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The Right to Read

Lea Shaver

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* J.D., Yale Law School; M.A., University of Chicago; Associate Professor of Law, Indiana University Robert H. McKinney School of Law. I would like to thank Erin F. Delaney, Susan DeMaine, Peter DiCola, Keith Findley, Christopher C. French, Robert Katz, Benjamin Keele, Jud Mathews, Michael Mattioli, Alexandra Mogyoros, David Orentlicher, Guy Rub, Margaret Tarkington, Melissa Wasserman, Christopher J. Walker, Carlton Waterhouse, Diana Winters, and R. George Wright for their particularly helpful comments during the drafting of this article. Particular thanks go to the organizers and participants of Indiana University Maurer School of Law’s Big Ten Untenured Faculty Workshop, especially Ajay Mehrotra, and the University of Connecticut Human Rights Institute’s Economic and Social Rights Reading group, especially Shareen Hertel, Susan Randolph, and Molly Land. A more recent draft may be available at http://ssrn.com/abstract=2467635.
ABSTRACT

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, the rights-based frame 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 is the first to call for recognition of a right to read. 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. 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 materials are made widely available and affordable—even to the poor and to speakers of minority languages.

Reframing reading as a human right ultimately points to a reorientation of copyright law, as well as obligations upon publishers and technology companies to facilitate access for readers of all income levels and in every language. The conceptual elaboration of the right to read also holds lessons for rights theorists and advocates, as an illustration of an “intersectional” approach to human rights scholarship and advocacy.
I. 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 Within a month, the U.S. Office of Education announced the national Right to Read effort.2 The initiative had many 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 U.S. was pursuing its Right to Read Effort, the international community was finalizing the International Covenant on Economic, Social and Cultural Rights. The ICESCR created a binding legal obligation to respect, protect, promote, and fulfill the rights of

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3 See id. at v-vi.


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 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.\footnote{See Lea Shaver, \textit{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).} 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. 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 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 the right to development. 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 II 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 III builds upon that textual foundation and begins 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 educational opportunities to all people. *Availability* refers to whether individuals can effectively access reading materials that suit their needs and preferences, including dimensions of affordability and language. After all, the right to read can hardly be said to be enjoyed if you cannot afford to buy books, or have no access to the Internet, or if the available reading material is in a language that you do 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 less well understood as a problem of public policy, and likely to be more controversial as a normative matter. Yet I argue it is also the most urgent to recognize and promote. Identifying the availability of reading materials as a key barrier to reading may strike many readers as counter-intuitive. If you have come across this article, it is likely that your life experience involves easy 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

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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. Yet most of the world’s population is not fluent in English, nor any of the other major languages of publishing such as Spanish or French. Making reading material available in a broader set of languages is both particularly challenging and particularly important. These problems of book scarcity and unequal access to reading material – linguistic, geographic, and financial – have not yet received sufficient attention as a matter of law or policy. It is here that animating the notion of a right to read may prove most helpful, by focusing attention on the urgent problem of availability.

Fleshing out the availability dimension of the right to read is therefore the central task of Part III, building on my earlier work on Copyright and Inequality.

Finally, Part IV explores several objections to and implications of recognizing a right to read along the lines proposed in this article. Is it wise to invoke the rhetoric and institutional structure of human rights law to promote the capacity to read? Do claims of a right to read constitute an example of “rights proliferation” that should be guarded against? Or can the right to read serve as a model for claiming and realizing other neglected human rights? Can the right to read be understood as a justiciable legal right capable of being enforced by courts? Or 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- 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

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8 See Ethan Zuckerman, Rewire: Digital Cosmopolitans in the Age of Connection, 135-40 (2013) (casting doubt on the much-cited statistic that 70% 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).

10 Lea Shaver, Copyright and Inequality, 92 Wash. U. L. Rev. 117, 166-68 (2014) (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 See Lea Shaver, Copyright and Inequality, 92 Wash. U. L. Rev. 117 (2014) (exploring how copyright law drives up the price of books but fails to incentivize publishing in languages spoken primarily by poor people, and suggesting avenues of copyright reform to better benefit disadvantaged populations).
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?

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 challenge that human rights advocacy in the fields of freedom of expression and education 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. A substantial portion 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. 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 education, 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.

Second, throughout this article I approach the “right to read” in 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 so-called “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 and poorer nations. The challenges are also different based 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 much of the world, however, most people acquire an international language as a second tongue, if at all. This is the case, for example, in most African nations, 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 of the right to read in 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 – economic and social rights such as the right to education or the right to read – are particularly unfamiliar and often confusing to American legal audiences. We are accustomed to thinking of rights claims as near-absolutes. For example, once an American court accepts 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 American 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 American constitutional law is to define rights narrowly, and more or less 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. A right to education is recognized, but it does not mean that everyone is entitled to have the State subsidize their pursuit of a PhD. 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 “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 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.

II. 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 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, international human rights norms are incorporated into the domestic constitutional order and strongly influence domestic political discourses.\(^{14}\) 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, as well being a powerful frame for domestic policy debates.

Utilizing the human rights framework does not necessarily mean, however, that we must -- or even should -- add the right to read to the list of human rights found in the Universal Declaration of Human Rights. 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. Some scholars have used terms such as “generic rights” 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 very 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. In this example, freedom of expression is the generic right. The right of minors to engage in non-disruptive political advocacy while at school is a specific right implied by the more generic one. A second example helps 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

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15 See James Nickel, MAKING SENSE OF HUMAN RIGHTS, 4 (1987) (distinguishing 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).

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. In this context, 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 by the state 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 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 Universal Declaration of Human Rights and later binding covenants. These general rights include: freedom of expression, the right to education, 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, the right to a safe environment, and the right to credit. Certainly, thoughtful people have objected to these initiatives’ use of the human rights framework and

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17 Kishen Pattnayak & another v. State of Orissa; People’s Union for Civil Liberties (PUCL) v. Union of India and others.


21 See, e.g., Oksan Bayulgen, Giving Credit Where Credit is Due, 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).
terminology. Water, the environment, and credit are not addressed in the major human rights documents. Some human rights advocates and theorists are concerned that “rights proliferation” will dilute or undermine safeguards for truly fundamental norms.22 This debate is one of several potential objections to recognition of a right to read that will be discussed in Part IV. For now, it is important only to appreciate that it is both possible and precedent to argue for the existence of human rights that are not already enumerated in the major documents... and without needing to revise the text of the documents to insert them.

Drawing on established principles of international human rights law, it may be seen that implicit in these norms is a universal human right to read... and even more specifically, 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—are already relatively well theorized. Others—including the right to science and culture—remain at an earlier stage of theorization. For relatively under-theorized generic rights, the project of developing an understanding of the specific right to read can 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 Universal Declaration of Human Rights.23 It was later given binding legal status through the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).24 The right to education is further enshrined in the Convention on the Rights of the Child.25 These three most noteworthy agreements are just the


24 ICESCR, supra note 5 at Art. 13-14.
beginning of international legal instruments recognizing and reinforcing the right to education.\textsuperscript{26}

The right to education is understood as implying both a negative claim against state interference with private educational efforts\textsuperscript{27} and a positive claim on state resources and direction to make education accessible to all, regardless of family income.\textsuperscript{28} The right 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 primary education, including basic literacy.\textsuperscript{29} It also includes an obligation on states to progressively make more advanced educational opportunities available to all without discrimination.\textsuperscript{30}

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.\textsuperscript{31} The United Nations Committee on Economic, Social and


\textsuperscript{26} For further detail on additional international, regional, and specialized instruments recognizing and reinforcing the right to education as a human right, see Klaus Bieiter, 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) [hereinafter Protection of the Right to Education]. The right to education is further recognized in the national constitutions of many countries.


\textsuperscript{28} General Comment 13, supra note \_ at para. 6, 25-27, 48, 50, 51, and 57. See also Katarina Tomasevski, Education Denied: Costs and Remedies, 53 (2003).


\textsuperscript{30} General Comment 13 supra note \_.

\textsuperscript{31} 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, Bieiter, Protection of the Right to Education, supra note 26 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
Cultural Rights has issued an authoritative interpretation of the right to education, which begins by emphasizing its dual nature as both a human right in itself and an enabler of other human rights:

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.32

Under the various 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 exclusively, dedicated 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,33 This is consistent with the general emphasis of human rights on the promotion of dignity and development as a touchstone concept.34 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 learning beyond the classroom might plausibly be understood as part of the right to education. This would, however, be an

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to Its Realization, in HUMAN RIGHTS IN EDUCATION, SCIENCE AND CULTURE: LEGAL DEVELOPMENTS AND CHALLENGES, 183, 185-86 (eds. Yvonne Donders & Vladimir Volodin 2007) (examining the right to education as an “empowerment” and “key” right). See also General Comment on the Right to Education at para 1.

32 General Comment on the Right to Education, supra note 31 at para. 1.

33 Universal Declaration at Art. 26; ICESCR at Art. 13(1); Convention on the Rights of the Child at Art. 29(1)(a); General Comment on the Right to Education at para. 4.

34 The Universal Declaration makes several references to development of the human personality as a central aim of human rights, particularly the socio-economic guarantees. “Everyone... is entitled to realization, through national effort and international cooperation 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.” (Art. 22) “Education shall be directed to the full development of the human personality...” (Art. 26) “Everyone has duties to the community in which alone the free and full development of his personality is possible.” (Art. 29)
extension of the right to education concept beyond its current understanding.

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.\textsuperscript{35} 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.\textsuperscript{36}

The right to education offers particularly strong support for the right to read as it relates to textbooks and other explicitly educational materials. It would be a mistake, however, to cabin it quite so narrowly. Children’s literature and novels play an important role in literacy development, and one of the aims of education is to develop young people’s 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, as well as the academic scholarship whose production plays a central role in higher education.

\textbf{B. Children’s Media Rights}

The most specific support for the right to read may be found in the United Nations Convention on the Rights of the Child (CRC). The CRC 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,\textsuperscript{37} to healthcare,\textsuperscript{38} and the right to education.\textsuperscript{39} It also

\textsuperscript{35} See, e.g. Mich. Const. art. VII, Sec. 2.

\textsuperscript{36} See discussion \textit{infra} at notes 113-118.

\textsuperscript{37} Children’s Convention, \textit{supra} note \_\_ at Articles 13-15.

\textsuperscript{38} Children’s Convention, \textit{supra} note \_\_ at Article 24.
has several innovative provisions not found in the Universal Declaration or the International Covenants, including the right of the disabled child to special care, and the right to protection from domestic violence.

One of these innovative provisions specifically addresses the availability of children’s literature, among other children’s media. Article 17 commits state parties to encourage the appropriate development of mass media to support the developmental needs of all children. The origins of this Article are somewhat accidental. The earliest working draft had identified mass media as a potential source of “harmful influence” on the child’s “mental and moral development,” from which children must be protected. 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. A few voices also called for the provision to be redrafted to emphasize the positive role of media rather than the potential for harm. This suggestion prompted the dramatically different language ultimately adopted, which emphasizes children’s rights of access to media rather protection from it.

39 Children’s Convention, supra note __ at Articles 28-29.

40 Children’s Convention, supra note __ at Article 23.

41 Children’s Convention, supra note __ at Article 19.

42 Children’s Convention, supra note __ at Art. 17.


45 Id.

The format of Article 17 is somewhat unconventional, in that it does not use the term “right” to articulate a normative claim to some liberty or entitlement. Instead, the media 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.” The provision also explicitly emphasizes the importance of international cooperation and providing media in minority and indigenous languages.

At the time these debates were taking place, “media” was understood to refer primarily to broadcast television, radio, and newspapers. At a late stage in the debate, a specific provision was inserted committing states to “Encourage the production and distribution of children’s books,” at the suggestion of a non-profit organization, the International Board on Books for Young People.

This duty of 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.’” 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. The obligation “to ensure” could therefore require a state to intervene where encouragement of private actors fails to produce the intended result. This emphasis distinguishes children’s media rights from

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47 Children’s Convention, supra note ___ at Art. 17.

48 Children’s Convention, supra note ___ at Art. 17.

49 Sherry Wheatley Sacino, Article 17: Access to a Diversity of Mass Media Sources 1 (2012).

50 Children’s Convention, supra note ___ at Art. 17(c).

51 Sharon Detrick, A Commentary on the United Nations Convention on the Rights of the Child 288 (1999); see also Sherry Wheatley Sacino, Article 17: Access to a Diversity of Mass Media Sources 27 (2012) (“encourage” is perhaps the least demanding duty in international human rights law… [suggesting] 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… encourage 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 Id. at 287.

53 Sherry Wheatley Sacino, Article 17: Access to a Diversity of Mass Media Sources 32 (2012) (“For instance, complying with the first sentence could require a State to… order
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.\textsuperscript{54} The UN 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.\textsuperscript{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.”\textsuperscript{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, rather than using the language of a “right” to be free from such abduction.\textsuperscript{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 be thought of as an articulation of

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.”).  

\textsuperscript{54} \textsc{Sherry Wheatley Sacino, Article 17: Access to a Diversity of Mass Media Sources} 7-9 (2012).


\textsuperscript{56} \textsc{Sherry Wheatley Sacino, Article 17: Access to a Diversity of Mass Media Sources} 33 (2012).

\textsuperscript{57} Children’s Convention, \textit{supra} note ___:

\textbf{Article 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.
The right to education and children’s media rights provide the strongest 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 elsewhere, in the right to science and culture. According to Article 27 of the 1948 Universal Declaration, “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 original provision later found expression in two different Covenants, each emphasizing a different aspect. The ICCPR emphasizes respect for the rights of minority groups to practice their religions, use their languages, and maintain their cultural practices.\(^{60}\) (This “minority cultural rights” provision will be discussed in the section following this one.) The ICESCR emphasizes equitable access to culture, broad participation in creativity, protection of authorship, and international cooperation on cultural and scientific matters.\(^{61}\) In the past few years, this concept is increasingly being shorthanded with a phrase I coined in an earlier article: “the right to science and culture.”\(^{62}\)

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58 Children’s Convention, supra note ___ at Art. 13.

59 Children’s Convention, supra note ___ at Article 30 & 31.


Although the right to science and culture has a longer history than children’s media rights—it was first introduced in the 1948 Universal Declaration—it did not become the subject of significant normative elaboration until the twenty-first century. As recently as 2007, human rights scholars working to remedy this obscurity described this provision as “barely addressed in the academic literature,”63 “little studied” and “poorly elaborated in terms of content and scope and often neglected in terms of implementation,”64 and “underdeveloped,”65 with “little agreement as to how to interpret the content of the right.”65 Since that time, however, the right to science and culture has enjoyed something of a renaissance. A number of scholars, including myself, have worked to interpret this right and spell out its legal implications. This effort also received an important boost with the creation of the office of the United Nations Special Rapporteur in the field of cultural rights. In her second term in this office, Farida Shaheed has done significant work to advance the understanding of this right.66

In my own work on the right to science and culture, I have emphasized an understanding of this right as committing governments to cultivate science, technology, and the arts as global public goods.67 Scientific knowledge, technological know-how, and artistic works have a powerful ability to improve our quality of life, and sometimes even to preserve life itself. Unlike food, water, housing, and other essential goods that may be in limited supply,

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66 Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed: The right to enjoy the benefits of scientific progress and its applications, UN Doc. A/HRC/20/26, 14 May 2012, especially paras. 14, 28, and 74(d); Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, Copyright policy and the right to science and culture, A/HRC/28/57, Dec. 24, 2014. I served as a consultant for the second of these reports.

67 Lea Shaver, The Right to Science and Culture, supra note __.
science and culture tend to be more shareable. Once a scientific or technological discovery has been achieved, it can be more easily reproduced; once a song or a poem or a book has been written, it could be sung or read by ten people or by ten million. Although these goods are important and have a unique potential to reach scale, they may be under-produced by the marketplace in the absence of government investment. To treat these goods as a human right is to call upon governments to cooperate in funding the production of art and science and to take measures to ensure that they reach all members of the public.

The right to science and culture has three components: the right to cultural participation, the right to science and technology, and the right to protection of authorship. Cultural participation refers to the ability of every person both to access cultural goods and to take part in cultural meaning-making as a creator, and is therefore particularly relevant for the right to read. Literature is an important part of culture, in which all people should be able to participate as readers (and as writers). The right to science and technology, although primarily focused on equitable access to technology (for example, essential medicines) has also been interpreted to include a right of access to scientific literature and texts. 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. 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.

The right to science and culture provides support for a broader 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 on access to books during childhood, the right to science and culture points to a life-long right to continue to learn and develop the human personality through interaction with

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68 ICESCR Article 15(1)(a)-(c).
69 Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed: The right to enjoy the benefits of scientific progress and its applications, UN Doc. A/HRC/20/26, 14 May 2012, especially paras. 14, 28, and 74(d).
texts and other cultural works. The right to science and culture also draws attention to the human rights value of participation, as both a creator and as a consumer, reminding us that “the right to read” must go hand in hand with a “right to write.” Finally, the emphasis within this right on both science and culture underscores the importance of access both to non-fiction material that serves as a means of better understanding the world around us, as well as to fictional material that serves as a medium through which we can reflect upon and even reimagine the cultures that we inhabit.

D. Minority Cultural Rights

Whereas the right to science and culture assures the right of everyone to participate in the cultural life of whichever communities they choose to engage with, minority cultural rights emphasize the need to specially protect the cultural expressions of vulnerable groups. This has particular importance for thinking about the right to read as it is shaped by the languages a particular individual or community speaks and reads. 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.”

Whereas some other provisions of international human rights law pertain specifically to indigenous groups, the term “minority” is broader, encompassing any cultural group that cannot count on numerical dominance to protect its interests in cultural integrity, promotion, and development.

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 endeavors to promote minority languages and culture. Put more concretely, it is clear that

72 ICCPR Art. 27.

73 See also, U.N. Human Rights Committee, General Comment 23, Article 27 (50th session, 1994), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 38 (1994) [hereinafter HRC General Comment on Minorities]. This document offers legally authoritative interpretation of the ICCPR, and speaks of indigenous groups as a subgroup of cultural minorities. HRC General Comment on Minorities, para. 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).
minority cultural rights would 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 proactive to promote minority rights? The U.N. Human Rights Committee has encouraged that this question be answered with a “yes.” The text is therefore interpreted broadly as not only permitting, but in fact requiring, the use of “positive measures of protection.” This document 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.

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 Universal Declaration nor the ICESCR specifically discussed 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. In more recent documents, however, the role of language in the right to education has received more specific attention. The Convention on the Rights of the Child 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. 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. Yet the ECHR modified this view in a more recent case

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74 HRC General Comment on Minorities, supra note 73 at para. 6.1.

75 HRC General Comment on Minorities, supra note 73 at para. 6.2.

76 Universal Declaration 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 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.”)

77 Convention on the Rights of the Child [hereinafter Children’s Convention] at Art. 29(1)(c) (“States Parties agree that the education of the child shall be directed to… The 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.”)
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. 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 may receive increasing emphasis in the future.

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 unavailable 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 availability of literature in English as a reason to discount the importance of the availability of literature in French. The choice to read and write in the language of a particular culture is an act of cultural expression. The ability of members of the 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 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.

E. Freedom of Expression

According to Article 19 of the Universal Declaration of Human Rights, “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.”

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80 See, e.g. Bieiter, Protection of the Right to Education, supra note 26 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).
81 Universal Declaration, supra note __.
Covenant on Civil and Political Rights 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.”82 Thus while freedom of expression might be thought to concern “political” expression primarily or most importantly, the language of the human rights documents is explicitly broader in scope, and would include any form of reading material.

Whereas the other human rights principles discussed in this section are economic, social, and cultural rights, freedom of expression is located in category of civil and political rights. The United States has ratified the ICCPR but not the ICESCR.83 Because of this, and because of the unique status of the First Amendment in American political culture, freedom of expression holds particular importance as a conceptual foundation for the right to read in the United States.

The constitutional right to free speech has been interpreted by U.S. courts as imposing only a negative duty upon the state to refrain from penalizing or limiting expression; 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 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.84 The same document urges states to “take all necessary steps” to ensure individual access to Internet-based media. The same document also speaks of state obligations to support public broadcasting in a way that preserves their editorial independence.85 Thus the human right to freedom of expression implies some level of state duty to encourage or fund media beyond market mechanisms.

American academics have also not hesitated to argue that the freedom of expression principle can be applied more broadly than current case law recognizes. Jack Balkin has proposed that free

82 ICCPR, supra note __ at art. 19.

83 Status of Ratification Interactive Dashboard, http://indicators.ohchr.org/, archived at http://perma.cc/4ZD7-EB7T. South Africa, Botswana and Mozambique have also ratified the ICCPR but not the ICESCR.


85 Id. at para 16.
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. This in turn implies that
interactivity, mass participation, and the ability to build upon and
modify existing cultural works are themselves free speech values.
Neil Netanel emphasizes the existence of a vibrant media sphere as
critical to freedom of expression and democratic self-governance.
Molly Van Houweling notes both an American 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 freedom. 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.

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,
freedom of expression would pertain primarily to the liberty
dimension of the right to read: freedom from censorship. Yet a
fuller conception of freedom of expression supports a broader
approach to the right to read, which includes the literacy and
availability dimensions. The purposes of freedom of expression are
most fully realized when all members of society are empowered to
read frequently, and when authors are able to reach the widest
possible audience.

86 See generally Jack Balkin, Digital Speech and Democratic Culture: A Theory of

87 Id.

88 Neil Netanel, Copyright and a Democratic Civil Society, 106 YALE L.J. 283, 341-47
(1996). See also NIEL 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).

89 Van Houweling, at 1547-58.

90 Julie Cohen, A Right to Read Anonymously: A Close Look at “Copyright Management”
III. THREE DIMENSIONS OF THE RIGHT TO READ

I suggest that implicit in the existing principles of international human rights law detailed above is a “right to read,” which lies at their intersection. By highlighting and further elaborating the content of this right to read, we can clarify the scope of government duties implicit in it. The right to read is best understood in terms of three aspects: 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 in writing). Although the liberty and capacity dimensions of the right are widely recognized and respected—both normatively and in practice—the availability aspect remains today as the greatest barrier to wider enjoyment of the right to read.

First, the liberty aspect: 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. This liberty aspect would be violated, for example, by government actions of censorship, including the banning of publication or education in minority languages. Second is the capacity aspect 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 skill of literacy. Again, the capacity to read is only useful if it is provided in a language the individual understands well, most often their native language. Third and finally, I highlight the availability aspect 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 readers. The availability aspect involves consideration of geographic accessibility, affordability, and acceptability, including considerations of language.

A. The Liberty to Read

The liberty component 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, that is not because this aspect is more important than capacity or availability. All three aspects of the right to read are equally essential to effective enjoyment of the right. If anything, the component of availability, which I will discuss last, deserves prioritization as the most important, if only because it happens to be the aspect of the right where the greatest problems exist today. Nevertheless, it makes some logical sense to begin with the liberty
aspect because it is the aspect with the longest tradition of recognition, and probably the least controversial from a human rights perspective. The liberty aspect of the right 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.91

It is the liberty aspect of the right to read that is violated when governments interfere with citizens’ choices about what to read through censorship. The Open Net Initiative reports that several countries engage in “pervasive” efforts of Internet filtering to block access to political views of which they disapprove, including China, Ethiopia, Iran, Syria, Turkmenistan, Uzbekistan, and Vietnam.92 Freedom House reports that at least 29 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.93 Government censorship continues to be a common violation of the right to read, which directly threatens freedom of expression. The liberty to read may also be threatened by governmental or private data collection efforts that interfere with “the right to read anonymously.”94

The liberty component 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, the Permanent Court of International Justice in 1935 held that Albania had violated the
rights of the Greek-Albanian minority when it banned the operation of private schools. 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. Similarly, the U.S. Supreme Court in 1923 struck down state laws that forbade the teaching of German in public schools, emphasizing fundamental liberties. 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. 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. Both the Albanian ban on Greek-language education


96 Id. (“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. …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).

97 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. William G. Ross, The Contemporary Significance of Meyer and Pierce for Parental Rights Issues Involving Education, U. Akron L. Rev. 1, 1-4 (2000).

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 a politically dominant ethnic group as the “appropriate” language for instruction, although the communities at issue preferred to educate their children in a different language.

Apart from the context of educational policy, other attacks on publishing and reading in minority languages have also been known. 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.\(^{100}\) Members of the Bengali language community objected that maintaining the official and educational use of their language, including its traditional script, was nonnegotiable.\(^{101}\) The issue is credited as sparking the freedom movement that eventually achieved the independence of Bangladesh.\(^{102}\) International Mother Language Day is now celebrated on February 21 in recognition of the most famous of the Bengali Language Movement protests, in which several students were killed and thousands arrested. More recently, the UN Human Rights Committee acted upon a complaint regarding minority-language publishing in Uzbekistan.\(^{103}\) 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. Both authors and readers had standing as victims of the human rights violation, according to the Committee’s opinion.\(^{104}\)

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99 See, e.g., id. (describing resistance to the language policy as a mobilizing force in the Soweto student uprising).

100 Tariq Rahman, Language and Ethnicity in Pakistan 37 ASIAN SURVEY 833 (1997).


102 Islam, The Bengali Language Movement, supra note ___ at 147.


104 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., Separate Opinion of Committee Members Sir Nigel Rodley and Mr. Rafael Rivas Posada.
Violations of liberty are often conceived of as being directed at or experienced by particular individuals. Yet when a government seeks to limit reading and writing in 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 their 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 may reflect anxieties about cultural and political challenges from subordinated ethnic groups.

Notably, all of these linguistically targeted violations of the liberty aspect of the right to read were widely condemned in their own time and continue to shock the conscience today. They tend to be motivated and justified by ideologies of ethnic supremacy, in which a majority group deliberately set out to force a minority group to participate in education and cultural life only on the linguistic terrain of the majority. This form of state action against the right to read is easy to recognize and condemn as a violation of human rights. Yet the right to read can be just as dramatically affected 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 far to ensure enjoyment of the right to read. The societal freedom to read and write is meaningless to any given individual unless they also possess 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 United Nations Educational, Scientific and Cultural Organization, “Literacy is the ability to identify, understand, interpret, create, communicate, compute and use 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.”

The notion of literacy as a human right is not a unique one. Kofi Annan made this claim many years ago in an oft-quoted statement that emphasizes 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.

Whereas the liberty component of the right to read is violated by state action restrictive of freedom, the capacity component 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. Second generation human rights are less widely accepted. The European Union Charter of Fundamental Rights does include “the right to education.” In the United States, however, the International Covenant on Economic, Social and Cultural Rights has yet to be ratified, and the federal

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108 EU Charter of Fundamental Rights, Article 14.
constitution contains no reference to education. Many state constitutions explicitly mandate the state 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 Plyer v. Doe, the U.S. Supreme Court struck down a Texas law withholding funds for the education of undocumented immigrant children violated the right to equal protection. Although declining to characterize education as a “fundamental right,” the opinion emphasized its special importance to individuals and society at large, and 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 the Equal Protection Clause.

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

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. The complaint alleged that the school district was

109 Plyer v. Doe, 457 U.S. 202 (1982). The case was narrowly decided, on a 5-4 vote.

110 Id. at 221-24.

111 Id. at 222.

112 See also 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).

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 12 months." 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. At that point, however, Michigan’s appellate court took the case on review. There, two judges concluded that the constitutional and statutory requirements plaintiffs based their case upon were in fact not enforceable by the courts, emphasizing that judges were particularly ill-suited to intervene in educational matters. The third judge dissented, arguing that the majority had wrongly refused to enforce the law in an area of particular importance to the child plaintiffs.

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

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).


117 Id. (Shapiro, dissenting).
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.  

Despite extremely limited resources, developing countries have also accepted the goal of universal literacy and the primary responsibility of the state to achieve it. Between 1970 and 1995, the adult illiteracy rate in developing countries was reduced from 57% to 30%. The Millenium 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 has increased from 76% in 1990 to 84% in 2012. Today, 781 million people over the age 15 still lack basic reading and writing skills. There is a significant gender dimension to this problem; 60% of the illiterate population is female. 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 be done in making this aspect of the right to read a reality.

118 See, e.g., Campaign for Fiscal Equity v New York, 86 NY2d 307, 316 (1995) (New York Court of Appeals holds that state constitutional 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 School District v Governor, 142 NH 462, 474-76 (1997) (New Hampshire Supreme Court enumerates “benchmarks of a constitutionally adequate public education” and charges the legislature to meet those benchmarks); Rose v Council for Better Ed, Inc, 790 SW2d 186, 189 (1989); (West Virginia Supreme Court of Appeals holds that the state constitution requires education for literacy).


121 Id.

122 Id.
C. Availability of Reading Material

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. 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 would have some 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 letter or text message. But the greatest value of literacy is the door it unlocks to the world of printed literature—the ability to read both for knowledge and for pleasure.

Readers from the U.S. and other industrialized countries, particularly those of us connected to universities as scholars or students, may be tempted to take access to reading materials for granted because we enjoy such 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 U.S., 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; the scope and diversity of the supply is simply inadequate at any price. For the poor, prices of books in the marketplace are often prohibitive; access must come through government and charitable means, if at all. 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.

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

123 General Comment on the Right to Education, supra note 31 at para. 6.
sufficient quantity; they must be economically and physically accessible to all, particularly including vulnerable populations; they must be culturally acceptable and consistent with medical ethics; and they must be of good quality. The right to food has also been elaborated through a similar framework.

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 do vulnerable populations confront special barriers? 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 of the supply of reading materials to elaborate the availability aspect 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 in terms of the number of copies in circulation. For example, the German publishing industry produces 93,600 new titles and re-editions each year, while Pakistan’s publishing industry produces only 3,500. The United Kingdom publishing industry produces approximately 6 books per British child each year; the Indian publishing industry produces 1 book for every 20 children.

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

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127 Pratham Books source.
mind this basic criterion. There is simply very little 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, we have 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 for-profit marketplaces, charity shops, and yard 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 books placed 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, 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. Once we make the shift to consider nuances of language and income, problems become more apparent.

2. Accessibility: Who has access?

The second dimension of accessibility adopts this more nuanced perspective, considering questions of affordability, diversity, and exclusion. This dimension enquires whether it can truly be said that all people enjoy access to the resources that do exist, or whether certain populations are systematically unable to partake of the available resources.128 Judged on this dimension, many countries have severe problems with respect to access to reading material. Books are frequently expensive in relation to local incomes, and in the context of extreme income inequality, many people will not be able to meet their reading needs through market channels. Access for these groups may depend significantly on government and charitable efforts, such as by providing school textbooks free of charge, and maintaining a system of libraries. Efforts to drive down the cost of books in the marketplace would

128 See SACINO, supra note ___ at 22-24 (considering dimensions of disparities in access to media among young people).
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, available books are accessible only to speakers of an internationally dominant language, and not to speakers of local languages, such as Zulu in South Africa.

Wealth and language are not the only dimension 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.129 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.130

Children may also be thought of as a special population that is particularly likely to face accessibility barriers. They generally do not command economic resources to purchase books in the marketplace, and the majority of books produced for the mainstream market will not be appropriate to their reading levels and interests. School libraries, free textbooks, and charitable initiatives, play a key role in ensuring that this literature is accessible to children across the socioeconomic spectrum. Such public-minded institutions and initiatives do not exist in all countries, at least not to an adequate degree.

To summarize, the accessibility dimension is often a problem for books with respect to inequalities of income, language, disability, and age or reading level. 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

129 See generally Brook Baker, Challenges Facing a Proposed WIPO Treaty for Persons Who are Blind or Print Disabled, Northeastern Public Law and Theory Faculty Research Paper Series No. 142-2013, available at http://ssrn.com/abstract=2267915 (explaining the need for an international treaty to address copyright barriers to accessible reading materials).

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 does mean, however, that subsidized and free-to-the-recipient provision will be necessary to meet the needs of certain segments of the population. Where the market fails to extend services, public policy solutions must enter in; where an individual or family cannot afford to make payment, those solutions must be provided without charge. 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 and measurable outcomes.\footnote{See General Comment 14, supra note 124 at para. 12(d).} 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....”\footnote{See General Comment 14, supra note 124 at para. 12(c).} Similarly, in the context of the right to food, a food supply may be unacceptable according to objective criteria if it is lacking in nutrition or containing contaminants.\footnote{See General Comment 12, supra note 125 at paras. 8-10.} 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.\footnote{See General Comment 12, supra note 125 at paras. 8 & 11.} 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, but when two individuals disagree, scientific inquiry cannot resolve their dispute. For nonfiction works, subject matter experts are more likely to converge on their judgment of a particular book as high or low quality. But a subjective element will remain even here. 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 to some populations and little appeal in others. There is a particular need for people to have access to literature that reflects their own cultural contexts. Children will require different types of material than is 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 requires or suggests that “low-quality” materials 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. Meeting the criteria of acceptability, however, means that the selection of books must large and diverse enough to serve diverse readers’ interests. Where book markets are working well, we 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 books written abroad, or the very old books that are no longer under copyright,\textsuperscript{135}

\textsuperscript{135} The Berne Convention and the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights require that books and other copyrighted materials may not be
is unlikely to be acceptable. The supply must include locally produced, culturally relevant 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 high literature. 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.

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 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 would be impossible to translate every work into each of the world’s more than 6000 languages. Even if this could be achieved, translations alone would not solve the problem that the existing supply of books over-represents the interests and experiences 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.”136 People who have enjoyed sufficient educational advantages in life to be able to substantively appreciate a journal article on theoretical physics may reasonably be expected

136 SACINO, supra note __ at 26.
to learn to read that article in English. 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 1000 speakers; more than half have fewer than 10,000.  

For very small languages, the selection might be very narrow indeed. But much would be gained from ensuring that readers in all languages had access to even several hundred desirable and relevant works.

We should also be careful not to set our ambitions too low. The Icelandic language is spoken by an extremely small population: about 300,000 people. Yet Icelandic has a flourishing literature, offers an effective pathway to advanced education, and is a source of great cultural and personal pride to Icelanders. The Icelandic Publisher’s Association estimates that 1500 new titles are published annually... approximately one for every 200 people. A recent catalog lists more than 800 Icelandic books for sale across a wide diversity of genres, and more than a million loans take place each year from the Reykjavik City Library. For popular Icelandic authors, translation into English offers an opportunity to gain 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 by offering subsidies to translate selected books into English. A small population is not inherently a barrier to a flourishing literature, when economic resources, charitable efforts, and public funding mechanisms are in place.

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 correlates positively with quality at the upper end. There can be no arbitrary


138 *Id.* at 143.

139 *Id.* at 143.


number of titles at which we say that the right to read is satisfied or 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 a reader being able to access the particular book that is 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.”

D. Integrating the Three Dimensions

The previous sections have separately detailed the three dimensions of liberty, capacity, and availability. These three aspects 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 dimension. Such a prohibition, however, will ultimately have an impact on the availability dimension as well. Censorship may also result in many books of certain uncontroversial types being published, but a shortage of books expressing alternative perspectives, such that the book supply ultimately fails the acceptability criterion. Likewise, if a government fails to promote literacy, the prospects for the availability of literature in its local languages are dim. Conversely, if reading materials are generally unavailable in a particular language, its speakers will have fewer opportunities to develop their literacy. A smaller pool of active readers also means a more limited audience for writers and publishers to market to. In this way, availability affects literacy and literacy affects availability. Thus, 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, in too many places it must be said that this goal is still far from being met. 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 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 the life cycle, both to acquire knowledge and to explore and imagine alternative worlds.

IV. OBJECTIONS AND IMPLICATIONS

The final part of this article explores more concrete implications of the right to read as conceived above, as well as addressing common objections. In particular, I consider what the right to read means for governments, authors, and corporations within the publishing industry, with special reference to the relevance of copyright law for promoting the right to read. First, however, I address the concern that recognizing new rights such as the right to read may undermine efforts to realize a core set of 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, many would view this as a negative, arguing that it risks distracting these bodies from more pressing needs. Despite such objections, the scope of 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.144 This debate is particularly relevant for the theory of the right to read.

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 Universal Declaration of Human Rights. 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, etc. 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 Universal Declaration lists “economic, social and cultural rights” considered to be “indispensable to [the individual’s] dignity and the free development of [his or her] personality.”145 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” may have mustered the necessary political consensus at the United Nations in 1948, but they have remained 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


145 UDHR Art. 20.
to incorporate into it the second-generation economic, social and cultural rights. These newer rights have appeal in theory, 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.” The inclusion of too many utopian ideals in the Universal Declaration tars all human rights talk with the stigma of naïve idealism. (Critics often point to the Universal Declaration’s particularly questionable inclusion of a right to “periodic holidays with pay.”) Meanwhile, Cranston notes, efforts to advance the protection of a narrower, 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. Europe’s signatory states moved much more rapidly to set up binding mechanisms for vindicating these rights. Where economic and social rights were included, however, “it became impossible to pass from words to deeds.”

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 [social and economic rights] in the same way into positive rights by analogous political and legal action” appears overstated, if not naïve. Decolonization and economic growth have also made the social, economic, and

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146 Cranston, “Human Rights, Real and Supposed,” supra note __ at 43.
147 Id.
148 Id. at 52.
151 Cranston, “Human Rights, Real and Supposed,” supra note __ at 47.
152 Cranston, Are There Any Human Rights?, supra note __ at 7.
153 Id.
cultural rights 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, but concerns that recognition of newer rights will undermine efforts to protect more fundamental ones remain. In the 1980s, the stakes of the debate were raised again 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. 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.”

After the failure of modern human rights regimes to prevent the atrocities in Bosnia and Rwanda of the 1990s, however, Michael Ignatieff argued for a much narrower focus, concentrating efforts on stopping “gross physical cruelty” such as torture, beatings, killings, rape and assault. 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 Universal Declaration. 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.” Because Ignatieff emphasizes political considerations, however, 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

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157 Ignatieff, supra note ___ at 90.
international community uses to debate our moral responsibilities to one another and to set political goals for the future.\textsuperscript{158} 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 leads to calls for new rights.\textsuperscript{159} Thus, in the Internet Age we see new demands for a right to access the Internet, and the right to data privacy. Even those who embrace the thesis will not agree on where to draw the line, which rights should be preserved and which deserve lesser emphasis.\textsuperscript{160} Thus we encounter what Baxi aptly calls, “the riot of perceptions concerning over- or under-production of human rights normativity.”\textsuperscript{161} 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 concept of an optimal scope for human rights.\textsuperscript{162}

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. How strongly is a particular society committed to the principle of human equality and dignity? When commitment to this principle is high, we should expect a society to make great efforts to ensure that all of its members not only enjoy freedom of religion, but also the right to marry, literacy, and adequate housing. When the 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 could possibly 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


\textsuperscript{159} Donnelly, supra note __.

\textsuperscript{160} See, e.g., Baxi, \textit{Too Many, Or Too Few, Human Rights?} supra note __ at 8-9.

\textsuperscript{161} Baxi, \textit{Too Many, Or Too Few, Human Rights?} supra note __ at 8.

\textsuperscript{162} See, e.g., Baxi, \textit{Too Many, Or Too Few, Human Rights?} supra note __ at 8.
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 different 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 is that no such hierarchy exists, that it would be contrary to fundamental principles of human rights thought to acknowledge any such hierarchy. 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 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. 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 fair elections.


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.

Arguably the right to read holds a secondary priority relative to other rights, such as freedom from violence and subsistence entitlements. If it were truly necessary to choose between the right to food and the right to read, I would be the first to concede the primary importance of physical survival. The important point is that this is generally a false choice. The promotion 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 realization of these rights requires an outlay of public resources, there will be choices to make, potentially difficult ones. Governments must choose to spend a certain amount on food aid and public housing and a certain amount on literacy campaigns and public libraries. These choices must 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 a foolish and false solution to the dilemma of limited resources.

A second necessary response to objections to the creation of new rights 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, the right to science and culture, etc. In this aspect, the right to read is similar to other rights claims of relatively recent vintage, such as the right to water. Despite being a basic human need, water is nowhere mentioned in the Universal Declaration of later covenants. Yet claims to water as a human right emerged during the 1990s, and the right to water is now well recognized. It is also possible of course, 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” also lies at the intersection of these rights, as well as the right to housing. The recently proposed “right to credit” 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.


166 Oksan Bayulgen, Giving Credit Where Credit is Due: Can Access to Credit Be Justified as a New Economic Right? 12 J. HUMAN RIGHTS 491 (2013); Marek Hudon, Should Access to Credit be a Right? 84 J. BUS. ETHICS 17 (2008).
No term yet exists to describe this phenomenon of identifying rights claims that are implicit in existing guarantees, but which cut across the silos of familiar rights labels. 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 new demands for more focused attention to neglected issues within and between existing human rights. An intersectional approach to human rights scholarship and advocacy may have unique advantages. Because intersectional rights focus on a narrow policy issue, they are well-positioned to “proceed from words to action.” It may be very difficult to implement an abstract concept such as “the right to science and culture.” The path to implementation of “the right to read” is much clearer, in part because the issue is narrower, and in part because it is defined around the concrete social good rather than the abstract philosophical ideal. 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, particularly economic, social and cultural rights.

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 prices in the marketplace? Should 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 and competition, 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 markets. In reality, book provision has always been the product of a mixture of market activity and public support. Public and publicly-subsidized universities employ many authors, and help to train virtually all of them. Federal funding may support writers’ living expenses. In many countries, education departments purchase textbooks through 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. The true innovation of defining reading as a human right 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 public libraries? Is it reasonable to


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.
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 nonprofits or the market? Can legal regulations and taxes affecting the book market be altered to bring down costs of production and distribution? Should governments abandon laws that limit the ability of book retailers to engage in price competition and scrutinize private agreements with the same effect? All of these are open questions that deserve serious and extended discussion. I cannot do justice to these important debates within the confines this article, although I have elsewhere explored how copyright law might be reformed to promote book affordability and publishing in a wider variety of languages. 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. 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 trumps, nor even through something 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

169 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., Juergen Backhaus & Reginald Hansen, *Resale Price Maintenance for Books in Germany and the European Union: A Legal and Economic Analysis*, paper 12 June 2000, 12-13 at http://arnop.unimaas.nl/show.cgi?fid=568, archived at http://perma.cc/4CP3-ZAQN (describing the operation of the depreciation system in the German publishing context).

170 Lea Shaver, *Copyright and Inequality*, 92 WASH. U. L. REV. 117 (2014) (suggesting that alternative approaches less restrictive of translation, abridgment, and copying may work better to stimulate publishing in neglected languages.)

enforceable content. It is possible to say, at a certain point, that a government’s book policy does not go far enough to respect and protect the right; or that a particular legal framework 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.

At this early stage, it is possible to identify a few minimum obligations that would flow from recognition of the right to read. States parties to the ICESCR would have an obligation to assess the adequacy, accessibility, and availability of reading material within their jurisdictions, with particular attention to special populations such as children and young people, speakers of local languages, low-income populations, rural populations, and readers with print-perception disabilities. They would also have an obligation to report to the public and to the Committee on Economic, Social, and Cultural Rights on these findings, and to prepare a multi-year plan to address any shortcomings that is reasonable in light of the resources available to them. These obligations of assessment, reporting, and planning also exist with respect to literacy—something most governments are already doing. States parties to either the ICESCR or the ICCPR should also be held accountable for respecting the liberty to read, through treaty reporting mechanisms, domestic courts, and regional human rights courts.

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. The United Nations’ Guiding Principles on Business and Human Rights 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. Specifically, these duties include: (1) adopting a policy commitment to human

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173 Id. at para. 11-12.
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.  

The operations of publishers, book distributors, and Internet service providers are particularly important for the right to read, especially for 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 read as well as other human rights; (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 about their ongoing efforts; and (5) facilitating rather than opposing efforts at the World Intellectual Property Organization 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. Publishers may also donate hard copies 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. But there are also other important 

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174 See id. at para. 11-22.


176 Cite to some of these initiatives here. They basically all work on the premise of creating a free library that African readers can access through a digital eReader or smartphone. They all depend upon the charity of publishers.

ways that businesses in the book industry can promote book availability, beyond the most obvious context of donating copies.

For example, Apple iBookstore 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.¹⁷⁸ This may be a sensible business decision, at least in the short term. The potential profits to be made in the non-western markets are smaller, and developing the software to support new typography will be costly. But one 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.¹⁷⁹ If these businesses collaborate to develop standards that can support nonwestern 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 recommend 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.

¹⁷⁸ RUDIGER WISCHENBART, GLOBAL eBOOK: A REPORT ON MARKET TRENDS AND DEVELOPMENTS, UPDATE FALL 2013, 79 (2013). There are approximately 500,000 Arabic titles in print, with about 15,000 new titles added each year. Id. at 78.

¹⁷⁹ The leading Arabic-language online bookstore, Lebanon’s Neel WaFurat, has recently launched iKitab, which sells some 3,000 Arabic-language eBooks. Id. at 78.
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.\(^{180}\) Readers’ rights should also be given consideration in copyright policymaking and doctrinal development.\(^ {181}\) 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 authors’ rights, as well as respect for the fundamental right of everyone to read.\(^ {182}\) 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 foreground 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

\(^{180}\) See, e.g., UDHR Art. 27, ICESCR Art. 15(1)(b).

\(^{181}\) See Jessica Litman, Readers’ Copyright, J. COPYRIGHT SOC’Y OF THE U.S.A. 328 (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).

\(^{182}\) See also id.
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. 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.

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 18 months—with an exception for an up-to-10% discount during Hebrew Book Week and during major holiday shopping periods—and sets minimum royalty rates ranging from 8-16%, depending on the size of the book run and the timing of the sale. 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. In some countries, private arrangements among publishers and retailers achieve the same effect without a legal mandate. Other countries formerly practiced fixed book pricing but have since abandoned it, including

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183 Lea Shaver, Copyright and Inequality, 92 WASH. U. L. REV. 117, 142-48, 154-65 (2014) (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 less restrictive of translation, abridgment, and copying may work better to stimulate publishing in these languages.)


185 See SACINO, supra note __ at 72-73.


188 Id. at 1.
Australia, Denmark, Finland, Ireland, Sweden, Switzerland, and the United Kingdom.\textsuperscript{189}

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 best-sellers, and may lower prices for other books, because of cross-subsidization.\textsuperscript{190} 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, rather than 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 recognition of inequalities among readers.\textsuperscript{191} 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.\textsuperscript{192}

Even in countries where international human rights law carries little authority in the domestic legal order, rhetorical invocation of

\textsuperscript{189} Id.


\textsuperscript{191} An earlier article of mine sought to address this oversight: Lea Shaver, \textit{Copyright and Inequality}, 92 WASH. U. L. REV. 117 (2014), (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).

\textsuperscript{192} See \textit{id.}
a right to read – and insistence on the underlying principle that books, ebooks, and other reading material should be accessible to all – can point the way to legislative and doctrinal forms that have a real impact.

V. CONCLUSION

Well-recognized norms of international human rights law include freedom of expression, a universal 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 components: 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. I argue that this goal cannot be left purely to market forces, but requires government and charitable efforts to facilitate the availability of free and affordable reading materials in all languages.