Africa).

14. See JAMES NICKEL, *MAKING SENSE OF HUMAN RIGHTS* 4 (1987) (distinguishing

or “abstract rights” to refer to the grand principles inscribed in the international human rights treaties and most national constitutions. The right to freedom of expression is an example of a broad generic right. The right to read, on the other hand, should be understood as a more specific articulation or application of rights already recognized in international law.

Two examples will help to clarify this point about generic and specific rights. American judges have interpreted the constitutional right to freedom of speech to require that a public school student may not be punished for wearing a political armband.¹⁵ In this example, freedom of expression is the generic right. The right of minors to engage in non-disruptive political advocacy while on school grounds is a specific right implied by the more generic one. A second example can help to illustrate the point that generic and specific rights are not necessarily a neat dichotomy, but rather two poles on a spectrum that may have many intermediate points. India’s constitution recognizes a right to life, which advocacy groups have used as the generic point of entry to secure judicial attention to the widespread problem of hunger. Constitutional court decisions have subsequently vindicated a right to food, which frames school feedings and other hunger relief efforts as constitutional entitlements.¹⁶ In this example, the right to life sits at the highest level of abstraction. The right to food occupies an intermediate status, and the right of children to be fed during the school day is the most specific right on this spectrum.

This concept of a spectrum of rights ranging from the most general or abstract to the most specific is particularly helpful for placing the right to read in proper context. The “right to read” is best understood as a specification of broader human rights principles enshrined in the UDHR and later binding covenants.¹⁷ These general

Locke’s “generic rights” to life, liberty, and property and the Universal Declaration’s list of “specific rights,” including life, liberty, security of the person; freedom from discrimination; freedom of religion; freedom of thought and expression; freedom of assembly and association; freedom from torture and cruel punishments; freedom from arbitrary arrest; the right to equality; to a fair trial; to protections of privacy; to freedom of movement; to marry and found a family; to freedom from forced marriage; to education; to the availability of a job; to unionize; to an adequate standard of living; to social security; to education; to health care; etc.); *see also id.* at 19–20 (suggesting that rights—a term here used more broadly than human rights to include, for example, contractual rights—may be conceptualized along a spectrum of specificity).

15. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

16. *Kishen Pattanayak & Another v. State of Orissa*, (1989) 1 SCR 57 (India); *People’s Union for Civil Liberties (PUCL) v. Union of India and Others*, (2006) 10 SCR 907.

17. G.A. Res. 217 (III) A, art. 27, Universal Declaration of Human Rights (Dec. 10, 1948) [hereinafter UDHR].

rights include: freedom of expression, the right to education, children's media rights, minority rights, and the right to science and culture. The effort to draw attention to and secure the right to read can therefore be analogized to recent efforts to claim and define the right to water,¹⁸ the right to a safe environment,¹⁹ and the right to credit.²⁰ Certainly, thoughtful people have objected to these initiatives' use of the human rights framework and terminology. Water, the environment, and credit are not addressed in the major human rights documents. Some human rights advocates and theorists are concerned that expanding the list of human rights will dilute or undermine safeguards for truly fundamental norms.²¹ This potential objection to the recognition of a right to read will be discussed in Part III. For now, it is important only to appreciate that it is possible—with ample precedent—to argue for the existence of human rights that are not already enumerated in the major documents, without needing to revise the text of major international human rights documents to insert them.

Drawing on established principles of international human rights law, therefore, it may be seen that implicit in these norms is a universal human right to read, and to do so in one's preferred language. Some of the textually recognized human rights discussed below—including freedom of expression and the right to education—

18. See, e.g., Peter H. Gleick, *The Human Right to Water*, 1 WATER POL'Y 487 (1998), <https://stuff.mit.edu/afs/athena/course/12/12.000/www/m2017/pdfs/huright.pdf>; M.A. SALMAN & SIOBHÁN MCINERNEY-LANKFORD, *THE HUMAN RIGHT TO WATER: LEGAL AND POLICY DIMENSIONS* (2004), <https://openknowledge.worldbank.org/handle/10986/14893>; Erik B. Bluemel, *The Implications of Formulating a Human Right to Water*, 31 ECOLOGY L.Q. 957 (2005); G.A. Res. 64/292 (July 28, 2010); U.N. SPECIAL RAPPORTEUR ON THE HUMAN RIGHT TO SAFE DRINKING WATER AND SANITATION, *REALISING THE HUMAN RIGHTS TO WATER AND SANITATION: A HANDBOOK BY THE SPECIAL RAPPORTEUR CATARINA DE ALBUQUERQUE* (2014), http://www.ohchr.org/Documents/Issues/Water/Handbook/Book1_intro_.pdf.

19. See generally ALAN E. BOYLE & MICHAEL R. ANDERSON, *HUMAN RIGHTS APPROACHES TO ENVIRONMENTAL PROTECTION* (1998); Dinah Shelton, *Human Rights, Environmental Rights, and the Right to Environment*, 28 STAN. J. INT'L L. 103 (1991); U.N. Conference on the Human Environment, *Stockholm Declaration on the Human Environment*, U.N. Doc. A/CONF.157/23 (June 16, 1972); U.N. Conference on Environment and Development, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26/Rev.1 (Vol. 1), annex I (Aug. 12, 1992).

20. See generally Oksan Bayulgen, *Giving Credit Where Credit Is Due: Can Access to Credit Be Justified as a New Economic Right?*, 12 J. HUMAN RTS. 491 (2013) (analyzing the debate over whether or not access to credit should be recognized as a new, "emergent" human right).

21. See generally CARL WELLMAN, *THE PROLIFERATION OF RIGHTS: MORAL PROGRESS OR EMPTY RHETORIC?* (1999); Philip Alston, *Conjuring up New Human Rights: A Proposal for Quality Control*, 78 AM. J. INT'L L. 607 (1984).

are already well theorized. Others—including children’s media rights, the right to science and culture, and minority rights—remain at an earlier stage of theorization. For these relatively under-theorized generic rights, the project of developing an understanding of the more specific right to read can also help to advance the larger project of theorizing the broader generic right. Within this process, a specific focus on reading as a subset of educational and cultural issues helps to narrow the task, providing one particular perspective or theme from which to approach and develop the normative content of the broader rights claims.

A. *The Right to Education*

The right to read is closely related to the right to education, which was first recognized at the international level in the 1948 UDHR.²² It was later given binding legal status through the 1966 ICESCR.²³ The right to education is further enshrined in the Convention on the Rights of the Child (Children’s Convention).²⁴ These three most noteworthy agreements are just the beginning of international legal instruments recognizing and reinforcing the right to education.²⁵

Internationally, the right to education is understood as implying both a negative claim against state interference with private educational efforts,²⁶ and a positive claim on state resources and initiatives to make education accessible to all, regardless of family income.²⁷ The right to education has specifically been interpreted to include a minimum obligation on all countries, no matter their level of development or available resources, to achieve universal and free

22. UDHR, *supra* note 17, at art. 26.

23. ICESCR, *supra* note 5, at arts. 13–14.

24. G.A. Res. 44/25, annex, Convention on the Rights of the Child (Sept. 2, 1990).

25. For further detail on additional international, regional, and specialized instruments recognizing and reinforcing the right to education as a human right, see generally KLAUS DIETER BEITER, *THE PROTECTION OF THE RIGHT TO EDUCATION BY INTERNATIONAL LAW: INCLUDING A SYSTEMATIC ANALYSIS OF ARTICLE 13 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS* 85–314 (2006). The right to education is further recognized in the national constitutions of many countries.

26. Comm. on Econ., Soc. and Cultural Rights, General Comment 13, *The Right to Education*, U.N. Doc. E/C.12/1999/10 (1999), *reprinted in* *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6, ¶¶ 28–30, 48, 50, 59 (2003) [hereinafter *General Comment 13*].

27. General Comment 13, *supra* note 26, ¶¶ 6, 25–27, 48, 50, 51, 57; *see also* KATARINA TOMASEVSKI, *EDUCATION DENIED: COSTS AND REMEDIES* 53 (2003).

primary education, including basic literacy.²⁸ It also entails an obligation on states to progressively make more advanced educational opportunities available to all without discrimination.²⁹ The concept of progressive realization recognizes that implementing the right to education is an expensive task, and that states must do what they can with available resources, while aiming toward ever-greater expansion as their economies grow and their educational institutions gain experience and strength.

The right to education has been described as an “empowerment right” in the sense that, although not necessary for basic human survival, it is an essential enabler of a wide range of other human rights.³⁰ The U.N. Committee on Economic, Social and Cultural Rights has issued an authoritative interpretation of the right to education, which begins by emphasizing its dual nature as having both intrinsic and utilitarian value:

Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.³¹

Under the various international treaties, the right to education is understood primarily in terms of formal education occurring within institutions. The right is also understood as particularly, though not

28. Committee on Economic, Social and Cultural Rights, General Comment 11, Plans of Action for Primary Education, U.N. Doc. E/C.12/1999/4 (1999), *reprinted in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 59 (2003); *see also* General Comment 13, *supra* note 26, ¶ 6(b).

29. General Comment 13, *supra* note 26, ¶¶ 6(b), 31–37.

30. *See* Jack Donnelly and Rhonda Howard, *Assessing National Human Rights Performance: A Theoretical Framework*, 10 HUM. RTS. Q. 214 (1988) (proposing a theoretical framework of “survival rights,” “membership rights,” “protection rights,” and “empowerment rights”); *see also* BEITER, *supra* note 25, at 28–30 (discussing the right to education as an empowerment right); Fons Coomans, *Content and Scope of the Right to Education as a Human Right and Obstacles to Its Realization*, in HUMAN RIGHTS IN EDUCATION, SCIENCE AND CULTURE: LEGAL DEVELOPMENTS AND CHALLENGES 183, 185–86 (Yvonne Donders & Vladimir Volodin eds., 2007) (examining the right to education as an “empowerment” and “key” right); General Comment 13, *supra* note 26, ¶ 1.

31. General Comment 13, *supra* note 26, ¶ 1.

exclusively, relevant to children and youth. Yet the treaty language also points to a broader concept of lifelong education by prioritizing “the full development of the human personality” as the central aim of education.³² This is consistent with the general emphasis of human rights on the promotion of dignity and development as a touchstone concept.³³ It is also consistent with the concept of education as an empowering force throughout a person’s life. Education cannot fully serve these aims if it ends with childhood. Ensuring opportunities for adults and children to read for continued learning beyond the classroom can plausibly be understood as part of the right to education. This would, however, be an extension of the right to education concept beyond its traditional use.

Domestically, the United States differs from Europe and many other countries by not recognizing education in its national constitution. Many state constitutions, however, do specifically mention education. Typically this is done through language that emphasizes the state’s duty to provide for a system of free schooling.³⁴ Some state courts have interpreted these provisions to require state schools to meet minimum levels of adequacy for all students, while other state courts have treated this constitutional language as not requiring any specific standard of delivery.³⁵

The right to education offers particularly strong support for the right to read as it relates to accessing textbooks and other explicitly educational materials. It would be a mistake, however, to cabin the right to read quite so narrowly. Children’s literature plays an important role in literacy development, and one of the aims of education is to develop young peoples’ appetites to read for learning and for pleasure beyond the required curriculum. Taking a more expansive view of education as continuing across the lifetime, nonfiction works geared to adults also have particular value. Martha Nussbaum also

32. UDHR, *supra* note 17, at art. 26; ICESCR, *supra* note 5, at art. 13(1); Convention on the Rights of the Child, *supra* note 24, at art. 29(1)(a); General Comment 13, *supra* note 26, ¶ 4.

33. The Universal Declaration makes several references to development of the human personality as a central aim of human rights, particularly the socio-economic guarantees. See UDHR, *supra* note 17, at art. 22 (“Everyone . . . is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”) (emphasis added); *id.* at art. 26, ¶ 2 (“Education shall be directed to the full development of the human personality”); *id.* at art. 29, ¶ 1 (“Everyone has duties to the community in which alone the free and full development of his personality is possible.”).

34. See, e.g., MICH. CONST. art. VIII, § 2.

35. See *infra* discussion for further discussion.

persuasively makes the case that fictional literature and especially novels have a unique role to play in the development of capacities for ethical judgment, empathy, and global citizenship.³⁶ The academic scholarship whose production plays a central role in higher education can also be considered as an aspect that is closely grounded in the right to education.

B. Children's Media Rights

The most specific support for the right to read may be found in the Children's Convention. The Children's Convention is an example of a more recent trend in international human rights treaty-making, in which treaties focused on a particular group of rights-bearers have been elaborated. These have included, for example, conventions on the rights of women, indigenous groups, and disabled persons. These treaties predominantly reiterate those rights previously recognized in the foundational human rights texts. Yet they also advance some innovations, especially on themes of particular concern to the specific group of rights-bearers. Thus, the Children's Convention contains provisions recognizing the rights of children to freedom of expression,³⁷ to healthcare,³⁸ and to education.³⁹ It also has several provisions that do not have direct corollaries in the UDHR or the International Covenants, including the right of the disabled child to special care,⁴⁰ and the right to protection from domestic violence.⁴¹

One of these innovative provisions specifically addresses the availability of children's literature and other children's media. Article 17 commits States Parties to encourage the appropriate development of mass media to support the developmental needs of all children.⁴² The drafting origins of this Article help to explain its unique appearance in the Children's Convention. The earliest working draft had identified mass media as a potential source of "harmful influ-

36. See generally MARTHA C. NUSSBAUM, *CULTIVATING HUMANITY: A CLASSICAL DEFENSE OF REFORM IN LIBERAL EDUCATION* (1997); MARTHA C. NUSSBAUM, *POETIC JUSTICE: THE LITERARY IMAGINATION AND PUBLIC LIFE* (1995).

37. Convention on the Rights of the Child, *supra* note 24, at art. 13; see also *id.* at arts. 14–15.

38. *Id.* at art. 24.

39. *Id.* at arts. 28–29.

40. *Id.* at art. 23.

41. *Id.* at art. 19.

42. *Id.* at art. 17.

ence” on the child’s “mental and moral development,” from which children must be protected.⁴³ During the discussion, controversy arose over the tension between child protection and freedom of expression, and also the relative roles of parents and the state in achieving this protection.⁴⁴ A few voices also called for the provision to be redrafted to emphasize the positive role of media rather than the potential for harm.⁴⁵ This suggestion prompted the dramatically different language ultimately adopted, which emphasizes children’s rights of access to media rather than protection from it.⁴⁶

The format of Article 17 is also somewhat unconventional, in that it does not use the term “right” to articulate a normative claim to some liberty or entitlement. Instead, the provision defines a corresponding state duty. States signing onto the Convention “shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual, and moral well-being and physical and mental health.”⁴⁷ The provision also explicitly emphasizes the importance of international cooperation and providing media in minority and indigenous languages.⁴⁸ At the time these debates were taking place, “media” was understood to refer primarily to broadcast television, radio, and newspapers.⁴⁹ At a late stage in the debate, however, specific language was inserted committing states to “[e]ncourage the production and distribution of children’s books,” at the suggestion of a non-profit organization, the International Board

43. Basic working text as adopted by the 1980 Working Group at 4, U.N. Doc. E/CN.4/1349, *reprinted in* THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: A GUIDE TO THE “TRAVAUX PRÉPARATOIRES” 278 (Sharon Detrick ed., 1992) [hereinafter DETRICK, GUIDE].

44. SHARON DETRICK, A COMMENTARY ON THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD 285 (1999) [hereinafter DETRICK, COMMENTARY]; Considerations 1981 Working Group, ¶¶ 119–23, U.N. Doc. E/CN.4/L.1575, *reprinted in* DETRICK, GUIDE, *supra* note 43, at 279; Considerations 1982 Working Group, ¶¶ 34–41, U.N. Doc. E/1982/12/Add.1, C, *reprinted in* DETRICK, GUIDE, *supra* note 43, at 280–81.

45. Considerations 1982 Working Group, ¶¶ 34–41, U.N. Doc. E/1982/12/Add.1, C, *reprinted in* DETRICK, GUIDE, *supra* note 43, at 280–81.

46. See DETRICK, COMMENTARY, *supra* note 44, at 285–87; Proposals Submitted but not considered by the 1983 Working Group, U.N. Doc E/CN.4/1983/62, annex II, Proposal of the Baha’i International Community, *reprinted in* DETRICK, GUIDE, *supra* note 43, at 281–82; Considerations 1984 Working Group, ¶¶ 51–56, U.N. Doc. E/CN.4/1984/71, *reprinted in* DETRICK, GUIDE, *supra* note 43, at 282–83.

47. Convention on the Rights of the Child, *supra* note 24, at art. 17.

48. *Id.*

49. SHERRY WHEATLEY SACINO, ARTICLE 17: ACCESS TO A DIVERSITY OF MASS MEDIA SOURCES 1 (2012).

on Books for Young People.⁵⁰

This duty upon states to encourage the production and dissemination of children's literature might be characterized as "rather weak in nature, considering the use of the term 'encourage.'"⁵¹ The provision as a whole, however, embraces a "stronger obligation of States parties to 'ensure that the child has access to'" information and cultural materials.⁵² The obligation "to ensure" could therefore require a state to intervene more directly where mere encouragement of private actors fails to produce the intended result.⁵³ This emphasis distinguishes children's media rights from freedom of expression; the media rights formulation uniquely emphasizes the state's duty to ensure that adolescents and children have access to a diversity of materials to select from.⁵⁴ The U.N. Committee on the Rights of the Child has since offered guidance recommending that states provide budgetary support for the production and dissemination of children's books and other media.⁵⁵ At least one commentator has interpreted the provision as making it possible for courts to identify an implied duty upon states to establish a plan for increasing the availability of children's media, and to make reasonable progress in implementing the plan, as well as "a duty to adopt laws, policies, and programs that will increase the availability of a diversity of mass media sources, whenever young people overall or certain segments of young people lack access."⁵⁶

This duty-centric format is also found elsewhere within the Children's Convention. For example, Article 11 defines specific governmental duties to protect children from international abduction,

50. Convention on the Rights of the Child, *supra* note 24, at art. 17(c).

51. See DETRICK, COMMENTARY, *supra* note 44, at 288; see also SACINO, *supra* note 49, at 27 ("[E]ncourage" is perhaps the least demanding duty in international human rights law [E]ncourage suggests statements of exhortation or inspiration. It would certainly not cover coercive action. And it would be stretching the word to apply it to grants and tax breaks [E]ncourage gives each State tremendous discretion over the concrete measures it will take, and it does not require the State to ensure any particular result comes from the encouragement.").

52. DETRICK, COMMENTARY, *supra* note 44, at 287.

53. SACINO, *supra* note 49, at 32 ("For instance, complying with the first sentence could require a State to . . . order the State's book publishing department to increase production of children's books, and to publish in the languages of the nation's ethnic groups.").

54. *Id.* at 7-9.

55. See Comm. on the Rights of the Child, Rep. on the Thirteenth Session, U.N. Doc. CRC/C/57, ¶ 256 (Oct. 31, 1996); see also DETRICK, COMMENTARY, *supra* note 44, at 290.

56. SACINO, *supra* note 49, at 33.

rather than using the language of a “right” to be free from such abduction.⁵⁷ Other provisions combine both “rights” language as well as the articulation of specific duties. For example, Article 28 recognizes “the right of the child to education” and then spells out specific governmental duties to provide for free and compulsory primary education, to make secondary education accessible to all, and to expand access to higher education on the basis of capacity. Article 17 might therefore be thought of as an articulation of specific state duties as a consequence of the Article 13 right to freedom of expression.⁵⁸ Article 17 may also be recognized as closely connected to the rights to cultural participation and minority identity that are articulated later in the document.⁵⁹

C. *The Right to Science and Culture*

As discussed above, the right to education and children’s media rights provide the most direct support for a right to read as it pertains to materials for children and youth. But a broader right to read—one that extends into adulthood and encompasses reading for pleasure as well as for education—can find support in the right to science and culture, which has been the focus of much of my prior scholarship.

According to Article 27 of the 1948 UDHR, “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.” This provision later found expression in the two Covenants, each emphasizing a different aspect. The International Covenant on Civil and Political Rights (ICCPR) emphasizes respect for the cultural rights of minority groups.⁶⁰ This concept is often referred to simply as “cultural rights,” although the phrase “minority cultural rights” is preferable, to avoid confusion with the broader concept of cultural rights. Minority cultural rights are particularly relevant to thinking about how language interacts with the right to read—this will be the focus of the following section. Parallel to the ICCPR, the ICESCR emphasizes equitable access to culture and technology, broad partici-

57. Convention on the Rights of the Child, *supra* note 24, at art. 11 (“1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad. 2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.”).

58. Convention on the Rights of the Child, *supra* note 24, at art. 13.

59. *Id.* at arts. 30–31.

60. International Covenant on Civil and Political Rights art. 27, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

pation in cultural creativity, protection of authorship, and international cultural and scientific cooperation.⁶¹ This lengthy provision within the ICESCR is increasingly shorthanded as “the right to science and culture.”⁶² This section focuses on the right to science and culture as enshrined in the ICESCR; the following section returns to minority cultural rights as found in the ICCPR.

The right to science and culture is commonly broken down into three components: the right to cultural participation, the right to science and technology, and the right to protection of authorship.⁶³ The right to cultural participation relates to the ability of every person both to access cultural goods and to take part in cultural meaning-making as a creator. The right to science and technology has been interpreted to include a right of access to scientific literature and texts.⁶⁴ Finally, protection of authorship calls for regard to the interests of creators through copyright and other means, in tandem with the principle of expanding access for all.⁶⁵ In short, the right to science and culture must be understood as a call on governments to create conditions that empower everyone to enjoy and to create cultural works, including books, ebooks, and other reading material.⁶⁶

The right to science and culture lays the foundation for a particularly broad understanding of the right to read. Whereas the right to education was primarily focused on the setting of formal education, and children’s media rights emphasize access to books during childhood, the right to science and culture points to a life-long right to continue to learn and to develop the human personality through interaction with texts, among other cultural works. Thus the right to read requires access not only to explicitly educational materials, children’s literature, scientific literature, and other non-fiction works. It extends equally to novels, poetry, memoirs, and to both “high” and

61. ICESCR, *supra* note 5.

62. See generally Lea Shaver, *The Right to Science and Culture*, 2009 WISC. L. REV. 121 (2010) (introducing this phrase); see also Farida Shaheed (Special Rapporteur in the Field of Cultural Rights), *Rep. on Copyright Policy and the Right to Science and Culture*, U.N. Doc. A/HRC/28/57 (Dec. 24, 2014) (adopting this usage).

63. ICESCR, *supra* note 5, at art. 15(1)(a)–(c).

64. Farida Shaheed (Special Rapporteur in the Field of Cultural Rights), *Rep. on the Right to Enjoy the Benefits of Scientific Progress and its Applications*, ¶¶ 14, 28, 74(d) U.N. Doc. A/HRC/20/26 (May 14, 2012), <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession>.

65. Farida Shaheed (Special Rapporteur in the Field of Cultural Rights), *Rep. on Copyright Policy and the Right to Science and Culture*, U.N. Doc. A/HRC/28/57 (Dec. 24, 2014).

66. See generally Shaver, *supra* note 62; Shaver & Sganga, *supra* note 5.

“low” fictions—the full variety of ways that people give expression to and engage with culture. The right to science and culture also underscores the human rights value of participation, both as a creator and as a consumer. Thus, “the right to read” must be understood to imply also a “right to write.” These two aspects of the right to read go hand in hand.

D. Minority Cultural Rights

Whereas the right to science and culture assures the right of everyone to participate in cultural life, minority cultural rights emphasize the need to specially protect the cultural expressions of politically or socially vulnerable groups. This has particular importance for thinking about the right to read as it intersects with challenges of racial or social inequality and linguistic justice. Article 27 of the ICCPR states: “In 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.”⁶⁷ Whereas some provisions of international human rights law pertain specifically to indigenous groups, here the term “minority” is much broader, encompassing any cultural group that cannot count on numerical dominance to protect its interests in cultural integrity, promotion, and development.⁶⁸

Of particular importance to understanding the scope of minority cultural rights is to determine whether they entail a purely negative claim to *freedom from* oppressive state action, or also a positive claim on *state resources and initiatives to promote* minority languages and culture. Put more concretely, minority cultural rights would clearly be violated by a state ban on publishing in minority languages. Apart from not maliciously interfering with minority cultural expressions, though, must states do anything more proactive to promote minority rights? The U.N. Human Rights Committee has encouraged that this question be answered with a “yes,” interpreting the ICCPR text as not only permitting, but in fact *requiring*, the use

67. ICCPR, *supra* note 60, at art. 27.

68. See Human Rights Committee, General Comment 23: Article 27, U.N. Doc. HRI/GEN/1/Rev.1 (July 29, 1994) (offering a legally authoritative interpretation of the ICCPR, and speaking of indigenous groups as a subgroup of cultural minorities); *id.* ¶ 7 (making special reference to indigenous minorities and their special needs, as distinguished from issues previously discussed as relevant to all cultural, religious, and linguistic minorities).

of “positive measures of protection.”⁶⁹ The Committee’s guidance does not, however, specify exactly what these positive measures might include, beyond clarifying that corrective measures used to favor minority groups should not be understood as violating the human rights obligation of nondiscrimination.⁷⁰

For example, do minority cultural rights—in combination with the right to education—imply a right to be educated in one’s native language? This is a difficult question to answer conclusively at the present time. Neither the UDHR nor the ICESCR specifically discuss language as an aspect of education. Both instruments, however, expressly forbid discrimination based on language or social origin with respect to any of the enumerated rights, including the right to education.⁷¹ In more recent documents, however, the role of language in the right to education has received more specific attention. The Children’s Convention includes both this general prohibition on discrimination, as well as an emphasis on “the development of respect for the child’s own cultural identity, language, and values” as one of the aims of education.⁷² A 1968 judgment of the European Court of Human Rights (ECHR) held explicitly that the right to education did not imply a right to be educated in any particular language.⁷³ Yet the ECHR modified this view in a more recent case involving the education of children of Greek heritage in northern Cyprus, holding that it was not reasonable to restrict public educational options only to Turkish.⁷⁴ It may be fair to say that the minority cultural rights aspect of the right to education is not yet firmly recognized, but this intersection is likely to receive increasing emphasis

69. *Id.* ¶ 6.1.

70. *Id.* ¶ 6.2.

71. UDHR, *supra* note 17, at art. 2 (“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”); ICESCR, *supra* note 5, at art. 2(2) (“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”).

72. Convention on the Rights of the Child, *supra* note 24, at art. 29(1)(c) (“States Parties agree that the education of the child shall be directed to . . . [t]he development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.”) (emphasis added).

73. Case “Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium,” 6 Eur. Ct. H. R. (ser. A) (1968).

74. *Cyprus v. Turkey*, 2001-IV Eur. Ct. H.R.

in the future.⁷⁵

The right of a minority group to use its own language might be grounded in two different types of considerations. The first emphasizes necessity. If a person is not permitted and empowered to read books in their native language, they may be unable to read books at all, or at least not as well. If books are of limited availability in a particular language, members of that linguistic group will suffer from systemic disadvantage. The second approach emphasizes the significance of linguistic choice. Even when an individual is capable of speaking or reading in a second language, they may perceive a unique value in doing so in the native language of their cultural group. Thus, French-speaking Canadians would not see the wide availability of literature in English as a reason to discount the importance of the access to literature in French. The choice to read and write in the language of a particular culture is itself an act of cultural expression. The ability of members of a cultural group to communicate, tell stories, and exchange ideas with each other in print is an important vehicle to ensure the “enjoy[ment of] their own culture.” This strongly suggests that the right to read should be understood not merely as the right to read in some language, but as the right to read in the language the individual chooses. Educating all students in a global language is surely a valuable means of promoting the right to read, but it cannot be considered as a substitute for promoting access to literature in local languages as well.

E. Freedom of Expression

According to Article 19 of the UDHR, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”⁷⁶ The ICCPR reiterates this language, adding for emphasis that the right extends to “information and ideas of all kinds . . . either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁷⁷ Thus, while freedom of expression is

75. See, e.g., BEITER, *supra* note 25, at 427–30, 440–50, 581–82 (arguing for recognition, within the framework of the right to education and the right to nondiscrimination, of a right to instruction in the language spoken by a child’s ethnic group, noting signs of a trend in that direction, and discussing opposing scholarly viewpoints). One factor favoring recognition of a linguistic aspect to the right to education is the related protection for language rights found elsewhere in human rights law, as discussed *infra*.

76. UDHR, *supra* note 17, at art. 19.

77. ICCPR, *supra* note 60, at art. 19.

often thought to concern primarily “political” expression, the language of the human rights documents is explicitly broader in scope, and plainly includes all forms of reading material on any subject.

U.S. courts have interpreted the constitutional right to freedom of expression as imposing only a negative duty upon the state to refrain from penalizing or limiting expression and not as imposing any positive duty upon the state to support or encourage media access and diversity. Internationally, however, the conception of freedom of expression goes beyond these limits, to include positive duties. Thus the U.N. Human Rights Committee has emphasized in interpreting Article 19 that “States parties should take particular care to encourage” an independent and diverse media, including media accessible to linguistic minorities.⁷⁸ The same document urges states to “take all necessary steps” to ensure individual access to Internet-based media, and to support public broadcasting in a way that preserves editorial independence.⁷⁹ Thus, the human right to freedom of expression implies some level of state duty to encourage or fund media beyond market mechanisms, ensuring that all people enjoy access.

U.S. academics, too, have not hesitated to argue that the freedom of expression principle can be applied more broadly than current case law recognizes. Jack Balkin proposes that free speech theory and practice should aim at realizing the goal of democratic culture—in which all individuals, not just media elites and professional creators, enjoy meaningful opportunities to shape the cultural life of the community.⁸⁰ This in turn implies that interactivity, mass participation, and the ability to build upon and modify existing cultural works are themselves free speech values.⁸¹ Neil Netanel emphasizes the existence of a vibrant media sphere as critical to the freedom of expression and democratic self-governance.⁸² Molly Van Houweling notes both a U.S. commitment to the principle that freedom of speech is equally and freely available to all, and a line of American policies that aim at a more equal distribution of opportunities to exercise this

78. Human Rights Committee, General Comment No. 34, Article 19: Freedoms of Opinion and Expression, U.N. Doc. CCPR/C/GC/34, ¶ 14 (Sept. 12, 2011), <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

79. *Id.* ¶¶ 15–16.

80. See generally Jack Balkin, *Digital Speech and Democratic Culture: A Theory of Freedom of Expression for the Information Society*, 79 N.Y.U. L. REV. 1 (2004).

81. *Id.* at 33–45.

82. Neil Netanel, *Copyright and a Democratic Civil Society*, 106 YALE L.J. 283, 341–47 (1996). See generally NEIL NETANEL, *COPYRIGHT’S PARADOX* (2008) (arguing that freedom of expression is both the grounding justification for copyright protection and that freedom of expression requires limits on copyright protection).

freedom.⁸³ Julie Cohen argues that freedom of speech must be interpreted to include the right to read anonymously, which in turn requires greater protection of online privacy.⁸⁴

A full discussion of the theoretical foundations and implications of freedom of expression is well beyond the scope of this article. My more modest aim is simply to offer the briefest sketch of some of the depth and diversity of this principle, as a touchstone for thinking about the right to read. Viewed narrowly, the right level of free expression would pertain primarily to the *liberty* dimension of the right to read. Yet a fuller conception of freedom of expression—which finds support both in scholarship and in international law—suggests a broader approach to the right to read, which includes the *capacity* and *availability* dimensions. The purposes of freedom of expression are most fully realized when all members of society are empowered to read regularly, and when authors are able to reach the widest possible audience. The next part of this article explores the conditions for realizing this goal.

II. THREE DIMENSIONS OF THE RIGHT TO READ

As detailed above, implicit in the existing principles of international human rights law is a “right to read,” which lies at the intersection of the rights to education, children’s media, science and culture, minority cultural rights, and freedom of expression. By highlighting the multiple bases of the right to read and further elaborating its content, we can clarify the scope of government duties implied by it. The right to read is best understood in terms of three dimensions: *liberty* (the freedom to read and write), *capacity* (the ability to read and write), and *availability* (effective access to reading materials and platforms for communicating with others through writing). Although the *liberty* and *capacity* dimensions of the right are widely recognized and respected—both normatively and in practice—the *availability* dimension remains today as the greatest barrier to wider enjoyment of the right to read.

First, the *liberty* dimension: governments must respect the freedom to read, including the freedom to read the content of the reader’s choice, in the language of the reader’s choice. The *liberty* to read would be violated, for example, by government actions of cen-

83. Molly Shaffer Van Houweling, *Distributive Values in Copyright*, 83 TEX. L. REV. 1535, 1547–58 (2005).

84. Julie Cohen, *A Right to Read Anonymously: A Close Look at “Copyright Management” in Cyberspace*, 28 CONN. L. REV. 981, 1025–26 (1996).

sorship, including the banning of publication or education in minority languages. Second is the *capacity* dimension of the right. Human rights law requires governments not only to refrain from actions impeding enjoyment of human rights, but also to take positive steps to ensure their enjoyment. In the area of the right to read, governments have a duty to promote the *capacity* to read by assuring that everyone has opportunities to learn the skills of literacy, both as a reader and a writer. Again, the capacity to read is only useful if it is provided in a language the individual understands well, which will generally be their native language. Third and finally, I highlight the *availability* dimension of the right. Even when liberty and capacity are realized, the right to read will remain a useless illusion unless reading material is actually available to all readers. The *availability* dimension involves consideration of geographic accessibility, affordability, and acceptability, including considerations of language.

A. *The Liberty to Read*

The *liberty* dimension of the right to read refers to the freedom to read and write in one's preferred language. Although I have placed the *liberty* dimension first among these three, I do not wish to imply that it is more important than *capacity* or *availability*. All three dimensions of the right to read are equally essential to effective enjoyment of the right. If anything, the dimension of *availability*, which I will discuss last, deserves prioritization, if only because it happens to be where the greatest problems exist today. Nevertheless, it makes some logical sense to begin with liberty because this dimension of the right to read has the longest tradition of recognition. The *liberty* to read, closely related to freedom of expression, fits neatly in the "first-generation" tradition of civil and political rights, with normative roots extending back for more than a century.⁸⁵

The liberty dimension of the right to read is violated when governments interfere with citizens' reading choices through censorship. The OpenNet Initiative reports that several countries engage in

85. See generally Burns H. Weston, *Human Rights: Concept and Content*, in HUMAN RIGHTS IN THE WORLD COMMUNITY: ISSUES AND ACTION 17, 21–23 (Richard Pierre Claude & Burns H. Weston eds., 3d ed. 2006) (detailing the traditional understanding of human rights guarantees as falling into first-generation, second-generation, and third-generation approaches); see also CASS R. SUNSTEIN, *THE SECOND BILL OF RIGHTS: FDR'S UNFINISHED REVOLUTION AND WHY WE NEED IT MORE THAN EVER* (2004) (contrasting the acceptance of second-generation rights in much of the world with the failure to incorporate them into the American constitutional order, notwithstanding support and leadership from the Roosevelt Administration leading up to the adoption of the Universal Declaration of Human Rights).

“pervasive” efforts of Internet filtering to block access to political views of which they disapprove, including China, Ethiopia, Iran, Syria, Turkmenistan, Uzbekistan, and Vietnam.⁸⁶ Similarly, Freedom House reports that at least twenty-nine governments engage in efforts to “block access to information related to politics, social issues, and human rights,” and suggests that this and other forms of political censorship are on the rise.⁸⁷ Government censorship continues to be a common violation of the right to read. Less obviously, the liberty to read may also be threatened by governmental or private data collection efforts that interfere with “the right to read anonymously.”⁸⁸

The liberty dimension of the right to read is also at issue when a country’s dominant ethnic group seeks to force its own language upon minority groups. For instance, in 1935 the Permanent Court of International Justice (PCIJ) held that Albania had violated the rights of the Greek-Albanian minority when it banned the operation of private schools.⁸⁹ Although facially neutral as to the ethnic composition of such schools, the practical impact of the ban was to restrict the ability of the Greek minority community to educate its children in the Greek language. The PCIJ accordingly held that Albania’s actions violated international legal guarantees of effective equality, not merely formal equality, for the Greek minority group.⁹⁰ Similarly, the U.S. Supreme Court in 1923 struck down state laws that forbade the teaching of German in public schools, emphasizing fundamental lib-

86. *Political Global Internet Filtering Map*, OPENNET INITIATIVE, <http://map.opennet.net/filtering-pol.html> (last visited Oct. 3, 2015). The OpenNet Initiative’s reporting is based on a methodology of using computer software to test and reveal site blocking and other content filtration techniques.

87. Sanja Kelly, *Despite Pushback, Internet Freedom Deteriorates*, in FREEDOM ON THE NET 2013, at 1, 3 (2013), http://www.freedomhouse.org/sites/default/files/resources/FOTN%202013%20Summary%20of%20Findings_1.pdf.

88. Cohen, *supra* note 84, at 983–89.

89. *Minority Schools in Albania*, Advisory Opinion, 1935 P.C.I.J. (ser. A/B) No. 64 (Apr. 6).

90. *Id.* ¶ 64 (“Equality in law precludes discrimination of any kind; whereas equality in fact may involve the necessity of different treatment in order to attain a result which establishes an equilibrium between different situations.”); *id.* ¶ 67 (“The abolition of [private charitable, religious, social institutions, and schools using the minority language and exercising the minority religion], which alone can satisfy the special requirements of the minority groups . . . would destroy this equality of treatment, for its effect would be to deprive the minority of the institutions appropriate to its needs, whereas the majority would continue to have them supplied in the institutions created by the State.”). For additional background and context on the minority treaties as an interwar precursor to modern international human rights law, see HENRY J. STEINER & PHILIP ALSTON, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS* 93–103 (2d ed. 2000).

erties.⁹¹ More recently, in the 1970s, South Africa's apartheid government, motivated by white-supremacist ideology, mandated Afrikaans as a language of instruction in black schools.⁹² The mandate is widely identified by South African historians as one of the catalysts for the 1976 Soweto uprising, a turning point in the South African struggle for black liberation.⁹³ The Albanian ban on Greek-language education, American laws restricting the teaching of German, and the South African imposition of Afrikaans can all be understood as violations of the basic liberty dimension of the right to read and learn in one's preferred language. These governments attempted to impose the language of the politically dominant ethnic group as the "appropriate" language for instruction, in disregard for the preferences of the communities at issue.

Apart from the educational context, other attacks on publishing and reading in minority languages have also occurred. In the 1940s and 1950s, newly independent Pakistan was sharply divided over issues of linguistic policy. National leaders sought to promote Urdu as the sole national language, in line with ideas about Muslim national identity.⁹⁴ Members of the Bengali language community maintained that the official and educational use of their language, including its traditional script, was nonnegotiable.⁹⁵ The issue is credited as sparking the freedom movement that eventually achieved the independence of Bangladesh.⁹⁶ International Mother Language Day is now celebrated on February 21 in recognition of the most famous

91. *Meyer v. Nebraska*, 262 U.S. 390 (1923). The opinion was issued before the Court had extended its application of the Bill of Rights to review of state legislation, and does not rest on federal constitutional guarantees of freedom of expression. Instead, the reasoning relied on substantive due process protections against unjustified regulation of economic activity, while referring to fundamental individual rights—including to direct the education of one's children—only in dicta. See William G. Ross, *The Contemporary Significance of Meyer and Pierce for Parental Rights Issues Involving Education*, 34 U. AKRON L. REV. 177, 177–79 (2000).

92. Sifiso Mxolisi Ndlovu, *The Soweto Uprising, Part 1: Soweto*, in 2 THE ROAD TO DEMOCRACY IN SOUTH AFRICA 317, 324–30 (S. Afr. Democracy Educ. Tr. ed., 2006), <http://www.sadet.co.za/docs/RTD/vol2/Volume%202%20-%20chapter%207.pdf> (describing the ideological motivations for the Afrikaans mandate and its impact on Bantu education).

93. See, e.g., *id.* at 339–50 (describing resistance to the language policy as a mobilizing force in the Soweto student uprising).

94. See Tariq Rahman, *Language and Ethnicity in Pakistan*, 37 ASIAN SURV. 833, 836 (1997) (describing the promotion of Urdu by specific national leaders).

95. Rafiqul Islam, *The Bengali Language Movement and the Emergence of Bangladesh*, in LANGUAGE AND CIVILIZATION CHANGE IN SOUTH ASIA 142, 143–47 (Clarence Maloney ed., 1978).

96. *Id.* at 147.

of the Bengali Language Movement protests. More recently, the U.N. Human Rights Committee acted upon a complaint regarding minority-language publishing in Uzbekistan.⁹⁷ The Committee emphasized that the government's refusal to renew the publishing license to a Tajik-language periodical violated both the right of freedom of expression and minority cultural rights. According to the Committee's opinion, both authors and readers had standing as victims of the human rights violation.⁹⁸

Violations of human rights are often conceived of as being directed at or experienced by particular individuals. Yet when a government seeks to limit reading and writing to a particular language, the liberty violation is experienced by an entire ethnic community. The restriction impacts a larger communal interest in the preservation of the minority community's cultural vibrancy and its opportunities within the larger society. There is thus an inescapable "group" aspect involved in the liberty to read. Even in the context of more conventional examples of censorship, such as government bans on particular books, a broad community of would-be readers is harmed by the liberty violation. This reflects the inherently communal nature of communication. Reading may take place in a private setting, one individual at a time. But it is at heart a mechanism for social interaction and the building of communities. The freedom to distribute reading material is much like the freedom to peaceably assemble—both are means to the ends of group communication, the exchange of ideas, and public advocacy. Government attempts to suppress such activity in particular languages often reflect anxieties about cultural and political challenges from subordinated ethnic groups.

Notably, the linguistically targeted violations of the liberty dimension of the right to read discussed above were widely condemned in their own time and continue to shock the conscience today. They are often motivated and justified by ideologies of ethnic supremacy, in which a majority group deliberately sets out to force a minority group to participate in cultural life only on the linguistic terrain of the majority. Similarly, state practices of Internet filtering and other forms of censorship are also widely condemned. These forms of state action against the right to read are easy to recognize and condemn as a violation of human rights. Yet the right to read

97. U.N. Hum. Rts. Comm., *Rakhim Mavlonov and Shansiy Sa'di v. Uzbekistan*, U.N. Comm. 1334/2004, U.N. Doc. CCPR/C/95/D/1334/2004 (Apr. 29, 2009).

98. *Id.* ¶¶ 8.4, 8.7. The Members agreed that both authors and readers had standing for the violation of minority cultural rights, while two Members dissented that recognizing standing for readers under freedom of expression would go too far. *See id.*; *id.* (separate opinion of Rodley and Posada).

can be affected just as dramatically by state interventions of a less malicious nature, such as a failure to provide adequate educational opportunities to all.

B. The Capacity to Read

The *liberty* dimension alone does not go very far to ensure enjoyment of the right to read. The freedom to read and write is meaningless to any given individual unless he or she also possesses the practical ability to exercise that freedom. This ability—literacy—must be acquired through a lengthy learning process. This is the *capacity* dimension of the right to read, which imposes upon governments a duty to ensure that all people within their territory enjoy the educational opportunities necessary to acquire literacy. According to the U.N. Educational, Scientific and Cultural Organization:

Literacy is the ability to identify, understand, interpret, create, communicate, [and] compute, using printed and written materials associated with varying contexts. Literacy involves a continuum of learning in enabling individuals to achieve their goals, to develop their knowledge and potential, and to participate fully in their community and wider society.⁹⁹

The notion of literacy as a human right is not a unique one. Kofi Annan made this claim many years ago, emphasizing the instrumental importance of literacy to other goals and values:

Literacy is a bridge from misery to hope. It is a tool for daily life in modern society. It is a bulwark against poverty, and a building block of development, an essential complement to investments in roads, dams, clinics and factories.

Literacy is a platform for democratization, and a vehicle for the promotion of cultural and national identity. Especially for girls and women, it is an agent of family health and nutrition. For everyone, everywhere, literacy is, along with education in general, a basic human right.¹⁰⁰

99. UNESCO EDUC. SECTOR, THE PLURALITY OF LITERACY AND ITS IMPLICATIONS FOR POLICIES AND PROGRAMMES 13 (2004), <http://unesdoc.unesco.org/images/0013/001362/136246e.pdf>.

100. Press Release, Secretary-General, Secretary-General Stresses Need for Political Will and Resources to Meet Challenge of Fight Against Illiteracy, U.N. Press Release SG/SM/6316 (Sept. 4, 1997), <http://www.un.org/press/en/1997/19970904.SGSM6316.html>.

Whereas the *liberty* dimension of the right to read is violated by state action restrictive of freedom, the *capacity* dimension is typically violated by state inaction—the failure of governments to effectively fund and organize literacy instruction. The liberty and capacity dimensions may therefore be thought of as mapping onto the common categorization of human rights into “first generation” rights or civil liberties that impose primarily negative state obligations versus “second generation” rights or social entitlements that impose positive state duties.¹⁰¹ Second-generation human rights, however, remain less widely accepted. The E.U. Charter of Fundamental Rights includes only the right to education, with no mention of the right to science and culture or children’s media rights.¹⁰² In the United States, the ICESCR has yet to be ratified, and the U.S. Constitution contains no reference even to education. Many state constitutions within the United States explicitly mandate the state government to provide for a system of public schools, although this is generally phrased as a state duty rather than as an individual right.

Historically, the federal obligation of nondiscrimination has been an avenue for advocates to defend the right to education for literacy. In the 1982 case of *Plyler v. Doe*, the U.S. Supreme Court struck down a Texas law withholding funds for the education of undocumented immigrant children; the Court determined that the restriction on educational opportunity violated the right to equal protection.¹⁰³ Although declining to characterize education as a “fundamental right,” the opinion emphasized its special importance to individuals and society at large,¹⁰⁴ and highlighted achievement of literacy as its most valuable outcome:

Illiteracy is an enduring disability. The inability to read and write will handicap the individual deprived of a basic education each and every day of his life. The inestimable toll of that deprivation on the social, economic, intellectual, and psychological wellbeing of the individual, and the obstacle it poses to individual achievement, make it most difficult to reconcile the cost or the principle of a status-based denial of basic education with the framework of equality embodied in

101. See generally STEINER & ALSTON, *supra* note 90, at 237–99 (providing an overview of second-generation “economic and social rights” in international human rights law and practice).

102. Charter of Fundamental Rights of the European Union art.14, Dec. 12, 2000, 2000 O.J. (C 346) 11.

103. *Plyler v. Doe*, 457 U.S. 202, 230 (1982) (narrowly decided on a 5–4 vote).

104. *Id.* at 221–24.

the Equal Protection Clause.¹⁰⁵

Thus, even without explicitly recognizing a right to read, the Court found a way to defend the capacity dimension in the context of discrimination against a minority group.¹⁰⁶

Like many rights, of course, the right to education for literacy may be recognized in principle yet still unfulfilled in practice. In 2012, the American Civil Liberties Union brought a class action lawsuit against the administrators of the Highland Park School District, located in one of America's most blighted urban communities.¹⁰⁷ The complaint alleged that the school district was systematically failing to teach its students to read, despite a state constitutional obligation to provide for public education and a state statute requiring that students who do not demonstrate proficiency in reading appropriate to their grade levels be given "special assistance reasonably expected to enable the pupil to bring his or her reading skills to grade level within twelve months."¹⁰⁸ In initial proceedings, a judge found that the allegations had legal merit and scheduled a trial to afford the plaintiffs an opportunity to prove the underlying factual claims.¹⁰⁹ At that point, however, Michigan's appellate court took the case on review. There, two judges concluded that the constitutional and statutory requirements of educational adequacy were in fact not enforceable by the courts, emphasizing that judges were particularly ill-suited to intervene in educational matters.¹¹⁰ The third judge dissented, arguing that the majority had wrongly refused to enforce the law in an

105. *Id.* at 222.

106. See generally Goodwin Liu, *Education, Equality, and National Citizenship*, 116 YALE L.J. 330 (2006) (arguing that the Fourteenth Amendment's Citizenship Clause obligates Congress to adopt a national framework for funding education that would address inequalities of educational funding between school districts).

107. See Alan Flippen, *Where Are the Hardest Places to Live in the U.S.?*, N.Y. TIMES: UPSHOT (June 26, 2014), <http://nyti.ms/VqWH7v> (describing research that identifies Wayne County, Michigan, as ranking 2516th out of 3135 U.S. counties on quality of life and poverty measures and citing it as an example of a particularly struggling urban community).

108. Amended Complaint and Petition for Writ of Mandamus at 34, S.S. *ex rel.* L.M. et al. v. State of Mich., State Bd. of Educ. et al., No. 12-009231CZ (Cir. Ct. for the Cty. of Wayne June 27, 2013), <http://www.aclumich.org/sites/default/files/EducationAmendedComplaint.pdf>.

109. S.S. *ex rel.* L.M. et al. v. State of Mich., State Bd. of Educ. et al., No. 12-009231CZ (Cir. Ct. for the Cty. of Wayne June 27, 2013), http://www.aclumich.org/sites/default/files/ACLU_HighlandPark_Ruling_62013.pdf.

110. S.S. *ex rel.* L.M. et al. v. State of Mich., State Bd. of Educ. et al., No. 12-009231CZ (Mich. Ct. of App. Nov. 6, 2014), http://www.aclumich.org/sites/default/files/2014_Education_HighlandPark_MajorityDecision.pdf; *id.* (Murray, J., concurring).

area of particular importance to the child plaintiffs.¹¹¹

The Michigan case reflects the difficulties inherent in judicial enforcement of “positive” rights claims, which require government action, coordination, and resource allocation. Education for literacy is easily recognized as a virtuous goal for public policy. Yet characterizing it as a legal right raises additional questions. Who should retain the authority to decide upon the specific measures to achieve this goal: classroom teachers, school administrators, elected school boards, state legislatures, or the federal government? At what point should a court be empowered to find that the responsible party has been derelict in executing its duties? When this occurs, what is the appropriate legal remedy: an award of compensatory damages ultimately paid for by taxpayers, a structural injunction creating court oversight of educational delivery, a consent decree negotiated between the plaintiffs and the local school district, or a mere declaration that legal rights are being violated without further relief? These questions are difficult, but not impossible to answer, as demonstrated by decisions in which other states’ courts have acted upon the right to education.¹¹²

Despite extremely limited resources, developing countries have also accepted the goal of universal literacy and the responsibility of the state to achieve it. Between 1970 and 1995, the adult illiteracy rate in developing countries was reduced from fifty-seven percent to thirty percent.¹¹³ More recently, the Millennium Development Goals identified universal participation in primary education as a target for 2015, focusing on rates of youth and adult literacy as an important indicator. As a result of widespread efforts, the global adult literacy rate increased from seventy-six percent in 1990 to eighty-four percent in 2012.¹¹⁴ Yet 781 million people over the age of fifteen still lack basic reading and writing skills.¹¹⁵ There is a

111. *Id.* (Shapiro, J., dissenting).

112. *See, e.g.*, Campaign for Fiscal Equity v. New York, 86 N.Y.2d 307, 316 (1995) (holding that the state constitution’s education provision requires the state to offer all children “the opportunity of a sound basic education . . . [including] the basic literacy . . . skills necessary to enable children to eventually function productively as civic participants”); Claremont Sch. Dist. et al. v. Governor, 703 A.2d 1353, 1359–60 (N.H. 1997) (enumerating “benchmarks of a constitutionally adequate public education” and charging the legislature to meet those benchmarks); Rose v. Council for Better Educ., Inc., 790 S.W.2d 186, 189 (1989) (holding that the state constitution requires education for literacy).

113. Press Release, *supra* note 100.

114. UNITED NATIONS, THE MILLENNIUM DEVELOPMENT GOALS REPORT 2014, at 18 (2004), <http://www.un.org/millenniumgoals/reports.shtml>.

115. *Id.* at 16.

significant gender dimension to this problem; sixty percent of the illiterate population is female.¹¹⁶ Moreover, the criterion of “basic” literacy falls well short of the fuller definition of literacy as the ability to access, process, and communicate written information across a variety of contexts. Clearly, more work remains to make this dimension of the right to read a reality for all people.

C. Availability of Reading Material

Beyond *liberty* and *capacity*, there remains a third dimension of the right to read, which is much less clearly established, yet just as necessary. This is the issue of access to reading materials, or the *availability* dimension of the right to read. The freedom and ability to read become truly meaningful only when the individual also has access to reading material. To be sure, even in the absence of any sort of literature, basic literacy has significant value. Basic literacy can enable one to read signs and product labels, to complete forms necessary to access government services, to write a shopping list, and to communicate with others through a note or text message. But the greatest value of literacy is the door it unlocks to the world of printed literature: the ability to read widely both for knowledge and for pleasure. Although the *liberty* and *capacity* dimensions of the right to read are well established in theory and increasingly realized in practice, the *availability* dimension is the most neglected both in theory and in practice.

Readers from the United States and other industrialized countries, particularly those connected to universities as scholars or students, may be tempted to take access to reading materials for granted. Through our world-class libraries, we enjoy an embarrassment of riches. Yet accessing books is a well-recognized challenge in resource-poor countries, where book prices are typically higher than in the United States, despite lower local incomes. The availability problem is most acute for certain groups within developing countries. In many languages, there is simply very little to read, and the scope and diversity of the supply is inadequate at any price. For the poor, prices of books in the legitimate marketplace are often prohibitive; access must come through government, charitable, or black-market means, if at all.

Jurists elaborating the human rights to education, health care, and food have defined several dimensions of availability, which can also be usefully adapted to the right to read. Interpretative guidance

116. *Id.* at 18.

has emphasized the “4A” framework for evaluating access to education: educational facilities and programming must be (1) *available* in sufficient quantity, (2) *accessible* to all regardless of income or other dimensions of social vulnerability, (3) *acceptable* in terms of cultural relevance and quality, and (4) *adaptable* to diverse and changing needs of different populations and across time.¹¹⁷ In the context of access to health care, a similar framework has been articulated as consisting of the 3AQ dimensions of access. Health care facilities, goods, and services must similarly be *available* in sufficient quantity; they must be economically and physically *accessible* to all, particularly to vulnerable populations; they must be culturally *acceptable* and consistent with medical ethics; and they must be of good *quality*.¹¹⁸ The right to food has also been elaborated through a similar framework, emphasizing “the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture.”¹¹⁹

One way to generalize these three frameworks for thinking about education, food, and healthcare as human rights is that they all ask three basic questions: (1) Is there enough to go around? (2) Is everyone able to access the supply or are vulnerable populations excluded? (3) Is the supply of appropriate quality—both as judged by objective measures and from the subjective perspective of the right-bearers? These same questions of *adequacy*, *accessibility*, and *acceptability* can be posed for the supply of reading materials to elaborate the availability dimension of the right to read.

1. Adequacy: Is There Enough?

On the first issue of *adequacy*, it quickly becomes apparent that the situation differs tremendously from country to country. This is true both in terms of the number of unique titles and the total number of copies in circulation. For example, the German publishing industry produces 93,600 new titles and re-editions each year, while

117. General Comment 13, *supra* note 26, ¶ 6.

118. Comm. on Econ., Soc. and Cultural Rights, General Comment 14, ¶ 14, U.N. Doc. E/C.12/2000/4 (2000), *reprinted in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, at 85, U.N. Doc. HRI/GEN/1/Rev.6 (2003) [hereinafter General Comment 14].

119. Comm. on Econ., Soc. and Cultural Rights, General Comment 12, ¶¶ 7–13 U.N. Doc. E/C.12/1999/5 (1999), *reprinted in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, at 62, U.N. Doc. HRI/GEN/1/Rev.6 (2003) [hereinafter General Comment 12].

Pakistan's publishing industry produces only 3,500.¹²⁰ The U.K. publishing industry produces approximately six books per British child each year; the Indian publishing industry produces one book for every twenty Indian children.¹²¹ In many very poor countries, there is a shockingly inadequate supply of reading material available for purchase. When people have spoken of Africa's "book famine," they typically have had in mind this basic criterion. There is simply very little material in circulation, which makes it very difficult for even people of means to purchase materials to meet their basic reading needs. Bookstores and libraries are few and far between, and plainly inadequate to serve the needs of most of the population. Many, perhaps even most, titles are simply impossible to obtain at any price.

At the other end of the spectrum, however, there are book-wealthy countries where the basic dimension of supply is hardly an issue. In the United States, for example, bookstores and libraries are plentiful. The second-hand market does a heavy trade in used books through for-profit marketplaces, charity shops, and private sales. An average person may own dozens of books and can relatively easily borrow as many as they have time and interest to read from a public library. In college neighborhoods, it is not unusual at the end of a school year to see boxes of gently used books placed out upon the sidewalk with a scribbled note: "FREE." Book-wealthy countries are also likely to have the greatest degree of Internet connectivity, enabling their residents to access a host of other reading material.

In between these two extremes of book famine and book plenty, the picture of availability is more nuanced in a third set of countries. In South Africa and India, for instance, the situation of availability might be assessed as fairly good, judged from the perspective of affluent, English-speaking urbanites. Yet once we make the shift to consider nuances of language and income, problems become more apparent.

2. Accessibility: Does Everyone Have Access?

The second dimension of *accessibility* adopts this more nuanced perspective, considering questions of affordability, diversity, and exclusion. This dimension asks whether it can truly be said that

120. INT'L PUBL'G ASS'N, ANNUAL REPORT OCTOBER 2013–OCTOBER 2014, at 16 (2014), <http://www.internationalpublishers.org/images/stories/news/AnnualReport.pdf>.

121. Gautam John, *Thoughts on the Future of an Organization*, GAUTAM JOHN'S BLOG (Jan. 1, 2013), <https://gkjohn.wordpress.com/2013/01/01/thoughts-on-the-future-of-an-organization/>.

all people enjoy access to the available resources, or whether certain populations are systematically left out.¹²² Judged on this dimension, many countries have severe problems with respect to access to reading material. Books are frequently expensive, and in the context of extreme income inequality, many people will not be able to meet their reading needs through private purchases. Access for these groups may depend significantly on government and charitable efforts, such as providing school textbooks free of charge and maintaining a system of libraries. Efforts to drive down the cost of books in the marketplace would also be relevant here, enabling a greater proportion of the population to meet their book needs without direct assistance. This article has also highlighted the role of linguistic group membership as a social status that shapes access to books. In many national contexts, the available books are accessible only to readers fluent in an internationally dominant language, and not to speakers of local languages who have not mastered the language of wider communication.

Wealth and language are not the only dimensions along which barriers to accessibility are experienced. Another dimension of book accessibility concerns readers who are blind or otherwise print-disabled. This group faces unique barriers in accessing reading material, which must be specially addressed, both legally and technologically.¹²³ The United States has long had a legal framework to facilitate the provision of books in accessible formats on a nonprofit basis. This effort received an international boost when the World Intellectual Property Organization (WIPO) concluded negotiations on the Marrakesh Treaty, designed to facilitate cross-border access to such works through targeted exceptions to the general copyright regime.¹²⁴ Within this legal framework, nonprofit groups have worked to develop special technologies to facilitate the conversion of books into formats accessible to the blind.

Children may also be thought of as a special population that is particularly likely to face accessibility barriers. Children generally do not command economic resources to purchase books in the mar-

122. See SACINO, *supra* note 49, at 22–24 (considering dimensions of disparities in access to media among young people).

123. See generally Brook K. Baker, *Challenges Facing a Proposed WIPO Treaty for Persons Who are Blind or Print Disabled*, in NORTHEASTERN PUBLIC LAW AND THEORY FACULTY RESEARCH PAPERS SERIES No. 142-2013 (2013) (explaining the need for an international treaty to address copyright barriers to accessible reading materials).

124. Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, June 28, 2013, 52 I.L.M. 6, http://www.wipo.int/edocs/mdocs/diplconf/en/vip_dc/vip_dc_8.pdf.

ketplace, and the majority of books produced for the mainstream market will not be appropriate to their reading levels and interests. School libraries, free textbook provision, and charitable initiatives play a particularly crucial role in providing a market demand for the production of children's literature and in ensuring that this literature is accessible to children across the socioeconomic spectrum. Yet these social initiatives are not yet adequate in many countries and regions.

To summarize, the *accessibility* dimension is often a problem for books with respect to inequalities of income, language, disability, and age. Whether we are speaking in the context of education, health care, food, or reading material, the dimension of accessibility does not necessarily require that the goods and services be provided for free to all. Across all these contexts, market-oriented and fee-based provision is typically an important part of the delivery system. The insistence on characterizing these goods and services as a universal human right recognizes, however, that some degree of subsidized and free-to-the-recipient provision will be necessary to serve certain segments of the population. Where the market fails to extend services, public policy solutions must be found; where an individual or family cannot afford to make payment, those solutions must be provided without charge to the beneficiary. Other policy measures can also play a role in addressing barriers to access experienced by special populations.

3. Acceptability: What Kinds of Material?

The third dimension of *acceptability* looks at the quality of the supply: are the books that are available and accessible to the population of an acceptable quality? In the context of human rights, acceptability is usually judged as having both an objective and subjective dimension. For example, health care services may be objectively judged as high quality according to standards set by experts, based on scientific research.¹²⁵ Yet even in the context of medicine, the human rights framework also emphasizes the relevance of quality as judged by patients themselves. The services must be "respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality"¹²⁶ Similarly, in the context of the right to food, a food supply may be unacceptable according to ob-

125. See General Comment 14, *supra* note 118, ¶ 12(d).

126. See *id.* ¶ 12(c).

jective criteria if it is lacking in nutrition or containing contaminants.¹²⁷ But the human rights framework also requires subjective acceptability; the food must be culturally appropriate and take into account the values that people attach to food and eating.¹²⁸ The supply of available reading material, like health care services and food, should also meet both objective and subjective standards.

In the context of the right to read, the subjective dimension is particularly important. Medical care and nutrition both have a very strong objective dimension. It is objectively verifiable that certain “poor quality” types of food or health interventions will cause injury or death. In the context of reading material, however, quality is a more subjective judgment. Certainly, some fiction is better than others. Yet when two individuals disagree on the quality of a novel, scientific inquiry cannot resolve their dispute. Where nonfiction works are concerned, subject matter experts are more likely to converge on their judgment of a particular book as high or low quality. But even here, a subjective element will remain. For some readers, a library containing only practical how-to books would be acceptable. For other readers, it would be vital that the book supply offer entertaining works, or spiritually uplifting works, or works that explore history. The subjective dimension of cultural relevance will also be particularly important for books, because they are fundamentally cultural goods. Interests, tastes, and information needs vary by community. In one social context, books on website design will be highly relevant; in another context, readers may be more concerned with how to repair a bicycle or build an earthquake-proof home. A novel about a suburban housewife in the United States will have great appeal for some populations and little appeal for others. There is a particular need for people to have access to literature that reflects their own cultural contexts. Similarly, children will require different types of material than are desirable to adults.

In the context of the right to read, quality concerns are best addressed by simply expanding the variety of material that is available and allowing readers to make their own choices. The right to read in no way suggests that “low-quality” materials should be purged or discouraged. Indeed, to restrict access to such materials on the grounds of quality control would violate the *liberty* dimension of the right, which emphasizes that individuals should be free to read what they choose. Rather, meeting the criteria of acceptability means that the selection of books must be large and diverse enough to serve diverse readers’ interests. Where book markets are working well, we

127. See General Comment 12, *supra* note 119, ¶¶ 8–10.

128. See *id.* ¶¶ 8, 11.

may expect book producers to respond to the diversity of reader interests, generating sufficient high-quality offerings without government intervention. The challenge in these contexts is merely to ensure that everyone enjoys access to the supply. Where book markets are not working well—where very few titles are being produced, or where the market is largely ignoring certain linguistic and cultural groups—acceptability of the supply will be a much greater concern. In particular, a supply consisting overwhelmingly of imported books, or very old books that are no longer under copyright, is unlikely to be acceptable. The supply must include locally produced, culturally relevant, timely works. In short, books must be available that people actually want to read.

In line with the subjective dimension of acceptability and the emphasis on diversity of offerings, the right to read must not be understood as limited to educational materials or nonfiction works. Certainly, scientific literature, educational textbooks, and nonfiction works ranging from national history to farming techniques offer unique instrumental value. Yet fictional works ranging from high literature to pulp romances and comic books are just as relevant for the right to read. These works provide readers with joy and leisure, as well as opportunities to imagine alternative possibilities for ourselves and our world. These functions are critical to the right to read, which emphasizes not only education, but also cultural participation and freedom of expression. Reading for knowledge and reading for pleasure are equally important in judging the quality of the supply of reading material. The right to read must not be understood as limited to fiction of high literary esteem; science fiction, fan fiction, pulp fiction with formulaic plots, and even comic books are equally valid as forms of cultural expression and participation valued by some individuals.¹²⁹

Given that the right to read requires a diverse supply of relevant reading material in every language, how far does that right extend? Perhaps someday the technology of translation and mechanisms of digital access will be so fast and so cheap that every person can enjoy access to any of the world's written works. In the meantime, it remains impossible to translate every work into each of the world's more than 6,000 languages. Even if this could be achieved, moreover, translations alone would not solve the problem that the existing supply of books over-represents the interests and experiences

129. See Anupam Chander & Madhavi Sunder, *Everyone's a Superhero: A Cultural Theory of "Mary Sue" Fan Fiction as Fair Use*, 95 CAL. L. REV. 597 (2007) (elaborating on the diverse forms of cultural value communicated by amateur literature often thought of as low-quality).

of relatively wealthy Westerners, and inadequately addresses the information needs, interests, and experiences of cultural subgroups with less disposable income.

Given these dilemmas, is there a minimally adequate selection that we can say satisfies the right to read? The standard is certainly not the impossible goal that every work be available in every language. The human rights principle of “progressive realization” presumes some level of cost-benefit analysis in the realization of socioeconomic rights. Put another way, human rights law “reads into the provision some kind of a reasonableness test.”¹³⁰ For example, people who have enjoyed sufficient educational advantages in life to be able to substantively appreciate a journal article on theoretical physics may also reasonably be expected to learn to read that article in English. Not every form of work needs to be available in every language. The goal should be to have a reasonably flourishing body of literature available at least in all those languages of a certain size. One fourth of all languages have fewer than 1,000 speakers; more than half have fewer than 10,000.¹³¹ For such very small languages, the selection might be very narrow indeed. But there is much to be gained from ensuring that readers in all languages have access to even several hundred desirable and relevant works.

We should also be careful not to set our ambitions too low. Icelandic is spoken by only about 300,000 people.¹³² Yet the Icelandic language has a flourishing literature, offers an effective pathway to advanced education for Icelanders, and is a source of great cultural and personal pride to its people.¹³³ A recent catalog lists more than 800 Icelandic books for sale across a diversity of genres, and more than a million loans take place each year from the Reykjavík City Library.¹³⁴ The Icelandic Publisher’s Association estimates that 1,500 titles are published annually.¹³⁵ Popular Icelandic authors find that translation into English offers opportunities for an even wider audience and additional royalties. Literary associations also exist to incentivize high quality, by encouraging consumers to purchase books by authors who have been nominated for prizes and

130. SACINO, *supra* note 49, at 26.

131. Grenoble, *supra* note 11, at 138–39.

132. *Id.* at 143.

133. *See id.*

134. Jordan G. Teicher, *Literary Iceland Revels in Its Annual “Christmas Book Flood,”* NAT’L PUB. RADIO (Dec. 25, 2012), <http://www.npr.org/2012/12/25/167537939/literary-iceland-revels-in-its-annual-christmas-book-flood>.

135. *Icelandic Publishers*, ICELANDIC LITERATURE CENTER, <http://www.islit.is/en/icelandic-publishers/stafrof/a> (last visited Oct. 25, 2015).

by offering subsidies to translate selected books into English.¹³⁶

In sum, the dimension of acceptability means that books must be available that people actually want to read. A high number of publications ensures diversity, choice, and probably positively influences quality at the upper end. There can be no arbitrary number of titles above which we say that the right to read is satisfied and below which we say that the right is violated. More is always better. Note that when it comes to acceptability, we are concerned with the diversity of unique titles, whereas on the dimension of adequacy, we were concerned about the total number of copies.

To put it another way, adequacy is about whether people can get their hands on books, acceptability is about whether they can get their hands on books that they love. This difference is nicely illustrated by a case brought by a British prisoner, who sought the right to receive specific books she wished to read, beyond the limited selection available in the prison library and prison store. The Prison Service had enacted a ban on packages containing books, citing the administrative burdens of searching packages for drugs and “extremist materials.” A judge ordered the policy to be changed, emphasizing the importance of readers being able to access the particular books that are acceptable to them: “A book may not only be one which a prisoner may want to read but may be very useful or indeed necessary as part of a rehabilitation process.”¹³⁷

D. Integrating the Three Dimensions

The previous sections have separately detailed the three dimensions of liberty, capacity, and availability. These three dimensions of the right to read are not entirely independent, however, but have interactions between them. For example, if a government prohibits the publication of books in a given language, this directly violates the liberty to read. Such a prohibition, however, will ultimately have an impact on availability as well. Censorship may also result in a shortage of books expressing alternative perspectives, such that the book supply ultimately fails the acceptability criterion. Likewise, if a particular government fails to promote literacy among its population, the prospects for the availability of literature in its local languages are dim. Conversely, if reading materials are generally unavailable in

136. See generally *id.*

137. Alan Travis, *Prison Book Ban Is Unlawful, Court Rules*, *GUARDIAN* (Dec. 5, 2014), <http://www.theguardian.com/society/2014/dec/05/prison-book-ban-unlawful-court-chris-grayling>.

a particular language, members of that language community will have fewer opportunities to develop their literacy. A smaller pool of active readers not only results in a more limited audience for writers and publishers to market to, but also inhibits the development of the next generation of writers. In this way, availability affects literacy and literacy affects availability. The dynamic among these three dimensions may reflect either a vicious cycle or a virtuous one.

Integrating the three dimensions, we may say that the right to read is ultimately satisfied within a country when all people—including the poor—are empowered to access an ample and diverse supply of books in the languages they understand. Today, it must be said that this goal is still far from being met in too many places. Eliminating censorship and illiteracy remain significant challenges. To this list we must add the new challenge of addressing the availability dimension. Specifically, we must look to unlock the potential of publishing in local languages and find more effective ways of getting relevant reading material into the hands of the poor. In this effort we need to keep in mind that the right to read requires far more than ensuring access to textbooks. Freedom of expression, participation in cultural life, and the flourishing of minority communities require a diverse ecosystem of opportunities for reading and writing throughout one's lifetime, both to acquire knowledge and to explore and imagine alternative worlds.

III. OBJECTIONS AND IMPLICATIONS

Having laid out a theoretical framework for understanding the right to read, the final part of this article explores more concrete implications. In particular, I consider what recognition of the right to read would mean for governments, authors, and publishers, with special reference to the relevance of copyright law for promoting the right to read. First, however, I address the concern that recognizing the right to read might undermine efforts to protect existing rights that may be more important or fundamental, such as freedom of expression, freedom from torture, or the right to health.

A. Objections to "New" Human Rights

To accord something the status of a human right, and to advocate for efforts to address it through human rights institutions and techniques, necessarily holds both costs and benefits. Human rights language can bring greater legitimacy or perceived urgency to a cause. Many would argue, however, that this power must be used

sparingly, so that it does not become diluted. Similarly, a human rights frame can help to rally human rights institutions and supporters to an issue. Yet again, some would view this as a negative, arguing that it risks distracting these bodies from more pressing needs. Despite such objections, the scope of goals and claims recognized as human rights has steadily expanded over the last century. Those who view rights expansion as a concerning trend have variously referred to the problem as “rights proliferation,” “rights inflation,” or the “overproduction” of human rights.¹³⁸

The debate over which human needs and social values should be recognized as true human rights, and which should be consigned to some second-class status, was arguably resolved by the adoption of the UDHR. After extensive discussion by legal scholars and experts, representatives of many nations gathered to debate and include or exclude the various items. The first two-thirds of the document lays out long-familiar rights to life and liberty, freedom from slavery and torture, equal protection of the law, a fair trial, privacy, property, freedom of expression, religion, association, and democratic participation, among others. These civil and political rights are often referred to as the “first-generation” rights, because of their long intellectual and legal tradition. The last third of the UDHR lists “economic, social and cultural rights” considered to be “indispensable to [the individual’s] dignity and the free development of [his or her] personality.”¹³⁹ These include rights to social security; to just and favorable conditions of work; to join a union; to food, clothing, housing, and medical care; to special protection of motherhood and childhood; to education, science, and culture; and to protection of authorship. These “second-generation rights” mustered the necessary political consensus at the United Nations in 1948, but they have re-

138. See generally Maurice Cranston, *Human Rights, Real and Supposed*, in POLITICAL THEORY AND THE RIGHTS OF MAN 43 (D.D. Raphael ed., 1967); CARL WELLMAN, *THE PROLIFERATION OF RIGHTS: MORAL PROGRESS OR EMPTY RHETORIC?* (1999); Philip Alston, *Conjuring up New Human Rights: A Proposal for Quality Control*, 78 AM. J. INT’L L. 607 (1984); Upendra Baxi, *Too Many, Or Too Few, Human Rights?*, 1 HUM. RTS. L. REV. 1 (2001); Allen Buchanan, *The Egalitarianism of Human Rights*, 120 ETHICS 679 (2010); Joshua Cohen, *Minimalism About Human Rights: The Most We Can Hope For?*, 12 J. POL. PHIL. 190 (2004); Maurice Cranston, *Are There Any Human Rights?*, 112 HUMAN RIGHTS 1 (1983); Greg Dinsmore, *Debate: When Less Really Is Less—What’s Wrong with Minimalist Approaches to Human Rights*, 15 J. POL. PHIL. 473 (2007); Thomas C. Pocklington, *Morals, Politics, and the Inflation of Human Rights*, 2 WINDSOR Y.B. ACCESS JUST. 331 (1982); MARY ANN GLENDON, *RIGHTS TALK: THE IMPOVERISHMENT OF POLITICAL DISCOURSE* (1991); SAMUEL WALKER, *THE RIGHTS REVOLUTION: RIGHTS AND COMMUNITY IN MODERN AMERICA* (1998) (debating more generally whether a heavy emphasis on individual rights is healthy for democratic discourse).

139. UDHR, *supra* note 17, at art. 22.

mained a target of political and academic skepticism.

Writing in 1967, Maurice Cranston objected that “a philosophically respectable concept of human rights has been muddied, obscured, and debilitated in recent years” by the attempt to incorporate into it the second-generation economic, social, and cultural rights.¹⁴⁰ These newer rights have appeal in theory, he concedes, but when the effort is made to put them into practice, their conceptual impossibilities become apparent. Philosophically the second-generation rights do not make sense; politically the inevitable and irremediable confusion “hinders the effective protection of what are correctly seen as human rights.”¹⁴¹ The inclusion of too many utopian ideals in the UDHR tars all human-rights talk with the stigma of naïve idealism.¹⁴² On this point, the UDHR’s inclusion of a right to “periodic holidays with pay” has often been questioned.¹⁴³ Meanwhile, Cranston argues, efforts to advance the protection of a narrower and more traditional set of human rights have proven more effective. For example, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms focused on civil and political rights; among the socioeconomic rights, the Europeans chose to include only the right to education—and that in an optional protocol.¹⁴⁴ Europe’s signatory states moved much more rapidly to set up binding mechanisms for vindicating these rights.¹⁴⁵ Where economic and social rights were included, however, “it became impossible to pass from words to deeds.”¹⁴⁶

Developments since Cranston’s time have partially undermined such objections. Theorists and judges have worked to resolve the conceptual difficulties presented by economic, social, and cultural rights to render them justiciable. Today, Cranston’s objection that “it would be totally impossible to translate [economic, social, and cultural rights] in the same way into positive rights by analogous political and legal action” appears overstated or naïve.¹⁴⁷ Decolonization and economic growth have also made the economic, social, and cul-

140. Cranston, *Human Rights, Real and Supposed*, *supra* note 138, at 43.

141. *Id.*

142. *Id.* at 52.

143. UDHR, *supra* note 17, at art. 24; *see, e.g.*, Buchanan, *supra* note 138, at 680; JAMES GRIFFIN, ON HUMAN RIGHTS 186 (2008).

144. Eur. Consult. Ass., *Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms*, CETS No. 009 (March. 20, 1952).

145. Cranston, *Human Rights, Real and Supposed*, *supra* note 138, at 47.

146. Cranston, *Are There Any Human Rights?*, *supra* note 138, at 7.

147. Cranston, *Human Rights, Real and Supposed*, *supra* note 138, at 49.

tural rights claims appear significantly more realistic today than a half century ago. Universal primary education, universal vaccination, universal access to modern health care—these once impossible-seeming ideals are becoming realities before our eyes.

Arguments from impossibility are less persuasive today than in Cranston's time, but concerns that recognition of newer rights will undermine efforts to protect more fundamental ones remain. In the 1980s, the stakes of this debate were further raised with the introduction of new demands for "third-generation" rights, such as the right to development, to peace, to a clean environment, and to the political and cultural self-determination of peoples.¹⁴⁸ The addition of these "emerging" human rights was welcomed with open arms by some, ignored or derided by others. The reasonable center of this debate acknowledged the necessity of flexibility and addition of human rights overlooked in the 1940s, but urged a greater emphasis on "quality control."¹⁴⁹

After the failure of modern human rights regimes to prevent the atrocities in Bosnia and Rwanda of the 1990s, Michael Ignatieff argued for a much narrower focus, concentrating efforts on stopping "gross physical cruelty" such as torture, beatings, killings, rape, and assault.¹⁵⁰ This "minimalist" approach to human rights would certainly exclude recognition of a right to read, as well as freedom of expression, the right to vote, and most of the rights contained in the UDHR. Ignatieff echoes Cranston in arguing that "rights inflation—the tendency to define anything desirable as a right—ends up eroding the legitimacy of a defensible core of rights. That defensible core ought to be those that are strictly necessary to the enjoyment of any life whatever."¹⁵¹ Because Ignatieff emphasizes these political considerations and the primacy of protection of human life, he ends up advocating an even narrower view of rights than the traditional "first generation."

Defenders of rights expansion point out that human rights has always been about more than enforcement of minimal standards. Human rights serves as one of the primary languages the internation-

148. Stephen P. Marks, *Emerging Human Rights: A New Generation for the 1980s?*, 33 RUTGERS L. REV. 435 (1981); Philip Alston, *A Third Generation of Solidarity Rights: Progressive Development or Obfuscation of International Human Rights Law?*, 29 NETH. INT'L L. REV. 307 (1982).

149. Philip Alston, *Conjuring up New Human Rights: A Proposal for Quality Control*, 78 AM. J. INT'L L. 607 (1984).

150. MICHAEL IGNATIEFF, *HUMAN RIGHTS AS POLITICS AND IDOLATRY* 81, 83, 173 (2001).

151. *Id.* at 90.

al community uses to debate our moral responsibilities to one another and to set political goals for the future.¹⁵² From this view, to circumscribe human rights too narrowly risks cutting short the advance of social justice. Additionally, new historical challenges present new opportunities for and threats to human freedom and welfare, which naturally and appropriately lead to calls for new rights.¹⁵³ Thus, in the Internet Age we see new demands for a right to access the Internet, as well as a right to data privacy. Even those who embrace the thesis of rights proliferation will not agree on where to draw the line, which rights should be preserved, and which deserve lesser emphasis.¹⁵⁴ Thus we encounter what Baxi aptly calls, “the riot of perceptions concerning over- or under-production of human rights normativity.”¹⁵⁵ The degree to which the specter of “rights proliferation” is invoked often seems to depend more upon the degree of sympathy for the particular new right claim than on any firm concept of an optimal scope for human rights.¹⁵⁶

Committing to human rights in the abstract, or as a philosophical exercise, may well hinge on the nature of the particular right asserted. Actually realizing human rights in practice, however, may ultimately depend more on broader ethical and political commitments. Where a particular society is strongly committed to the principles of human equality and dignity, we should expect it to make great efforts to ensure that all of its members enjoy a broad range of human rights, including literacy education, adequate housing, and the right to marry. Where this commitment is low, we may find that support for even the most fundamental and urgent of human rights—such as fair trials and freedom from torture and genocide—fails to translate into practice.

One possible resolution to this debate is to recognize a hierarchy of human rights. Surely only a very narrow list of human rights violations can justify the extreme step of foreign military intervention—the focus of Ignatieff’s project. Yet a broader list of human rights might justify judicial intervention in the democratic process of lawmaking or political sanctions. A broader list still might justify reallocation of resources within or between states. And these distinctions might be drawn both with respect to the feasibility of these dif-

152. See Charles Beitz, *What Human Rights Mean*, 132 DAEDALUS 36, 40–41 (2003). See generally CHARLES R. BEITZ, *THE IDEA OF HUMAN RIGHTS* (2009).

153. Donnelly & Howard, *supra* note 30.

154. See, e.g., Baxi, *supra* note 138, at 8–9.

155. *Id.* at 8.

156. *Id.*

ferent measures for advancing the particular human right in question, as well as judgments about the importance of one human right versus another.

The official position of the international human rights regime, however, is that no such hierarchy exists—that it would be contrary to fundamental principles of human rights thought to acknowledge any such hierarchy.¹⁵⁷ This may be a politically necessary fiction. The concern (a real one) is that if the possibility of a hierarchy of rights were admitted, the second-generation rights might be even further marginalized. It might also legitimize the wishes of some states to “pick and choose” which rights they believe in, taking exception perhaps to the right to health care, or freedom of religion, or equal protection. Finally, insisting that all human rights are equal may help to forestall unproductive arguments among states over which should be prioritized, enabling international cooperation efforts to move on to the realization of these rights. Nevertheless, scholars have continued to argue that a hierarchy of human rights is not only conceptually valid, but also descriptively accurate.¹⁵⁸ Ironically, the refusal to admit the possibility of a hierarchy among human rights may backfire by causing new human rights claims to be rejected on the grounds that they do not seem as important as freedom from genocide and to fair elections.

Arguably the right to read should be assigned a secondary priority relative to some other rights. If it were truly necessary to choose between the right to food and the right to read, I for one would readily concede the primary importance of basic subsistence. The important point is that this is generally a false choice. The pro-

157. See, e.g., Office of the High Comm’r for Human Rights, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation, U.N. Doc. HR/PUB/06/8 (2006), <http://www.ohchr.org/Documents/Publications/FAQen.pdf>:

Is there any hierarchy among human rights?

No, all human rights are equally important. The 1948 Universal Declaration of Human Rights makes it clear that human rights of all kinds—economic, political, civil, cultural and social—are of equal validity and importance. This fact has been reaffirmed repeatedly by the international community, for example in the 1986 Declaration on the Right to Development, the 1993 Vienna Declaration and Programme of Action, and the near-universally ratified Convention the Rights of the Child.

Human rights are also indivisible and interdependent. The principle of their indivisibility recognizes that no human right is inherently inferior to any other.

158. See generally IAN D. SEIDERMAN, *HIERARCHY IN INTERNATIONAL LAW: THE HUMAN RIGHTS DIMENSION* (2001); Teraya Koji, *Emerging Hierarchy in International Human Rights and Beyond: From the Perspective of Non-Derogable Rights*, 12 EUR. J. INT’L L. 917 (2002); Tom Farer, *The Hierarchy of Human Rights*, 8 AM. U. INT’L L. REV. 115 (1992); Theodore Meron, *On a Hierarchy of International Human Rights*, 80 AM. J. INT’L L. 1 (1986).

motion of human rights is not in fact a limited quantity. We do not need to choose between the right to life and the right to read. We can and should call for both to be realized. Ultimately, to the extent that these rights demand an outlay of public resources, there will be potentially difficult choices to make. Governments must choose to spend a certain amount on food aid and public housing and a certain amount on literacy campaigns and libraries. These choices rest upon a valuation of the relative importance of the underlying rights, as well as considerations of cost-effectiveness. But jettisoning either right in its entirety would be an irrational and foolish solution to this resource challenge.

A second necessary response to the rights proliferation objection is to point out that the right to read is not truly a “new right.” It is simply a new application of long-recognized rights: freedom of expression, the right to education, etc. This phenomenon is not unique to the right to read. Despite being a basic human need, water is nowhere mentioned in the UDHR or later covenants. Yet claims to water as a human right emerged during the 1990s and the right to water is now well recognized.¹⁵⁹ It is possible, however, to locate the right to water at the intersection of previously recognized rights to life, health, food, and an adequate standard of living. Similarly, the “right to sanitation” lies at the intersection of these rights and the right to housing. The recently proposed “right to credit”¹⁶⁰ could similarly be located at the intersection of the right to work, the right to property, and the right to an adequate standard of living. Each of these new rights discourses—on water, sanitation, and credit—focuses on a specific issue that cuts across existing human rights silos. Yet no term currently exists to describe this phenomenon.

I suggest that we think of the right to read, the right to water, the right to sanitation, the right to credit, and others that fit this pattern as “intersectional rights.” Intersectional rights are not truly demands for new human rights. Instead, they are demands for more focused attention to neglected issues within human rights. An intersectional approach to human rights scholarship and advocacy may have unique advantages. Because intersectional rights focus on

159. SALMAN M. A. SALMAN & SIOBHÁN MCINERNEY-LANKFORD, *THE HUMAN RIGHT TO WATER: LEGAL AND POLICY DIMENSIONS* 8–16 (2004), <http://hdl.handle.net/10986/14893>. See generally MAUDE BARLOW, *BLUE COVENANT: THE GLOBAL WATER CRISIS AND THE COMING BATTLE FOR THE RIGHT TO WATER* (2007); Peter H. Gleick, *The Human Right to Water*, 1 *WATER POL’Y* 487 (1999); Karen Baker, *The “Commons” Versus the “Commodity”*: *Alter-Globalization, Anti-Privatization and the Human Right to Water in the Global South*, 39 *ANTIPODE* 436 (2007).

160. See generally Bayulgen, *supra* note 20; Marek Hudon, *Should Access to Credit Be a Right?*, 84 *J. BUS. ETHICS* 17 (2009).

a narrow policy issue, they are particularly well positioned to “proceed from words to action.” It is quite difficult to implement an abstract concept such as “the right to science and culture.” Yet the path to implementation of “the right to read” is clearer. Focusing on intersectional rights that cut across traditional boundaries may ultimately prove to be a more effective way to make progress on the realization of human rights, as well as pointing to a way through the rights proliferation debate.

B. Duties in Respect of the Right

In elaborating the right to read, I imagine that the dimensions of *liberty* and *capacity* are relatively uncontroversial. I also hope that I have persuasively made the case that we should pay greater attention to the traditional blind spot of *availability*. Even if all readers agree on the normative desirability of expanding access to literature, however, this by itself does not answer the essential next question of how to actually *achieve* that goal.

On this point, there can—and I believe *should*—be greater controversy. The questions to be resolved at this level are both normative and empirical. What specific goals should we aim at? For example, to what extent should we prioritize children’s literature, educational textbooks, adult non-fiction, high literature, or simple entertainment? Which methods will work or not work to achieve those goals? For example, which will be most effective: expansion of public libraries, charitable book donations, or driving down market prices? Must these questions be answered differently with respect to different languages? Finally, which methods are normatively legitimate and illegitimate in pursuit of those goals? Are price controls ever appropriate? Should copyright law be adjusted to facilitate translation, even if this means that copyright holders give up some control? These questions are difficult both because they are ideologically charged, and because they rest on empirical assumptions in need of careful testing. To a large extent then, this section must necessarily take the form of a survey of issues and an invitation for further study.

1. Duties Upon States

Some readers will resist the suggestion of any state responsibility to ensure the availability of reading materials. Education and health care services are a well-established province of government responsibility. But we are accustomed to thinking of books as more a

function of free markets. In reality, however, book provision has always been a mixture of market activity and public support. Public and publicly-subsidized universities employ many authors, and help to train virtually all of them. Public funding often supports writers' living expenses. In many countries, education departments purchase textbooks with tax dollars and provide them free of charge to students. U.S. college students must generally purchase their own textbooks, but they do so with support from federal financial aid for higher education. More than a billion dollars of tax revenue is used to purchase books each year by community libraries in the United States alone.¹⁶¹ The true innovation of defining reading as a human right, therefore, is not to justify a role for government involvement in publishing and distribution of books that did not previously exist. Instead, it is to justify an increased emphasis on equity, inclusion, and access as values that have previously been neglected. This will in turn imply a greater role to be played both by governments and by charities.

Yet as soon as we accept the right to read as a universal entitlement, we must confront the challenge to define more precisely the corresponding duties of governments. Is there a state duty to financially support book charities?¹⁶² Is it reasonable to expect resource-poor countries to prioritize spending on libraries rather than other pressing needs in education, health care, housing, or clean water? Should governments actively subsidize the production of original works through subsidies or commissions? Or does freedom of expression require that origination efforts be left to independent non-profits or the market? Can legal regulations and taxes affecting the book market be altered to bring down costs of production and distribution?¹⁶³ Should governments abandon laws that limit the ability of

161. D. W. SWAN ET AL., INST. OF MUSEUM AND LIBRARY SERV., PUBLIC LIBRARIES IN THE UNITED STATES SURVEY: FISCAL YEAR 2010, at 9 (2013).

162. The state constitution of Michigan, adopted in 1963, contains a section providing for the funding of libraries. See MICH. CONST. of 1963, art. VIII, § 9:

The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

163. For example, tax law can offer incentives for book publishers to print very large runs and store the extra copies for years or decades until they gradually sell by allowing publishers to rapidly depreciate the "asset" of stored extra copies. Printing in larger runs greatly reduces the per-copy costs of printing, and can make it more economical to offer niche books at prices more similar to those of blockbuster books. See, e.g., Jürgen Backhaus & Reginald Hansen, *Resale Price Maintenance for Books in Germany and the European*

book retailers to engage in price competition and scrutinize private agreements that have a similar effect? All of these are open questions that deserve serious and extended discussion. My intent is not to attempt to answer them all in this article. Instead, I hope that this call for recognizing the right to read will help to stimulate that next-stage discussion. Ultimately, the best answers to these next-order questions are likely to differ from country to country, in light of different cultural, economic, and political realities.

Socioeconomic rights, including the right to read, should not be understood as “trumps” that render other policy considerations irrelevant.¹⁶⁴ Not every law or policy that limits the availability or affordability of books is a violation of the right to read. Within international human rights law, rights claims are not evaluated as absolutes, nor even through a lens resembling American strict scrutiny. Instead, they find application through a more flexible form of proportionality-balancing that evaluates the reasonableness of state action in light of its positive and negative impacts on human rights. On the flip side, neither is the “right to read” merely a rhetorical assertion or aspirational goal with no legally enforceable content. At a certain point, it is possible to say that a government’s book policy does not go far enough to respect and protect the right, or that a particular law violates the right to read by restricting access in an unjustifiable way. To precisely draw those lines, however, requires a careful consideration of the details of each policy in its national context that is beyond the scope of this article. Examining these various policy frameworks from the perspective of the right to read is a task for future scholarship and normative elaboration.

2. Duties Upon Private Actors

The right to read also has implications for private actors. Although states bear the ultimate responsibility for protecting human rights, businesses also have obligations to respect human rights within their operations.¹⁶⁵ The U.N. Guiding Principles on Business and

Union: A Legal and Economic Analysis, in FROM ECONOMIC TO LEGAL COMPETITION: NEW PERSPECTIVES ON LAW AND INSTITUTIONS IN EUROPE 335–44 (Alain Marciano & Jean-Michel Josselin eds., 2003) (describing the operation of the depreciation system in the German publishing context).

164. Cf. Ronald Dworkin, *Rights as Trumps*, in ARGUING ABOUT LAW 335–44 (Aileen Kavanagh & John Oberdiek eds., 2009).

165. John Ruggie (Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises), *Rep. on Guiding Principles on Business and Human Rights: Implementing the United Nations’*

Human Rights (Guiding Principles) make clear that businesses have a duty to respect the full range of rights included in the UDHR, ICCPR, and ICESCR, a duty which extends beyond merely complying with local laws and regulations.¹⁶⁶ Specifically, these duties include: (1) adopting a policy commitment to human rights compliance at the highest level of the business; (2) conducting ongoing due diligence to understand the human rights impacts of their own operations, products, services, and business relationships; (3) taking appropriate and effective action to remedy negative impacts on human rights to which they are connected; (4) communicating with affected stakeholders and the public about these activities; and (5) avoiding undermining the ability of states to protect human rights.¹⁶⁷

The operations of publishers, book distributors, and internet service providers are particularly important for the right to read, especially along the availability dimension. Efforts to implement the Guiding Principles might include actions such as: (1) adopting a high-level commitment to reading as a human right, regardless of language, disability, or ability to pay; (2) seeking to understand how their distribution models and copyright practices impact the right to read¹⁶⁸; (3) setting goals and indicators for the distribution of free and low-cost reading material and adopting policies to facilitate translations into other languages; (4) consulting with representatives of print-disabled and minority-language readers to better understand their needs and publicly reporting on their ongoing efforts; and (5) facilitating rather than opposing efforts at the WIPO to adopt an international instrument on copyright exceptions and limitations for libraries.

This emphasis on corporate responsibility for human rights need not reflect a “name and shame” approach. Rather, it should reflect the fact that corporations hold much of the power to effect positive change in this area, because they are central to the distribution of reading material. A variety of not-for-profit efforts to expand digital access to reading material in developing countries have found it essential to partner with publishers, because only the copyright holder can authorize these efforts.¹⁶⁹ Publishers may also donate hard cop-

“Protect, Respect, Remedy” Framework, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011).

166. *Id.* at 15–18.

167. *See id.* at 13–16.

168. Farida Shaheed (Special Rapporteur in the Field of Cultural Rights), *Rep. on Copyright Policy and the Right to Science and Culture*, U.N. Doc. A/HRC/28/57 (Dec. 24, 2014) (discussing the impact of distribution models and copyright practices on the availability of literary works in different languages).

169. These efforts work on the premise of creating a free library that African readers can

ies of books in large volumes to charities, either by design or because they have leftovers they need to dispose of, often in exchange for a tax write-off.¹⁷⁰ But there are also other important ways that businesses in the book industry can promote book availability, beyond the most obvious context of donating copies.

For example, Apple's iBooks Store and other internationally leading platforms for the purchase of digital books work with books in Western scripts, but do not currently support the distribution of books in many other typographies, including Arabic-language books.¹⁷¹ This may be a sensible business decision, at least in the short term. The potential profits to be made in these non-Western markets are smaller, and developing the software to support new typography will be costly. But a significant consequence of this business decision is that it is dramatically more difficult for Arabic speakers to access reading material, except for the elite minority that is fluent in English or French.¹⁷² If these businesses collaborate to develop standards that can support non-Western scripts, they will make a significant positive impact on the right to read, as well as opening up new markets for themselves.

Book publishers also hold the legal rights to translate large numbers of existing works into other languages. In a typical book contract, the author conveys to the publisher the right to authorize translations in any language, in any region of the world. As authors become more successful and gain bargaining leverage, they often negotiate to retain these translation rights, later selling them piecemeal to foreign publishers best positioned to exploit them. In practice, however, only a small percentage of the world's languages are likely to generate any profit for the publisher. Publishers could surrender their hold on translation rights they are unlikely to ever make use of by licensing any member of the public to attempt a translation in languages beyond those specifically reserved. This would create legal room for innovative approaches to not-for-profit translation and distribution of these works in neglected languages.

Again, it is not my ambition here to comprehensively recom-

access through a digital e-Reader or smartphone. They all depend upon the charity of publishers.

170. See, e.g., *Book Donation Initiative*, ASS'N OF AM. PUBLISHERS, <http://publishers.org/our-markets/trade/book-donation-initiative> (last visited Oct. 13, 2015).

171. RÜDIGER WISCHENBART, *GLOBAL EBOOK: A REPORT ON MARKET TRENDS AND DEVELOPMENTS*, UPDATE FALL 2013, at 84 (2013). There are approximately 500,000 Arabic titles in print, with about 15,000 new titles added each year. *Id.* at 78.

172. The leading Arabic-language online bookstore, Lebanon's Neel Wa Furat, has recently launched iKitab, which sells some 3,000 Arabic-language ebooks. *Id.* at 78.

mend precisely what publishers and technology companies should do and refrain from doing in light of the right to read. Rather, I suggest that this is a conversation that should begin to take place among these actors, in consultation with groups that can speak to the needs of readers from all walks of life.

C. Copyright Law and the Right to Read

Although many facets of law and policy can impact the availability of reading material, copyright law is particularly relevant. National copyright laws dictate whether not-for-profit copying for educational purposes is encouraged or prohibited, whether permission must be sought to produce a translation or abridgement, whether companies may rent or resell books under what terms, and whether libraries may loan digital works to patrons. Copyright lawmaking has long been informed by concern for authors' rights, which are explicitly recognized in the international human rights documents.¹⁷³ Readers' rights should be treated with similar concern in copyright policymaking and doctrinal development.¹⁷⁴ Recognition of the right to read calls upon copyright lawmaking to incorporate concern for access and affordability of reading materials as a fundamental policy goal.

Scholars and policymakers should also explore how the "right to read" and its emphasis on expanding access to reading material can inform the development of copyright law, both within the United States and internationally. Copyright law should be guided both by notions of respect for authors' rights, as well as respect for the fundamental right of everyone to read.¹⁷⁵ Recasting would-be readers as bearers of human rights, rather than merely as consumers, suggests a very different frame for copyright and book policy. It is no longer enough to speak merely of economic efficiency, incentivizing markets, and expanding the diversity of works available in the market. Now we must also pay attention to issues of inequality, affordability, and access by vulnerable groups. In this way, introducing "the right to read" as a touchstone for thinking about copyright law can fore-

173. See, e.g., UDHR, *supra* note 17, at art. 27(2); ICESCR, *supra* note 5, at art. 15(1)(b).

174. See Jessica Litman, *Readers' Copyright*, 58 J. COPYRIGHT SOC'Y USA 325 (2011) (demonstrating that copyright has drifted away from its historical concern for readers as the beneficiaries of copyright law as authors and owners became central, and arguing that the "copyright liberties" of readers are an integral part of the fabric of copyright law and that the ultimate purpose of copyright law should be to encourage reading).

175. *Id.*

ground issues that have previously been overlooked by scholars and policymakers.

Concretely, I suggest that the right to read imposes a state duty to ensure that its copyright laws and related policies are well designed to promote the right to read. An important means of pursuing this goal is to implement national exceptions and limitations to copyright protection specifically designed to encourage affordable publishing and distribution. In this effort, the insight that the market for books works differently in different languages can point the way to potential compromises.¹⁷⁶ Copyright rules could place fewer restrictions on the production and distribution of reading material in local languages, allowing this market to operate more freely and innovate low-cost business models. National laws might also seek to ensure that readers purchasing ebooks are able to keep and continue to read purchased titles when they opt to purchase a different device.¹⁷⁷

A related area of law concerns national regulations adopted to limit price competition by book retailers. In many countries, legislation has been passed restricting the ability of booksellers to price their books substantially below the publisher's "list" price. For example, Israel prohibits discounting during the first eighteen months—with an exception for an up-to-ten-percent discount during Hebrew Book Week and during major holiday shopping periods—and sets minimum royalty rates ranging from eight to sixteen percent, depending on the size of the book run and the timing of the sale.¹⁷⁸ Many countries currently practice some form of fixed book pricing, including Argentina, Austria, France, Germany, Greece, Italy, Japan, Lebanon, Mexico, Netherlands, Norway, Portugal, Slovenia, South Korea, Sri Lanka, and Spain.¹⁷⁹ In some countries, private arrangements among publishers and retailers achieve the same effect without a le-

176. Shaver, *supra* note 6, at 142–48, 154–65 (offering a conceptualization of the “inequality insight” to show how copyright’s incentives are less effective in non-dominant languages and suggesting that alternative approaches that are less restrictive of translation, abridgment, and copying may work better to stimulate publishing in these languages).

177. See SACINO, *supra* note 49, at 72–73; Ana Carolina Bittar, *Unlocking the Gates of Alexandria: DRM, Competition, and Access to E-Books* (July 25, 2014) (working paper presented to the 14th Annual Intellectual Property Scholars Conference).

178. Herb Keinon, *Bill Will End Low Prices for New Hebrew Books*, JERUSALEM POST (June 11, 2012), <http://www.jpost.com/National-News/Bill-will-end-low-prices-for-new-Hebrew-books>.

179. INT’L PUBLISHERS ASS’N, GLOBAL FIXED BOOK PRICE REPORT 56 (May 23, 2014), <http://www.internationalpublishers.org/images/reports/2014/fixed-book-price-report-2014.pdf>.

gal mandate.¹⁸⁰ Other countries formerly practiced fixed book pricing but have since abandoned it, including Australia, Denmark, Finland, Ireland, Sweden, Switzerland, and the United Kingdom.¹⁸¹

The impact of fixed book pricing on the right to read is complex. At first glance, it seems obvious that such measures would increase the price of books. Yet supporters argue that fixed book pricing results in higher prices only for bestsellers, and may lower prices for other books, because of cross-subsidization.¹⁸² The primary advantage argued by supporters of fixed book pricing is to provide greater support for publishing, which may be particularly important in local languages, and to encourage a greater diversity of titles to be published and purchased. So far the debate remains dominated by ideological arguments and theoretical predictions, with little empirical research. It is likely that the real impacts of fixed book pricing will differ depending on the form enacted and the national context. The right to read does not necessarily call for the abolition of fixed book pricing, but does demand that such laws be carefully studied, with particular concern for their impact on readers with fewer resources. In theory, legislation could also be written to permit or encourage different book prices for different consumers, such that a low-income reader, library, or other non-profit organization could benefit from a substantial discount off of the list price.

In short, copyright and related legal debates have long sought to balance the interests of authors, publishers, and readers. Missing from this debate, however, has been a recognition of inequality among readers.¹⁸³ The human rights perspective brought by attention to the right to read encourages us to recognize the dilemma of vulnerable groups who will experience difficulty purchasing books within their income, or even finding books in their language. With greater attention to this problem, legal and policy solutions can be identified to help bridge the book gap.¹⁸⁴ Even in countries where international human rights law has little or no legal authority as such, rhetorical invocation of a right to read—and insistence on the underlying principle that books, ebooks, and other reading material should

180. *Id.* at 1.

181. *Id.* at 2, 4.

182. See, e.g., Vidar Ringstad, *On the Cultural Blessings of Fixed Book Prices: Facts or Fiction?*, 10 INT'L J. CULTURAL POL'Y 351, 357–58 (2004).

183. Shaver, *supra* note 6.

184. *Id.* (offering the “inequality insight” as a way to reexamine copyright law, with greater attention to its impact upon low-income and local-language readers, and suggesting policy measures to strike a better balance between incentives for production, affordability, and access).

be accessible to all—can point the way to legislative and doctrinal forms that have a real impact on opportunities to read.

CONCLUSION

Well-recognized norms of international human rights law include freedom of expression, the right to education, children's media rights, the right to take part in cultural life, and the right of minority groups to use their own languages. Building upon these existing norms, this article has proposed recognition of an intersectional human right to read. The right to read has three dimensions: the *liberty* to read and write in any language, the individual *capacity* to read and write (literacy), and the reasonable *availability* of a broad range of accessible reading materials in one's preferred language. The first two dimensions are familiar and relatively uncontroversial. States must refrain from censorship and other measures that would limit minority language education or publishing. States also have a positive duty to provide educational opportunities to help children and adults develop literacy. Less well understood at present is the state's duty to promote affordable access to reading materials. This goal cannot be left purely to market forces, but requires government, charitable, and business efforts to facilitate the availability of affordable reading materials in all languages and ensure that they are accessible even to disadvantaged populations.