

## **ESL Classes for Refugees as a Human Right**

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**Abstract:** This capstone answers the question: Should human rights language be used to call for ESL classes for refugees? ESL classes for refugees undoubtedly meet a need, but this need is rarely termed as a human right. Knowledge of the dominant language in one's country of residence can also be seen to promote other, generally accepted human rights. This paper examines the benefits of calling for new, particularized rights and looks for precedent in the field of linguistic human rights. It examines how human rights language could be used in the discourse of particular agencies that provide ESL classes for refugees.

## **Introduction**

The argument that English classes are useful for refugees resettled in the United States is very straightforward and hard to contest. It is also widely accepted that ESL (English as a second language) classes are necessary for the integration of refugees into life in the United States. However, the argument that these lessons fulfill a human right becomes more complicated. Human rights language comes with advantages, but its limits must also be considered. The field of linguistic human rights has articulated rights to learn a second language, but most scholars have been wary of giving much emphasis to these rights. Special rights have been accorded to refugees due to the vulnerabilities of their individual situation, but lessons in the dominant language of their host country have not been included in these special rights.

This paper is divided into five sections. The first section of the paper covers the value of articulating particularized rights. The second section explains how refugee resettlement provides an excellent context to examine the relationship between new and established human rights. The third section examines the field of linguistic human rights and the place of rights to the learning of a second language within that framework. The fourth section takes inspiration from language policy to propose ways in which ESL teaching can be conducted to best fulfill the human rights of refugee students. Finally, the fifth section of the paper addresses the absence of human rights language in the discourse of most providers of ESL to refugees and proposes how this framework could be used to benefit refugee English learners in the United States.

## Why Human Rights?

Framing an issue in terms of human rights has a greater moral force than framing an issue in terms of practicality or needs. Human rights language about an issue does not always imply the existence of legal documents enforcing those particular human rights. However, internationally respected legal documents, such as the Universal Declaration of Human Rights and the Convention Relating to the Status of Refugees, serve as a basis for the articulation of other rights whether or not they become codified themselves. Human rights language can be useful to obtain access to resources, to situate particular rights within the broader framework of human rights, and to draw attention to cases where rights are not equally enjoyed.

### *Access to resources*

Human rights come with support and resources. “The contemporary appeal of rights rhetoric over other expressions of grievance – and the resources devoted to ending rights abuses rather than other problems – encourage aggrieved groups to formulate particularized rights.”<sup>1</sup> Because international norms have given special value to recognized human rights, rights language attracts attention and financial support. By using human rights language, a cause “may be able to tap organizations, personnel, funding, and other strategic resources.”<sup>2</sup>

### *A broader framework*

The use of human rights language can have additional benefits. A human rights framework can guide attention into other areas of concern tangential to the individual human right of focus. For example, human rights language was considered a key method

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<sup>1</sup> Clifford Bob, “Introduction: Fighting for New Rights,” *The International Struggle for New Human Rights*, Clifford Bob, ed. (Philadelphia: University of Pennsylvania Press, 2009), p. 13.

<sup>2</sup> Ibid, p. 1.

to promote more effective policies to combat HIV/AIDS. The framework of human rights not only gained support for the cause, but also led it to consider key factors such as discrimination, education, and structural factors causing vulnerability.<sup>3</sup> A framework based in human rights gives agency to rights-holders rather than giving patronizing aid to victims. Janet E. Lord speaks of the “reconceptualization” of disability rights so that, rather than isolating and damaging the self-perception of the disabled, the framework for providing assistance becomes one that gives agency and ownership to disabled individuals.<sup>4</sup> The human rights framework links each human right to a web of other rights and gives priority to the dignity of each human individual.

*Attention to particular cases*

Causes which have been overlooked may choose to be framed in terms of particularized rights. These are rights that may be implicit within general ‘umbrella’ rights, but which, for some reason, have not been adequately addressed. The value of implicit coverage in broader human rights has been questioned. The term ‘covert toleration’ has been used to describe situations when rights have only been vaguely referenced.<sup>5</sup> “Explicit mention in an international convention encourages action, while implicit coverage discourages it.”<sup>6</sup> For example, the rights of children of wartime rape are implicitly covered in child protection and gender-based violence frameworks, but because they have not received adequate attention through these frameworks, advocates

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<sup>3</sup> Jeremy Youde, “From Resistance to Receptivity: Transforming the HIV / AIDS Crisis into a Human Rights Issue,” *The International Struggle for New Human Rights*, Clifford Bob, ed. (Philadelphia: University of Pennsylvania Press, 2009), p. 68-70.

<sup>4</sup> Janet E. Lord, “Disability Rights and the Human Rights Mainstream: Reluctant Gate-Crashers?” *The International Struggle for New Human Rights*, Clifford Bob, ed. (Philadelphia: University of Pennsylvania Press, 2009), p. 83-85.

<sup>5</sup> Tove Skutnabb-Kangas and Robert Phillipson, “Linguistic Human Rights, Past and Present,” *Linguistic Human Rights: Overcoming Linguistic Discrimination*, Tove Skutnabb-Kangas and Robert Phillipson, eds. (Berlin: Mouton de Gruyter, 1994), p. 82

<sup>6</sup> Lord, p. 86.

have sought to articulate their rights as a distinct “category of concern.”<sup>7</sup> Caste-based discrimination has implicit coverage in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and The International Convention for the Elimination of All Forms of Racial Discrimination, but this coverage has also been considered insufficient, and defenders against caste-based discrimination have sought recognition in particular rights.<sup>8</sup>

Once human rights language is used to call for attention to particular cases and to link them to resources and to broader human rights norms, they will not instantly gain widespread support. Norms do not form overnight. Recognition of new particular rights does not happen immediately, but over the course of a long process. Clifford Bob describes four steps in the recognition of new human rights: firstly, the framing of grievances as violations of human rights norms; secondly, the recognition of the new human rights by “gatekeepers” (influential NGOs, IOs and intellectuals); thirdly, convincing states and IOs to accept the new human rights; and fourthly, the implementation by institutions.<sup>9</sup> He acknowledges that this model represents an ideal and does not reflect the complexities of real situations where some of these steps and roles overlap.<sup>10</sup> If advocates choose to use human rights language to support their cause, they need not be aiming for legal codification in a UN document with enforcement measures for institutional implementation. They may define their cause as a particular right in

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<sup>7</sup> R. Charli Carpenter, “Orphaned Again? Children Born of Wartime Rape as a Non-Issue for the Human Rights Movement,” *The International Struggle for New Human Rights*, Clifford Bob, ed. (Philadelphia: University of Pennsylvania Press, 2009), p. 14-15.

<sup>8</sup> Clifford Bob, “‘Dalit Rights are Human Rights’: Untouchables, NGOs, and the Indian State,” *The International Struggle for New Human Rights*, Clifford Bob, ed. (Philadelphia: University of Pennsylvania Press, 2009), p.30-32.

<sup>9</sup> Bob, “Introduction,” p. 4, 6.

<sup>10</sup> Ibid, p. 13.

order to make an appeal for support from particular private donors. They may aim to achieve recognition at the level of NGOs, IOs, and intellectuals rather than setting their hopes on new legal protections and legislation.

If human rights have such a powerful appeal, one may ask, why are they not always referenced to increase support for humanitarian causes? Some human rights scholars fear that human rights become devalued when auxiliary rights are recognized. In response to the perceived danger of human rights ‘proliferation’ and devaluation, some argue that human rights must be limited to those which are ‘universally recognized’, and ‘legally enforceable.’<sup>11</sup> It is hard, however, to see the particular recognition of rights which make up necessary components to ‘universally recognized, legally enforceable’ umbrella rights as detracting too much from the general form of the rights. If anything, attention to component rights should strengthen the respect and protection of the original, central rights.

Some NGOs avoid human rights language for political and religious reasons. Daniel Chong describes cases in which other discourses are chosen over human rights for political reasons. For instance, during the Cold War, subsistence rights were associated with socialism. He also notes that faith-based organizations often do not want to be associated with legal strategies, and find that other discourses are more appealing to their constituents than human rights.<sup>12</sup>

This paper does not intend to argue that ESL classes for refugees must always be described as the fulfillment of human rights, but rather, it proposes that human rights

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<sup>11</sup> Bob, “Introduction,” p. 10-11.

<sup>12</sup> Daniel Chong, “Economic Rights and Extreme Poverty: Moving toward Subsistence,” *The International Struggle for New Human Rights*, Clifford Bob, ed. (Philadelphia: University of Pennsylvania Press, 2009), p. 117, 125.

language is one tool among others that can be chosen for use on occasions where it will add substantially to the appreciation of the value of these classes. Human rights language can link ESL classes to new resources and it can direct ESL providers to see their classes as a part of a larger human rights framework promoting human dignity through multiple aspects of the human experience. Both language rights in general and the language rights of refugees in particular are often overlooked when they are not explicitly articulated. In the next sections, the particular case of refugees and the particular case of language rights will be examined.

### **Why Refugees?**

ESL classes are crucial for all non-English speakers arriving in the United States. The choice to focus on refugees may seem arbitrary, when immigrants of all kinds possess the need to learn the dominant language in order to integrate and support themselves in American society. Refugees have a particular situation, however; they do not migrate by choice, but come from dangerous situations that are often traumatic. Consequently, refugees have a set of particular rights that are specially recognized by the states that welcome them. The Convention and Protocol Relating to the Status of Refugees give explicit recognition to the rights of refugees. The Convention Relating to the Status of Refugees was adopted on 28 July 1951 by a United Nations Conference of Plenipotentiaries in Geneva. The Protocol Relating to the Status of Refugees was written in 1967 to expand the applicability of the Convention to cover not only those who were already refugees in 1951, but also to cover anyone who had become a refugee since that time, or who would become a refugee at any time in the future.<sup>13</sup>

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<sup>13</sup> "Convention and Protocol Relating to the Status of Refugees," *UNHCR*, August 2007, <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>, p. 5-6.

The purpose of the Convention is nicely summarized in an accompanying document, the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: “[refugees] are entitled to special protection on account of their position.”<sup>14</sup> The Conference also gave some insight into how the framers hoped that the Convention could be implemented, “The Conference consider[s] that, in the moral, legal and material spheres, refugees need the help of suitable welfare services, especially that of appropriate nongovernmental organizations, [and] recommends governments and inter-governmental bodies to facilitate, encourage and sustain the efforts of properly qualified organizations.”<sup>15</sup> They proposed that refugee’s needs would be met by NGOs with the assistance and encouragement of governments.

The Convention Relating to the Status of Refugees provides an official definition of who can be considered a refugee. A refugee is a person who has a “wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.”<sup>16</sup> Denied the rights owed them by their native countries, refugees depend upon host countries to fill this void.

Some of the rights accorded to refugees in the Convention, such as employment rights and education rights, can be considered umbrella rights under which rights to language lessons could be located. Employment rights are found in Chapter III, Article 17, Paragraph 1. The Convention calls for “the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in

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<sup>14</sup> “Convention,” p. 13.

<sup>15</sup> Ibid, p. 13.

<sup>16</sup> Ibid, p. 16.

wage earning employment.”<sup>17</sup> The ‘most favorable treatment’ is a vague concept and undoubtedly varies from country to country, but a generous definition of favorable treatment could be seen to include the development of job-related skills, such as language classes. Education rights are articulated in Chapter IV, Article 22. In elementary education, refugees are to be accorded the same treatment as nationals, and at higher levels of education, refugees are to be given treatment that is at least as favorable (if not more favorable) than the treatment of other foreigners who are living in the country under other circumstances. This covers access to education, recognition of accreditation received abroad, and remission of school fees.<sup>18</sup> It can be argued that English classes for refugees in the United States are essential to ensure that students receive treatment equal to the treatment of nationals, or for education beyond the elementary level, treatment that is at least comparatively favorable to that of other foreigners.

In the United States, the Refugee Protection Act of 1980 recognizes the nation’s obligations to respect the rights of refugees as articulated in the 1951 Convention and the 1967 Protocol. A Refugee Act of 2010 has been proposed to the US Senate by Senator Patrick Leahy of Vermont to ensure fairness of the application of refugees’ rights in the contemporary era and to expand access to asylum. The Act would attempt to make up for ways in which refugees and asylum applicants’ rights have been hindered by counter-terrorism policies. This bill was introduced by Senator Leahy on 15 March 2010 and was

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<sup>17</sup> “Convention,” p. 24.

<sup>18</sup> Ibid, p. 26.

referred to the Judiciary Committee.<sup>19</sup> The new bill does not call for expanded services for refugees.

Until the mid-1990s refugees accepted for resettlement in the United States were given “four to six months of ESL and work orientation classes as well as U.S. cultural orientation instruction in their native language” prior to their arrival for resettlement in the United States. “By the time these earlier refugees arrived in the United States, most, if not all, had received purposeful exposure to English and to the U.S. workplace and culture. This is no longer the case, however. Since the mid 1990s, ESL and workplace training have not been separate components [of refugee settlement by the US]. ...Training has been significantly reduced to focus on processing the refugees for resettlement as quickly as possible.”<sup>20</sup> The quality of refugee resettlement was sacrificed to greater efficiency, and the processing of greater numbers of refugees. However, since 2001 and the beginning of the “War on Terror,” resettlement numbers have also declined. The decrease in numbers is startling; resettlement numbers fell from a ceiling of 91,000 in FY1999 to a ceiling of 70,000 in FY2002.<sup>21</sup> Currently, refugee resettlement in the United States has need of both expansion in numbers and increase in the breadth of rights recognized and services provided. Refugee rights to education and employment can be supported by further recognition of the importance of English language classes as part of the resettlement process. Language plays a key role in the quality of a refugee’s resettlement experience, it can help to bridge the gap between the rights denied in the

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<sup>19</sup> “Leahy Introduces Landmark Refugee Protection Act,” Office of US Senator Patrick Leahy, 15 March 2010, [http://leahy.senate.gov/press/press\\_releases/release/?id=EA7B1D65-E893-4998-B121-65AB874EAF8B](http://leahy.senate.gov/press/press_releases/release/?id=EA7B1D65-E893-4998-B121-65AB874EAF8B).

<sup>20</sup> Peggy Seufert, “Refugees as English Language Learners: Issues and Concerns,” Center for Applied Linguistics, September 1999, [http://www.cal.org/caela/esl\\_resources/digests/Refugee.html](http://www.cal.org/caela/esl_resources/digests/Refugee.html).

<sup>21</sup> Andorra Bruno and Katherine Bush, “Refugee Admissions and Resettlement Policy,” Congressional Research Service, 22 January 2002, <http://fpc.state.gov/documents/organization/8047.pdf>, p. 6.

refugee's home country and the new chances that are offered in the country of resettlement. Language can serve as a key to access employment and educational opportunities, and as a gateway to integration in the community.

### **Linguistic Human Rights**

The concept of linguistic human rights is not new, but the focus has generally not been on rights to lessons in a second language. The main focus has been on minority regional languages, and the rights of minority groups to preserve their native language. This does not conflict with a separate part of language rights being a right to learn the dominant language of a region, however. These two branches of linguistic human rights can complement one another. The perceived threat of second languages is that they will hinder mother tongue competency. Ideally speakers of second languages can remain fully competent in their first language. Ideally second language learning will not cause linguistic discrimination, or linguicism. Linguicism stigmatizes linguistic minorities and “socially construct[s] the resources of the powerless groups so that they become invisible or are seen as handicaps,” rather than seeing their language resources as assets.<sup>22</sup> Linguistic human rights literature provides a basis for considering ESL classes for refugees in the United States as a human right, but linguistic human rights also provide many cautions about potential harm that second language learning can cause.

Two leading scholars in the field of linguistic rights are Robert Phillipson and Tove Skutnabb-Kangas. Along with Mart Rannut, they have written about the importance of language to human rights in general. They describe “the importance of language as a means of social control, and abundant evidence that language is often a factor in the mediation of social injustice,” and they assert that “the role of language in

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<sup>22</sup> Skutnabb-Kangas and Phillipson, p. 105-106.

ensuring a greater observance of human rights needs to be addressed.”<sup>23</sup> Linguistic human rights recognize language as a central factor of the human experience. Language can be a tool for supporting human rights, and it can also be used to detract from human rights.

### *The Universal Declaration of Human Rights*

Linguistic human rights find their basis in foundational human rights documents, like the Universal Declaration of Human Rights. Human rights language can be used to draw attention to important factors (such as language) that may be essential to, although not expressly mentioned with, other human rights. The Universal Declaration of Human Rights (UDHR) is seen to provide a basis for language rights in articles 2 and 19, which concern the applicability of human rights without distinction according to language and the freedom of expression.<sup>24</sup> Freedom from discrimination and freedom of expression can be seen as umbrella rights to linguistic human rights. Respect for language rights can also be viewed as a part of respect for human dignity (UDHR preamble), as a part of equality before the law (UDHR Article 7), as part of “the right to take part in the government of [one’s] country” (UDHR Article 21.1), as part of “economic, social, and cultural rights indispensable for [one’s] dignity” (UDHR Article 22), as part of “the right to free choice of employment, to just and favourable conditions of work and to protection against unemployment” (UDHR Article 23.1), as part of the right to education that is “directed to the full development of human personality” (UDHR Article 26.2), and as part of “the right to freely participate in the cultural life of the community” (UDHR

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<sup>23</sup> Robert Phillipson, Mart Rannut, and Tove Skutnabb-Kangas, “Introduction,” *Linguistic Human Rights: Overcoming Linguistic Discrimination*, Tove Skutnabb-Kangas and Robert Phillipson, eds. (Berlin: Mouton de Gruyter, 1994), p. 1.

<sup>24</sup> Fernand de Varennes, “Language and Freedom of Expression in International Law,” *Human Rights Quarterly*, Vol. 16, No. 1 (Feb., 1994), p. 166.

Article 27.1).<sup>25</sup> Phillipson, Rannut, and Skutnabb-Kangas assert that linguistic human rights should be seen as basic human rights, because, due to linguistic discrimination, other rights are denied, such as, “fair political representation, a fair trial, access to education, access to information and freedom of speech, and maintenance of their cultural heritage.”<sup>26</sup> When the linguistic aspects of human rights are denied, it becomes useful to call for particular language rights. Linguistic human rights support each of these rights listed in the Universal Declaration, and these articles of the UDHR provide support for the defense of linguistic human rights.

### *The Universal Declaration of Linguistic Rights*

NGOs, language organizations, and scholars gathered June 6th through 9th, 1996, to write a Universal Declaration of Linguistic Rights (UDLR) in Barcelona, Spain. This declaration, unlike the UDHR, was not signed by nations, but rather by NGOs, giving it a role that is very different from the UDHR. The UDLR lacks the political power of the UDHR, but nonetheless retains a significant moral appeal. Both Skutnabb-Kangas and Phillipson participated, and UNESCO played an advisory role.<sup>27</sup> The declaration focuses on the rights to learn and use minority native languages in their native locations, and it ends by calling for the “creation of a World Commission on Linguistic Rights, a non-official, consultative body made up of representatives of non-governmental organizations and other organizations working in the field of linguistic law.”<sup>28</sup>

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<sup>25</sup> United Nations General Assembly, *Universal Declaration of Human Rights*, General Assembly Res. 217 A (III), adopted 10 December 1948.

<sup>26</sup> Phillipson, Rannut, and Skutnabb-Kangas, p. 2.

<sup>27</sup> “Signers,” *Universal Declaration of Linguistic Rights*, <http://www.linguistic-declaration.org/index-gb.htm>.

<sup>28</sup> “Declaration,” *Universal Declaration of Linguistic Rights*, June 1996, <http://www.linguistic-declaration.org/index-gb.htm>.

The UDLR has three specific mentions of second language acquisition: “Everyone has the right to acquire knowledge of the language proper to the territory in which s/he lives” (Title 1, Article 13, Paragraph 1); “Everyone has the right to be polyglot and to know and use the language most conducive to his/her personal development or social mobility, without prejudice to the guarantees established in this Declaration for the public use of the language proper to the territory,” (Title 1, Article 13, Paragraph 2); and “Everyone is entitled to receive an education in the language proper to the territory where s/he resides” (Title 2, Section 2, Article 29, Paragraph 1).<sup>29</sup> Knowledge of the ‘language of national integration’ further satisfies the “right to participate in the riches provided by the social environment,” and the right to “participate fully in the cultural, economic, and political processes of the country.”<sup>30</sup> These mentions of rights to learn second languages do not represent a large portion of the Universal Declaration of Linguistic Rights, but their inclusion is nonetheless significant.

Linguistic human rights have generally targeted native language minorities, not the immigrant communities who have settled more recently in a country. European countries tend to give a right to the mother tongue for autochthonous minorities, but not to immigrant minorities, including refugees.<sup>31</sup> Refugees are considered by the UDLR as a ‘language group’ but not a ‘language community’: “This Declaration considers as a language group any group of persons sharing the same language which is established in the territorial space of another language community but which does not possess historical antecedents equivalent to those of that community. Examples of such groups are immigrants, refugees, deported persons and members of diasporas” (Preliminary Title,

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<sup>29</sup> “Declaration.”

<sup>30</sup> Phillipson, Rannut, and Skutnabb-Kangas, p. 12.

<sup>31</sup> Skutnabb-Kangas and Phillipson, p. 90-93.

Article 1, Paragraph 5).<sup>32</sup> These groups are not accorded the same rights as the language communities who have historically lived in the region, though it may be assumed that they are included in the “everyone” of Title 1, quoted in the preceding paragraph.

Language groups without historical antecedent are expected to integrate in the dominant language community, though the UDLR is careful to recognize that they too have rights to preserve their native culture. The Preliminary Title, Article 4 of the UDLR specifies how non-native linguistic minorities can expect to interact with the local language culture(s).

1. This Declaration considers that persons who move to and settle in the territory of another language community have the right and the duty to maintain an attitude of integration towards this community. This term is understood to mean an additional socialization of such persons in such a way that they may preserve their original cultural characteristics while sharing with the society in which they have settled sufficient references, values and forms of behaviour to enable them to function socially without greater difficulties than those experienced by members of the host community.
2. This Declaration considers, on the other hand, that assimilation, a term which is understood to mean acculturation in the host society, in such a way that the original cultural characteristics are replaced by the references, values and forms of behaviour of the host society, must on no account be forced or induced and can only be the result of an entirely free choice.<sup>33</sup>

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<sup>32</sup> “Declaration.”

<sup>33</sup> Ibid.

By coupling rights with duties, the obligation of the welcoming state to support and facilitate the integration of the linguistic minorities is diminished. “Additional socialization” could be considered the right of the language minorities to receive from the state education in the local language and culture, but this is not explicit in the wording of the document. This portion of the UDLR recognizes the importance of assistance (regarding ‘references, values, and forms of behavior’) that enables new arrivals to function fully and integrate in their new language environment. This recognition does not provide so strong an appeal as an explicit right of refugees to be taught the dominant local language, but it can be seen to support the inclusion of refugees into the framework of linguistic human rights. These paragraphs also demonstrate the emphasis on mother tongue rights in the UDLR. The native language and culture of the newly arrived language communities is given special attention.

Linguistic human rights scholars consider certain of the linguistic human rights to be more important than others. Skutnabb-Kangas differentiates between ideal ‘language rights,’ such as the right to have court proceedings conducted in one’s mother tongue, and ‘linguistic human rights,’ which are codifiable, such as the right to have understandable court proceedings, either in a language one understands or interpreted into a language that one knows.<sup>34</sup> Sometimes, language rights are organized according to the chronology of when the languages are (or should be) learned: first comes the right to the mother tongue and to learn using it, second to the “language of national integration” or official language, and third to languages of wider communication.<sup>35</sup> Linguistic human rights generally give

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<sup>34</sup> Tove Skutnabb-Kangas, “Language Policy and Linguistic Human Rights,” *An Introduction to Language Policy: Theory and Method*, Thomas Ricento, ed. (Malden, Massachusetts: Blackwell Publishing, 2006), p.273.

<sup>35</sup> Phillipson, Rannut, and Skutnabb-Kangas, p. 10.

priority to the first language. It comes first and plays a key role in individual development. Linguistic discrimination often occurs when people are judged on the basis of stereotypes about their native language, and linguistic human rights have focused on combating this discrimination.

Scholars give priority to the full learning of the mother tongue, but they recognize the important role of the official language as well. Skutnabb-Kangas and Phillipson write that the native language is necessary for “social and psychological survival” and the official language is necessary for “economic and political participation.” They even describe a “widespread agreement on an inalienable right to learn one of the official languages of the country of residence.”<sup>36</sup> Phillipson, Rannut, and Skutnabb-Kangas describe the provision of official language teaching as a duty of the state. This duty includes “allocation of resources to teacher training [and] curriculum development.”<sup>37</sup> However, linguistic human rights advocates do not give much thought to this secondary right because, they assume, “most majorities are only too willing to approve of measures which grant minorities the right to learn the majority language,” and “because these rights are seen as promoting the assimilation of minorities.”<sup>38</sup> Linguistic human rights literature has an ambiguous attitude towards official-language acquisition rights. They are, on one hand, considered essential for ‘economic and political participation’ and deserving of state funding, but on the other hand, they are feared as assimilationist tools that threaten the place of the mother tongue.

Official documents have also reflected the scholarly ambiguity towards official-language acquisition rights. The UN Declaration on the Rights of Persons Belonging to

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<sup>36</sup> Skutnabb-Kangas and Phillipson, p. 102.

<sup>37</sup> Phillipson, Rannut, and Skutnabb-Kangas, p. 14.

<sup>38</sup> Ibid, p. 17.

National or Ethnic, Religious and Linguistic Minorities focuses on the status of native languages. It states that “the protection... of linguistic minorities contribute[s] to the political and social stability of States in which they live” and calls for states to “create favorable conditions” for the free expression and development of minority languages.<sup>39</sup> The Organization for Security and Cooperation in Europe (OSCE) describes knowledge of one’s mother tongue as a right, but knowledge of the official language as a duty. At both primary and secondary levels, “The official State language should also be taught as a subject on a regular basis preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background.”<sup>40</sup> The OSCE provides clarifications in order to limit the harm that could be caused by the spread of the dominant language. The International Covenant on Economic Social and Cultural Rights Article 13.1 states that “education shall enable all persons to participate effectively in a free society.”<sup>41</sup> This language is too vague to give strong support to efforts like the teaching of English to refugees in the United States.

The field of linguistic human rights calls for recognition of the importance of language to the respect other human rights, such as rights to non-discrimination, participation in government, cultural rights, and educational rights. The UDLR articulates the importance of “knowledge of the language proper to the territory” where one resides, but also qualifies it by prioritizing mother tongue development.<sup>42</sup> Even if the right to a second language enabling ‘economic and political participation’ is secondary to

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<sup>39</sup> UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, Resolution 47/135, 18 December 1992, <http://www2.ohchr.org/english/law/minorities.htm>, Preamble and Article 4.2.

<sup>40</sup> “The Hague Recommendations Regarding the Education Rights of National Minorities & Explanatory Note,” OSCE, 1 October 1996, [http://www.osce.org/documents/hcnm/1996/10/2700\\_en.pdf](http://www.osce.org/documents/hcnm/1996/10/2700_en.pdf), p. 3-4.

<sup>41</sup> Skutnabb-Kangas and Phillipson, p. 82.

<sup>42</sup> “Declaration.”

the mother tongue which develops ‘social and psychological survival,’ this right should not be overlooked.<sup>43</sup> Second language capacity is particularly important to refugees; their equal treatment in their country of resettlement depends upon the fulfillment of this right.

### **Language Policy**

The field of language policy presents possibilities for the implementation of recognized rights to the learning of the official language in one’s country of residence. Literature on the establishment of new human rights has shown the benefits of using human rights language. Linguistic human rights have provided a basis for the use of human rights language to call for the right of everyone to “receive an education in the language proper to the territory where s/he resides” (Title 2, Section 2, Article 29, Paragraph 1).<sup>44</sup> Now, language policy can provide suggestions for the rationale and methods of teaching English to refugees who are resettled in the United States.

Patricia Friedrich advances the potential of English to contribute to the recognition and fulfillment of human rights. She writes that “no other language is in a better position to seek and mediate peace than English.”<sup>45</sup> However, she laments that “there has not yet been a movement per se that instead of attacking English, establishes its real potential for peace.”<sup>46</sup> Friedrich argues that just because English is a language of oppressors, this does not mean that it must be oppressive in and of itself.

Friedrich confronts the assumption that newcomers to the United States do not wish to learn English. This assumption causes ostracism and limits the opportunities of

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<sup>43</sup> Skutnabb-Kangas and Phillipson, p. 102.

<sup>44</sup> “Declaration.”

<sup>45</sup> Patricia Friedrich, *Language, Negotiation, and Peace* (London: Continuum, 2007), p. 5.

<sup>46</sup> Ibid, p. 16.

newcomers.<sup>47</sup> English learning is not an onerous duty of refugees arriving in the United States, but something which is highly valued and sought after. When considered a right rather than a duty of the refugees, it becomes an obligation of the state to make English lessons available and accessible.

Friedrich also argues that the bias towards mother tongue rights in linguistic human rights literature creates the impression of a competition between one's first and second languages, when this need not be the case. "The desire to maintain one's original language does not clash with the functional need to acquire a new one."<sup>48</sup> She further outlines a real need of immigrants to have the linguistic skills necessary for success in education and participation in governance,<sup>49</sup> something that is not contrary to the role of the mother tongue for "social and psychological survival" which is so strongly advocated by linguistic human rights advocates.<sup>50</sup>

Other authors have affirmed the value of English as an essential and versatile tool. François Grin writes that "the more people use [a language], the more valuable it becomes as a tool for communication," though he affirms that language is, in fact, more than just a tool for communication.<sup>51</sup> Skutnabb-Kangas lists two roles of language, an 'expressive' role "as a marker of identity" and an 'instrumental' role "as a means of communication."<sup>52</sup> One's language knowledge has an effect on one's identity and on one's capacities. These two roles can be seen as complimentary. For example, as a

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<sup>47</sup> Friedrich, p. 39.

<sup>48</sup> Ibid, p. 38.

<sup>49</sup> Ibid, p. 38.

<sup>50</sup> Skutnabb-Kangas and Phillipson, p. 102

<sup>51</sup> François Grin, "Economic Considerations in Language Policy," *An Introduction to Language Policy: Theory and Method*, Thomas Ricento, ed. (Malden, Massachusetts: Blackwell Publishing, 2006), p. 81.

<sup>52</sup> Skutnabb-Kangas, p. 274.

refugee learns English, they can begin to communicate effectively and can begin to feel like they belong in the country where they settle.

The different roles played by the English language across the world has led to the concept of world Englishes: the English used in the US, Canada, the United Kingdom, Australia, and New Zealand forms the first category, the English used in former colonies forms the second, and the English spoken in the rest of the world forms the third. English is used in different places in all three language categories mentioned by Phillipson, Rannut, and Skutnabb-Kangas: as a native language, an official language, and a language for wider communication.<sup>53</sup> Friedrich highlights the difference between the spread of English as a native language and the spread of English as a lingua franca.<sup>54</sup> When native speakers do not have exclusive ownership of the language, it can be viewed more as a useful tool for anyone to use than as the intrusive vehicle of a particular culture. Friedrich writes, “English serves a variety of symbolic and practical functions in the diverse settings where it is used; it does not adhere to any particular culture or socioeconomic perspective.”<sup>55</sup>

Ricento further explains that English can be embraced and used for social change, citing the adoption of English by the ANC in South Africa.<sup>56</sup> Joshua A. Fishman counters the idea that the spread of English represents an extension of Western imperialism, citing the teaching of English for anti-western purposes in Cuba and Saudi

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<sup>53</sup> Phillipson, Rannut, and Skutnabb-Kangas, p. 10.

<sup>54</sup> Friedrich, p. 84.

<sup>55</sup> Thomas Ricento, “Theoretical Perspectives in Language Policy: An Overview,” *An Introduction to Language Policy: Theory and Method*, Thomas Ricento, ed. (Malden, Massachusetts: Blackwell Publishing, 2006), p. 4.

<sup>56</sup> Ibid, p. 4.

Arabia.<sup>57</sup> Learning the English language does not imply acculturation, but can be useful for communication across and between many cultures. Refugees learning English in the United States would not need to lose their native culture in order to enjoy the benefits that come from English competency.

In order to draw upon the benefits of learning the English language and to avoid cultural imposition, certain precautions should be taken. It is important that the second language does not interfere with the development of the first language. In ‘subtractive’ situations, majority languages hinder the learning of mother tongues, and in ‘additive’ situations, both the mother tongue and additional languages are able to become fully developed.<sup>58</sup> Skutnabb-Kangas differentiates between linguistic assimilation and linguistic integration. Assimilation, which uses detractive teaching which replaces the mother tongue, leads to linguistic genocide, but integration, which uses additive teaching which adds to second language knowledge without detracting from the first language, aims to foster bilingualism and language equality. In this model of integration, the language minority is not the only group to experience change; the linguistic majority should expect to be affected by the addition of the minority to the community.<sup>59</sup> In the context of refugee resettlement, this suggestion from Skutnabb-Kangas indicates the need for respect for the refugees’ first languages, by their teachers in particular, and also by the community at large.

English in an ‘additive’ situation has the potential to foster empowerment when teachers are respectful and appreciative for the students’ language backgrounds.

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<sup>57</sup> Joshua A. Fishman, “Language Shift,” *An Introduction to Language Policy: Theory and Method*, Thomas Ricento, ed. (Malden, Massachusetts: Blackwell Publishing, 2006), p. 323.

<sup>58</sup> Skutnabb-Kangas and Phillipson, p. 102.

<sup>59</sup> Skutnabb-Kangas, p. 275, 282.

Friedrich recommends using terms such as ‘linguistic empowerment’ rather than ‘killer languages,’ in order to foster a positive orientation toward the potential of English to be used for linguistic peace.<sup>60</sup> “Education is actually an antidote to imperialism” when it “help[s] students find a broad range for English use.”<sup>61</sup> The topics taught in the classroom and the methods of instruction have the potential to develop situations of harmony, mutual respect, and personal growth. When feasible, bilingual education ensures that children’s abilities in their mother tongue are not stunted by education in a second language. Gibbons, White, and Gibbons studied a bilingual Arabic-English school in Australia that caters to Lebanese immigrants. Their case study illustrates how a teacher’s attitude is essential to the creation of an empowering language learning environment. The teacher must have high expectations and not discriminate according to the language background of the students; rather, by valuing the learners’ native languages, the teacher can add to their confidence.<sup>62</sup> Though in most situations ESL classes for refugees do not have the resources or demographics to use a bilingual approach, recognition of this ideal can lead to encouragement for home use of the mother tongue, and an attitude towards the English language whereby it is not only a tool for communication, but also a means of empowerment. Refugees formerly were offered government-provided programs “cultural orientation instruction in their native language” prior to arrival for resettlement in the United States.<sup>63</sup> Even a short introductory program in the refugees’ native language could play a significant and symbolic role recognizing

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<sup>60</sup> Friedrich, p. 7-8, 79.

<sup>61</sup> Ibid, p. 59.

<sup>62</sup> John Gibbons, William White, and Pauline Gibbons, “Combating Educational Disadvantage among Lebanese Australian Children,” *Linguistic Human Rights: Overcoming Linguistic Discrimination*, Tove Skutnabb-Kangas and Robert Phillipson, eds. (Berlin: Mouton de Gruyter, 1994), p. 253, 256-257.

<sup>63</sup> Seufert.

the value of their mother tongue and of their native culture, recognizing the equality of their culture to the American culture that they will soon experience.

Language policy provides important suggestions for the ways in which human rights can be met through the teaching of English to refugees. English lessons are not unwanted, but rather highly sought after tools of advancement within society. The learning of English is not necessarily threatening to one's rights to the learning and development of one's mother tongue. Instead, English can promote cultural understanding and two-way cultural exchanges. English classes for refugees can fit into a system of integration rather than assimilation. The educational and employment rights of refugees can be met without detracting from their rights to dignity and expression of cultural identity.

### **Current basis of ESL for refugees**

Though we have seen that a human rights framework is a powerful tool that provides support for ESL instruction for refugees and offers suggestions for ways in which language instruction can also support other rights, most organizations providing English classes for refugees do not currently articulate the reasoning for their classes on the basis of rights. In fact, human rights are rarely mentioned by these organizations. Most often, the explanation for why ESL is offered is framed in terms of needs. This section will look at the language used by organizations that either support or provide ESL classes for refugees. Each organization's current justifications for why ESL should be offered to refugees will be analyzed, and this section will be followed by suggestions for ways that human rights discourse might be beneficial in each situation.

### *UNHCR Refugee Resettlement*

The UN High Commissioner for Refugees (UNHCR) Refugee Resettlement office publishes a handbook titled “An International Handbook to Guide Reception and Integration.” This handbook for refugee resettlement describes how ESL can play an important role in meeting the particular needs of refugees. It describes how “providing access to language assistance helps to” provide: “clear communication” to reduce anxiety of the transition, for “rapport, trust, and a sense of safety,” for “access to services,” for “access to resources,” and to “foster... understanding.” The handbook also lists another benefit of language assistance to refugees: it ensures “that their rights are respected.”<sup>64</sup> The document does not elaborate on this mention of rights, leaving it up to readers to interpret whether there is a human right to language assistance, or whether language assistance contributes to the fulfillment of other rights. Either way, this document is relatively unique for this brief mention of human rights in conjunction to language teaching for refugees.

### *Center for Applied Linguistics*

The Center for Applied Linguistics provides a manual to refugees titled, *Welcome to the United States: A Guidebook for Refugees*. This document uses some rights language, but it does not use rights language to call for ESL classes. Rather, human rights are used in conjunction with the right to an interpreter (provided by resettlement agency) for communication with healthcare providers, and the right to non-discrimination according to language or culture: “If you are discriminated against or denied your rights because of your appearance or the language you speak, you have the right to police

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<sup>64</sup> “Refugee Resettlement: An International Handbook to Guide Reception and Integration,” *UNHCR*, 1 October 2002, <http://www.unhcr.org/3d9860057.html>, p. 110-111.

protection and to seek legal action.”<sup>65</sup> ESL is called of on the basis of utility, expectation, and need. They emphasize to refugees the importance of English to their future in the United States. “Knowing English will be important for your success in the United States. You will be able to find work if you do not speak English, but your job opportunities will be limited. Learning English will help you get a better job, understand what your children are learning in school, and make friends in your new community.”<sup>66</sup> The guidebook tells refugees to expect resettlement agencies to help them find English lessons, and to expect private assistance organizations (including mutual assistance organizations (MAAs) and religious institutions) to provide ESL classes.<sup>67</sup> The handbook also uses the language of needs to describe the language experience of refugee children in American schools. “One of the biggest challenges for children is learning English. Young children learn quite quickly, but it will take longer for older children. Many schools have special English as a second language (ESL) classes for new arrivals; others offer assistance through a special teacher or a tutor. Most newcomers face adjustment problems in their first year of school. Children may feel lonely at first, but as their ability to communicate improves, they make friends and feel more comfortable at school.”<sup>68</sup>

Outside of this handbook, the Center for Applied Linguistics website also demonstrates the organization’s justification for the importance of ESL classes for refugees. ESL is mentioned in an FAQ section of the website under the heading “What is

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<sup>65</sup> *Welcome to the United States: A Guidebook for Refugees*, Center for Applied Linguistics: Cultural Orientation Resource Center, Washington, D.C., Third Edition, 2004, <http://www.cal.org/co/pdf/newwelcomeguide.pdf>, p. 75, 85.

<sup>66</sup> Ibid, p. 3.

<sup>67</sup> Ibid, p. 18, 22-23.

<sup>68</sup> Ibid, p. 62.

expected of refugees when they arrive in the United States?”<sup>69</sup> In this instance, ESL is treated merely as something that many refugees do. The site also provides useful resources for teachers to use when preparing for and conducting cultural orientation classes. This includes information about the refugees’ cultures and languages. This information enables teachers to not only share knowledge of English as a tool, but also to use it in a setting that promotes human dignity and greater intercultural understanding.

Within the Center for Applied Linguistics, the Center for Adult English Language Acquisition (CAELA) also provides materials for ESL teachers. They list reasons that adults take ESL classes: daily life communication, citizenship, GED and other higher education, and to help children with schooling. They encourage teachers “to have information about these learners so they can serve them effectively.”<sup>70</sup> Once again, the focus is on meeting needs, but the recommendations provide advice that could indirectly promote a range of human rights (in the areas of political participation, education, and equality).

### *The US Office of Refugee Resettlement*

This US government Office of Refugee Resettlement (ORR) implements the Refugee Act of 1980. Its mission statement uses language of needs, rather than rights. The ORR recognizes the potential of the refugees, and it aims at integration. “Founded on the belief that newly arriving populations have inherent capabilities when given opportunities, the Office of Refugee Resettlement (ORR) provides people in need with

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<sup>69</sup> “US Refugee Program,” *Center for Applied Linguistics: Cultural Orientation Resource Center*, Washington, D.C., 2010, <http://www.cal.org/co/refugee/>.

<sup>70</sup> National Center for Family Literacy and Center for Applied Linguistics, *Practitioner Toolkit: Working with Adult English Language Learners*, (Louisville, KY, and Washington, DC, 2008), [http://www.cal.org/caela/tools/program\\_development/prac\\_toolkit.html](http://www.cal.org/caela/tools/program_development/prac_toolkit.html), p. I-3, I-4.

critical resources to assist them in becoming integrated members of American society.”<sup>71</sup>

The ORR provides grants to organizations which will provide services to refugees to assist them to find employment. They state that “learning English is the primary component in helping the refugee obtain employment.”<sup>72</sup> The ORR already emphasizes the importance of ESL classes to the integration of refugees, but their emphasis could be amplified using rights language. Their recognition of ‘inherent capabilities’ reflects respect for human dignity, and their support of employment assistance programs defends employment rights, even though rights are not explicitly mentioned.

### *Church World Service*

The US State Department works with nine resettlement agencies referred to as ‘VOLAGS.’ These agencies also have their own affiliates who assist in helping refugees in the resettlement process.<sup>73</sup> Church World Service (CWS) is one of these nine resettlement agencies. Their website uses needs discourse as well as language of Christian hospitality. They describe their refugee resettlement program as “empowering churches to show hospitality to strangers” and “working to ensure that refugees and displaced persons abroad receive the assistance and protection they need.”<sup>74</sup> Daniel Chong indicated that some religious NGOs shy from using human rights language and prefer other bases for advocating their activities.<sup>75</sup> The CWS website uses scripture (“I was a stranger, and you welcomed me,” Matthew 25:35b) to make a religious appeal for

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<sup>71</sup> “Mission,” Office of Refugee Resettlement, 18 September 2008, <http://www.acf.hhs.gov/programs/orr/about/mission.htm>.

<sup>72</sup> “Social Services,” Office of Refugee Resettlement, 18 September 2008, <http://www.acf.hhs.gov/programs/orr/benefits/rss.htm>.

<sup>73</sup> “National Resettlement Agencies,” USA for UNHCR, 2009, [http://www.unrefugees.org/site/c.lfIQKSOWFqG/b.5067997/k.25D5/National\\_Resettlement\\_Agencies.htm](http://www.unrefugees.org/site/c.lfIQKSOWFqG/b.5067997/k.25D5/National_Resettlement_Agencies.htm).

<sup>74</sup> “Assisting Refugees and Immigrants,” Church World Service, [http://www.churchworldservice.org/site/PageServer?pagename=action\\_what\\_assist\\_main](http://www.churchworldservice.org/site/PageServer?pagename=action_what_assist_main).

<sup>75</sup> Chong, p. 125.

refugee resettlement assistance.<sup>76</sup> For CWS constituents, biblical references may well have a stronger moral appeal than secular human rights language. There is no reason, however, why both Christian and human rights language could not both be used.

*International Rescue Committee*

The International Rescue Committee (IRC) is another of the State Department's nine 'VOLAGS.' This resettlement agency lists ESL classes as one of "the tools of self-reliance."<sup>77</sup> Their other 'tools of self reliance' could also be termed as human rights: employment, medical care, education. Self-reliance is semantically close to human dignity, the focus of the UDHR. The IRC website could easily incorporate human rights language to provide a stronger appeal for their services which are currently listed as 'tools of self-reliance.'

*Refugee Resettlement and Immigration Services of Atlanta*

Refugee Resettlement and Immigration Services of Atlanta (RRISA) is an affiliate organization to CWS. They register refugees with external providers for ESL classes. Once again, this organization uses the language of needs. "RRISA answers the humanitarian call to serve those fleeing from persecution, war, famine and extreme poverty. Our mission is to help refugees, asylees, victims of human trafficking, and Cuban/Haitian entrants resettle in the U.S. and regain self-sufficiency."<sup>78</sup> This mention of self-sufficiency reflects the IRC's language of self-reliance. Both the IRC and RRISA use language supportive of the dignity and agency of the refugees, concepts which are imbedded in the human rights framework. Adding explicit mention of human rights

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<sup>76</sup> "Assisting Refugees and Immigrants."

<sup>77</sup> "Resettling Refugees," International Rescue Committee, 2010, <http://www.theirc.org/our-work/resettling-refugees>.

<sup>78</sup> "About Us," Refugee Resettlement and Immigration Services of Atlanta, 2009, <http://www.rrisa.org/about.html>.

would further link these organizations to the framework of human rights and all of its assets.

## **Conclusion**

The UNHCR Refugee Resettlement office, the Center for Applied Linguistics, the Office of Refugee Resettlement, Church World Service, the International Rescue Committee, and Refugee Resettlement and Immigration Services of Atlanta could each benefit from human rights language. The appeal of needs discourse is not strong and does not provide guidelines regarding how to proceed with offering services. Human rights language can be used as a tool to give greater moral force to appeals for language instruction for refugees. Human rights discourse can be used to tie ESL classes to other human rights, such as those enumerated in the Convention Relating to the Status of Refugees, and ESL classes for refugees can be located within the framework of linguistic human rights. Linguistic human rights literature provides not only affirmation that ESL fulfills the human rights of refugees, but it also provides guidance for how ESL classes can best respect human rights. Both linguistic human rights and language policy provide cautions about the role of dominant language instruction which can help to ensure that the rights to human dignity and cultural identity are respected in ESL instruction.

Organizations that provide ESL classes to refugees have not yet taken advantage of human rights language. The use of human rights language by these organizations would not be unfounded, to the contrary, human rights language promises to offer both direction and resources.

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