Linguistic Discrimination as grounds for Remedial Secession: The cases of Québec and Abkhazia

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LINGUISTIC DISCRIMINATION AS GROUNDS FOR REMEDIAL SECESSION
THE CASES OF QUÉBEC AND ABKHAZIA

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Abstract

This thesis explores the concept of linguistic secession and its implications within the framework of international law, focusing on the case studies of Québec and Abkhazia. Through a detailed examination of historical contexts, it highlights how linguistic identity can fuel secessionist movements and evaluates the extent to which linguistic discrimination can justify claims for independence. By analysing legal doctrines and international treaties, the study assesses the applicability of remedial secession as a response to linguistic subjugation. The findings suggest that while language plays a pivotal role in shaping national identity, the legitimacy of secession based on linguistic grounds remains contentious. The research underscores the importance of ensuring that internal self-determination is properly implemented and the need of protecting linguistic rights within existing state structures, offering insights into the evolving nature of self-determination in the global legal landscape.

Keywords: remedial secession, international law, human rights, languages, Québec, Abkhazia

Abbreviation List

CAQ	Coalition Avenir Québec
CIS	Commonwealth of Independent States
EC	European Council
EU	European Union
FLQ	Front de Libération du Québec
HRC	United Nations Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
MNA	Member of the National Assembly
NATO	North Atlantic Treaty Organisation
SSR	Soviet Socialist Republic
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
USSR	Union of Socialist Soviet Republics

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1. Introduction

The date is 8 October 1970. In a dimly lit living room in the old port of Montréal, a middle-class family is watching television after a day of work and a late dinner. At 22.30, a Radio-Canada anchor-man named Gaétan Montreuil begins reading a monologue. Full of socialist utopic ideals and promoting the advantages of an independent nation-state, the text aims to appeal to average citizens. The manifesto is written by Front de Libération du Québec (FLQ), which is broadcasted on public television in the hopes of liberating kidnapped British diplomat James Cross. To the viewers, the broadcast of such a statement on the country's most important French-language broadcaster is significant. Immediately, a conversation begins. A consensus is found that while a degree of independence and control over the province's borders is necessary, resorting to violence is undesirable. Around the dinner table, the family discusses the question: why should we want independence? Finally, they agree that it is because Québec's people are of different linguistic and cultural background compared to the 'anglophones' found in other parts of Canada.[1]

The pitting of francophones versus anglophones as linguistic foes is not unique in the world. Globally, secessionist movements have been founded based on language as the primary identity source. For centuries, a common tongue has been a core concept for nation-states. For secessionist movements, language can be framed in terms of deep political injustice. The extent to which such linguistic sentiments legitimise independence, however, is debated in international law. Additionally, framing protection against linguistic discrimination as a human right is ambiguous and its application to the doctrine of remedial secession remains underexplored in international law, exhibiting a research gap. This thesis aims to bridge that gap by providing an overview of the field of linguistic secession, by firstly showcasing the different ideological approaches relevant to the topic and secondly exemplifying how such ideologies affect international understanding by examining two case studies: Québec and Abkhazia. The research thus aims to answer the research question:

What is the legality of remedial state secession based on linguistic justifications?

[1] Vallières, Pierre. *Nègres Blancs d'Amérique: Autobiographie Précoce d'un "Terroriste" Québécois*. Ottawa: Les editions Parti pris, 1974.

2. Literature Review

2.1 Self Determination

Before delving into linguistic rights, it is vital to understand the concept of self-determination, itself being integral to the idea of linguistic secession. Conceptualisations of self-determination vary, particularly on its definition and the subject it applies to. Michel Seymour defines internal self-determination as 'a right that peoples would have to develop themselves economically, socially and culturally, and the right to determine their political status within a […] sovereign state.'[2] In other words, internal self-determination grants a people the ability to engage fully in society like other state members. Conversely, external self-determination is the right to form an independent state, challenging territorial integrity.[3]

Steven Fisher suggests that when internal self-determination is not accorded, it may justify external self-determination to 'remedy' the wrongdoing. However, Katherine del Mar argues distinguishing between internal and external self-determination is problematic.[4] According to del Mar, external self-determination applies to 'peoples' in non-self-governing areas or facing 'alien subjugation, domination, and exploitation,' but it expressly excludes minorities that are not classified as a people, regardless of whether the minority has suffered human rights abuses.[5]

2.2 The Traditional View: Territorial Integrity reigns supreme

International law traditionally views borders as permanent and inviolable.[6] As posited by several scholars, *uti possedetis juris,* or 'territorial integrity' has increasingly been adopted by democratic states since the First World War, gaining prominence in post-war settlements

[2] Seymour, Michel. "Remedial Secession." Essay. In *Routledge Handbook of State Recognition*, edited by Gëzim Visoka, John Doyle, and Edward Newman. Routledge, 2021: 177.
[3] Fisher, Steven R."'Towards Never Again': Searching for a Right to Remedial Secession under Extant International Law," 288.
[4] Del Mar, Katherine. "The Myth of Remedial Secession." Essay. In *Statehood and Recognition*, edited by Duncan French, 94, 2013.
[5] *Ibid.,* 94.
[6] Elden, Stuart. "Contingent Sovereignty, Territorial Integrity and the Sanctity of Borders." SAIS Review of International Affairs 26, no. 1 (2006): 11–24. https://doi.org/10.1353/sais.2006.0008.

and decolonisation.[7,8] Territorial integrity is linked to state sovereignty, allowing states to exercise jurisdiction without external interference – thereby promoting international stability.[9] Stuart Elden describes this norm as giving borders a 'sanctity' unique in the international system. The principle has been central since the Covenant of the League of Nations, and reinforced by numerous United Nations Security Council (UNSC) and United Nations General Assembly (UNGA) resolutions based firmly in the UN Charter, which states that '[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.'[10]

Major international organisations, including the European Union (EU) and the North Atlantic Treaty Organisation (NATO) stress the importance of resolving border disputes before adhering as a member. The EU stipulates that candidate member states must 'make every effort to resolve any outstanding border disputes' prior to joining.[11] NATO makes a similar mention regarding their own membership criteria.[12,13] Ergo, it is argued that although discourse allowing the right of external self-determination to a people is growing, territorial integrity remains of primary importance in the international system. Self-determination drives many subnational conflicts, yet the connections between 'identity, contested land, and strategies' remain incompletely understood.[14] While internal and external self-determination support governance rights of stateless nations, the current international order prioritises territorial integrity.[15] According to this view, issues of language, culture, or identity are thus seen as primarily of domestic concern.

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[7] Lee, Hoon, and Sara McLaughlin Mitchell. "Foreign Direct Investment and Territorial Disputes." *Journal of Conflict Resolution* 56, no. 4 (May 1, 2012): 675–703. https://doi.org/10.1177/0022002712438348.
[8] Elden, Stuart. "Contingent Sovereignty, Territorial Integrity and the Sanctity of Borders." *SAIS Review of International Affairs* 26, no. 1 (2006): 11–24. https://doi.org/10.1353/sais.2006.0008.
[9] Elden, Stuart, and Alison J. Williams. "The Territorial Integrity of Iraq, 2003–2007: Invocation, Violation, Viability." *Geoforum* 40, no. 3 (May 2009): 407–17. https://doi.org/10.1016/j.geoforum.2008.12.009.
[10] United Nations, *Charter of the United Nations*, 1945, 1 UNTS XVI
[11]European Council Presidency Conclusions, Helsinki 10–11 December 1999, Council Document SN 300/99.
[12] Elden, Stuart. "Contingent Sovereignty, Territorial Integrity and the Sanctity of Borders." *SAIS Review of International Affairs 26*, no. 1 (2006): 11–24. https://doi.org/10.1353/sais.2006.0008.
[13] While such a provision is stipulated by the EU and NATO, it is worth mentioning that in practice this was not always strictly adhered to – especially regarding external territories. The Falkland Islands (UK) continue to have a border dispute with Argentina, while Greenland (Denmark) had a border dispute with Canada until 2022.
[14] Kelle, Friederike Luise. "Why Escalate?: Symbolic Territory and Strategy Choice in Conflicts over Self-Determination." *Nationalism and Ethnic Politics* 27, no. 1 (January 2, 2021): 1–22. https://doi.org/10.1080/13537113.2020.1851072.
[15] Griffiths, Ryan. "The Future of Self-Determination and Territorial Integrity in the Asian Century." *The Pacific Review* 27, no. 3 (April 24, 2014): 457–78. https://doi.org/10.1080/09512748.2014.909525.

2.3 The Revisionist View: An expanding right to secession

Opposing the preceding view, a revisionist perspective considers an expanding right to secession. Brando & Morales-Gálvez showcase the view of primary secession, which argues that secession can be justified without human rights violations or injustices.[16] Primary theorists fall into two categories. The plebiscitary approach bases secession on the result of a vote – holding that a 'group's right to self-determination and/or [sic] secession would be founded upon the aggregate individual autonomy of each of its members'.[17] The nationalist approach, however, posits that nations as groups hold the right to secession themselves. In this case, nations are loosely defined as communities 'constituted by shared belief and mutual commitment, extended in history, active in character, connected to a particular territory, and marked off from other communities by its distinct public culture'. As seen in further sections, this definition is similar to that of a 'people'. If primary theorists are given credence, non-ethnic secessionist movements would perhaps be more legitimate.

Revisionists argue that while territorial integrity may continue to exist as an important part of international society, there are notable exceptions. Remedial secession, a second revisionist position, imposes more constraints than primary theory. This doctrine refers to the propounded right of a group or people to secede to remedy grave injustices such as 'alienation, domination, exploitation,' or large-scale human right violations.[18] Fisher highlights the Åland Islands case, an archipelago in the Baltic Sea that declared independence from Finland in 1917 following Finland's own independence from Russia. Ålanders – being of distinct origin, language, and identity, felt unequal in Finland, instead identifying more with Sweden.[19] A League of Nations Commission of Rapporteurs found that the Åland Islands did not have a right to secession since Finland provided internal self-determination and special constitutional rights. The Commission stated that there would be no reason to '[allow] a minority to separate itself from the State to which it is united, if this State gives it the guarantees which it is within

[16] Brando, Nicolás, and Sergi Morales-Gálvez. "The Right to Secession: Remedial or Primary?" *Ethnopolitics* 18, no. 2 (July 17, 2018): 107–18. https://doi.org/10.1080/17449057.2018.1498656.
[17] Brando and Morales-Gálvez. "The Right to Secession: Remedial or Primary?" 111.
[18] Fisher, Stephen R."'Towards Never Again': Searching for a Right to Remedial Secession under Extant International Law," 293.
[19] *Ibid.,* 274.

its rights in demanding […]'.[20, 21] As such, Fisher proposes that this indicates that gross subjugation could justify secession as a last resort – representing a right to remedial secession.

UNGA Resolution 2625, known as the Friendly Relations Declaration, suggests the right to self-determination can be exercised by establishing a 'sovereign and independent state'.[22] Similarly, the Kosovo and Québec cases are used as precedents. The International Court of Justice (ICJ) Kosovo ruling acknowledges self-determination rights have 'developed to give a right to independence' to subjugated peoples.[23] Statements in the Québec case suggest that a right to secession may exist for subjugated peoples, though its application to Québec is more controversial due to the debatable extent of their subjugation.

2.4 Reconciling Sovereignty with Self-Determination: Practical Implications

Evidently, both territorial integrity and revisionist views are multifaceted. As Stefan Oeter alludes to, while one side 'underestimates the emotional strength of the aspirations and desires of oppressed people to achieve self-government, […] the other side underestimates the practical problems (and the potential collateral damages) linked with secession.'[24] Given the fragile nature of remedial secession, the subsequent sections explore the implications for linguistic policy, aiming to offer a framework to assess feasibility and practicality. Language is a fundamental characteristic of culture and identity, yet the specific impact of language on state secession is lightly explored in research. Specifically, this work proceeds by analysing linguistic rights' impact on the contested right to remedial secession.

3. Theoretical Framework & Methodology

This thesis examines the legality of remedial secession based on linguistic discrimination and its applicability in contemporary international law through legal doctrinal analysis. According to Eliav Lieblich, doctrinal analysis sources typically comprise of those

[20] *Ibid.,* 276.
[21] According to the Supreme Court of Canada, internal self-determination can be defined as political representation. This is as opposed to external self-determination, which is linked with statehood.
[22] United Nations General Assembly. Resolution 2625 (XXV), *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, UN Doc. A/RES/2625(XXV) (October 24, 1970).
[23] Fisher, "'Towards Never Again': Searching for a Right to Remedial Secession under Extant International Law," 291.
[24] Oeter, Stefan. "The Kosovo Case – An Unfortunate Precedent." *Heidelberg Journal of International Law* 75 (2015): 51–74.

listed in Article 38 (1) of the ICJ Statute: i) treaties, ii) state practice and *opinio juris*, iii) general principles of law, iv) judicial decisions and scholarly work.[25] This thesis aligns with doctrinal analysis by including national supreme court statements, UN documents, advisory opinions, judicial decisions and scholarly articles from legal experts to scrutinise the legal underpinnings of secessionist movements in Québec and Abkhazia.

As such, positivist legal research is employed, focusing on black-letter law and secondary sources analysing societal understandings within the legal arena.[26] This subscribes to *descriptive doctrinal research*, a research question type attempting to determine what the law *is.* Scholars of realist and critical approaches have criticised positivist research and the feasibility of determining 'what is' without touching on 'what should be'. Indeed, the universal nature of international law creates an environment in which the lines between descriptive, normative and critical questions are often blurred. While this is a valid limitation to positivist research, I argue that the very essence of this analysis is not to criticise existing frameworks nor to determine specifically what ought to be. Instead, I aim to portray an understanding of what *is* deemed valid in the current international framework. While this is achieved by analysing *lex lata* from a variety of secondary sources as well as black-letter law*,* the core of the research preserves an inherently positivist core.

Two case studies, Québec and Abkhazia, are used to illustrate the analysis. The use of case studies was selected due to the increased ability to straightforwardly interpret the logic of the analysis in a manner that additionally leads to real-world practical implications. Methodologically, both primary and secondary sources were collected and categorised based on their stance on linguistic secession. The methodological approach is qualitative, employing doctrinal analysis to uncover the application of theoretical concepts on the case studies.[27] As already explored, the study of customary laws related to self-determination, territorial integrity, and linguistic rights, alongside pertinent treaties, involves analysing historical and contemporary applications, breaches, and scholarly interpretations. Data collection includes primary legal documents including treaties, conventions, and judicial rulings on self-determination, territorial integrity, linguistic rights, as well as historical records and government documents outlining linguistic policies of Québec and Abkhazia. Secondary

[25] Lieblich, Eliav. "How to Do Research in International Law? A Basic Guide for Beginners." *Harvard International Law Journal Online*, 2020, 42–67. https://doi.org/10.2139/ssrn.3704776.
[26] *Ibid.,* 45.
[27] *Ibid.,* 50.

sources include academic literature on relevant topics and scholarly analyses of the historical and legal nature of the secessionist movements in the case studies.

4. Doctrinal Analysis

4.1 Language as a Human Right: Moral Implications

There are approximately six thousand living languages today. By the end of the twenty-first century, linguistic anthropologists estimate that up to ninety percent of such languages will disappear completely, prompting discussions on the value of preserving languages in an increasingly globalised, homogenised international society.[28] Philosophically, the reasons for protecting a language are myriad. Robert Dunbar summarises the linguistic rationale, quoting Steven Pinker:

"As [Michael] Krauss writes, 'Any language is a supreme achievement of a uniquely human collective genius, as divine and endless a mystery as a living organism'. A language is a medium from which a culture's verse, literature, and song can never be extricated. . . As the linguist Ken Hale has put it, 'The loss of a language is part of the more general loss being suffered by the world, the loss of diversity in all things".[29]

In many ways, languages represent thoughts and emotions in ways that are inherently irreplaceable. If languages are thus to be considered an indispensable human good tied to state and national identity, it is beneficial to examine international law to understand its interpretation.

4.2 Language as a Human Right: Legal Implications

As recognition of the inherent value of language has increased, international law has aimed to ensure the survival of these languages. The International Covenant on Civil and Political Rights (ICCPR) attempts to protect languages from 'discrimination solely on the

[28] Dunbar, Robert. "Minority Language Rights in International Law." *International and Comparative Law Quarterly* 50, no. 1 (January 2001): 90–120. https://doi.org/10.1093/iclq/50.1.90.
[29] *Ibid.,* 91.

ground of race, colour, sex, language, religion or social origin'.[30] With regards to language, Article 27 is of exceptional importance in this matter, stating:

'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 practice their own religion, or to use their own language.'[31]

Critics argue that the negative wording of Article 27 implies a reactive approach to minority rights, leading states to merely avoid discrimination rather than actively support minority languages. Instead of promoting what rights are available to minorities, the article instead states that such groups 'shall not be denied' a set of rights.[32] It is the only article in the covenant that is framed negatively.[33] The phrasing allows governments to leave a minority language 'untouched' – thereby without harming it directly – yet also without advocating for its use and protection. In turn, this does not empower minority groups to enhance their well-being or give them tools to protect their heritage.

Since Article 27 only applies to states where 'ethnic, religious, or linguistic minorities exist' states might deny the existence of such groups to avoid obligations. This reflects a reluctance towards the idea of minority rights – the *travaux préparatoires* showing that the wording was a strategic addition by Chile, itself home to many indigenous peoples.[34] Despite the factual presence of minority groups, recognition of their significance is lacking – demonstrating an absence of intent to acknowledge the proliferation of new minority groups due to factors such as immigration.[35]

Another criticism lies in the passage 'persons belonging to […] minorities.'[36] By emphasising individual over group rights, the very survival of group identities is threatened. It

[30] United Nations General Assembly. *International Covenant on Civil and Political Rights*, Article 27, December 16, 1966, United Nations Treaty Series, vol. 999, p. 171.
[31] *Ibid.*
[32] *Ibid.*
[33] Barten, Ulrike, and Rainer Hofmann. "Article 27 ICCPR - A First Point of Reference." Essay. In *The United Nations Declaration on Minorities* 9, edited by Ugo Caruso, 9:46–65. Studies in International Minority and Group Rights. Leiden: Brill, 2015.
[34] Lerner, N. "The Evolution of Minority Rights in International Law." *Peoples and Minorities in International Law*, January 1, 1993, 77–101. https://doi.org/10.1163/9789004641990_007.
[35] *Ibid.,* 89.
[36] United Nations General Assembly. *International Covenant on Civil and Political Rights*, Article 27, December 16, 1966, United Nations Treaty Series, vol. 999, p. 171.

has been argued that Article 27 adds little to existing non-discrimination norms within the broader human rights framework, questioning its legal nature and suggesting it may function more as a recommendation than a binding norm.[37]

The United Nations Human Rights Committee (HRC) addressed these critiques with General Comment 23, noting that Article 27 establishes distinct rights for individuals in minority groups.[38] [39] HRC General Comment 23 declares that it 'establishes and recognises a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant.'[40] With this comment, the HRC attempted to demonstrate how the Article is a useful addition to existing non-discrimination norms and emphasised specific obligations on states to protect the cultural, religious, and linguistic practices of minorities. In accentuating a minority's *culture,* the HRC additionally remarks that while rights belong to individuals, those rights are accorded based on the existence and survival of a minority's cultural components – thereby concluding that such a community has a larger collective identity. Comment 23 reframes the negative wording of Article 27 by interpreting it as necessitating positive measures by states to create favourable conditions for the enjoyment of minority rights.

4.3 Minority vs Peoples: Applicability

Fernand de Varennes notes that it is 'impossible for a state to be absolutely neutral in terms of cultural or linguistic preferences.'[41] Using common languages ensures administrative efficiency, national unity, economic productivity, educational consistency, and social cohesion by standardising communication where linguistic neutrality can lead to fragmentation and

[37] Yupsanis, Athanasios. "Article 27 of the ICCPR Revisited – The Right to Culture as a Normative Source for Minority /Indigenous Participatory Claims in the Case Law of the Human Rights Committee." *Hague Yearbook of International Law / Annuaire de La Haye de Droit International, Vol. 26 (2013)*, January 1, 2013, 367.
[38] Human Rights Committee, General Comment 23, Article 27 (Fiftieth session, 1994), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.1 at 38 (1994).
[39] The United Nations Human Rights Committee is a UN treaty body of 18 independent experts that monitor states' compliance and adherence to their obligations under the ICCPR.
[40] Human Rights Committee, General Comment 23, Article 27 (Fiftieth session, 1994), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.1 at 38 (1994).
[41] Varennes, Fernand de. "Equality and Non-Discrimination: Fundamental Principles of Minority Language Rights." *International Journal on Minority and Group Rights* 6, no. 3 (1999): 307–18. https://doi.org/10.1163/15718119920907767.

inefficiencies. Understanding what constitutes a people – and the rights derived from that status – is therefore crucial for a state when determining linguistic policy.

International law protects the rights of minority languages through a set of frameworks, but the right to internal (and contestably external) self-determination is given to peoples, and not minorities (see Section 2).[42] Thus, under what circumstances can minority rights be applied to peoples? Effectively, a people may constitute a minority whilst a minority does not necessarily constitute a people. Simone van den Driest identifies two categories of subjects of the right to internal self-determination: the full population of an existing state; and minority groups within existing states.[43, 44] This right only applies to minority groups if they possess what van den Driest calls 'collective identity' – shared cultural characteristics, values, experiences or a sense of belonging uniting individuals within a community.[45] In other words, this is similar to the HRC's Comment 23 clarification that individual minority rights are based on the existence of the given minority's culture. Per se, shared group characteristics are fundamental in determining the right to internal self-determination – which, as opposed to the individual minority rights outlined in the ICCPR, is a right only accorded to groups. Van den Driest highlights that while a given collection of people may possess a group identity, the collective must imperatively wish to be seen as separate from their 'kin' state to benefit from being classified as a people – and subsequently internal self-determination. Consider the following fictional example: State A has a secessionist movement in Region 'B', whose inhabitants predominantly share language and religion with State C – another state bordering State A – yet differing in language and religion from State A. For Region 'B' to have a rightful claim to internal self-determination, it must have a collective identity distinct from State C. In other words, the population of Region B must oppose becoming a part of State C.

[42] United Nations General Assembly. *International Covenant on Civil and Political Rights*, Article 1, December 16, 1966, United Nations Treaty Series, vol. 999, p. 171.
[43] Van den Driest notes that the two categories apply outside of contexts of decolonisation. Indeed, the right to self-determination in cases of colonisation is often interpreted using a different framework that aims to allow a for a broader application of external self-determination.
[44] Driest, Simone F. van den. *Remedial Secession: A right to external self-determination as a remedy to serious injustices?* Vol. 61 of *School of Human Rights Research Series*. Antwerp: Intersentia, 2013.
[45] *Ibid.,* 51.

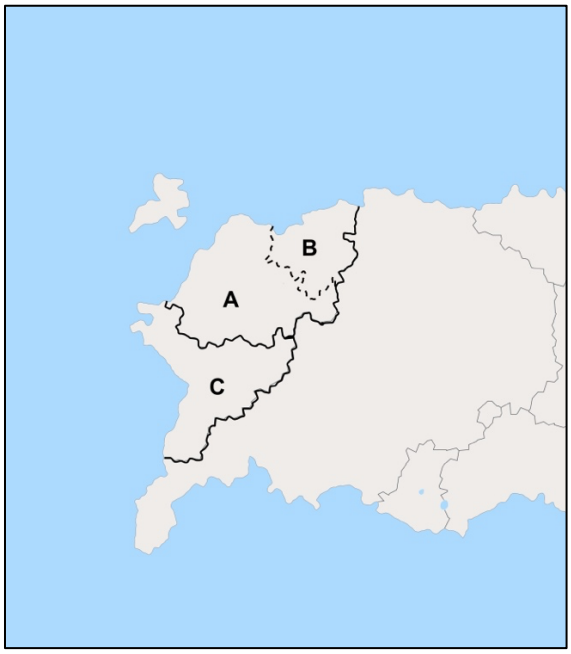

Figure 1: Situational representation for illustrative purposes (source: own work)

This demonstrates the existing right to internal self-determination in contemporary international law. The right to external self-determination is more contested. If Region B is eligible for internal self-determination, but is denied or restricted by State A, Region B may then demand secession from State A as a last-resort.

In sum, two categories of subjects entitled to internal self-determination are identified: entire populations of existing sovereign states and subgroups within these states. Minority groups fall under the second category only if they possess a collective identity. These findings suggest that the right to self-determination is recognised only for groups, not individuals, distinguishing it from the individual rights and freedoms outlined in the ICCPR.

5. Case Studies

5.1 Québec: Je me souviens

5.1.1 Context and History

Francophones in the Canadian province of Québec make up 83.7 percent of the population, while in Canada overall, first language Francophones comprise only 20.2 percent of the population – almost half the figure of first language anglophones, sitting at 56.6 percent

in 2021.[46] This makes French the largest linguistic minority in Canada. The contemporary national identity in Québec arose in 1759 when, during the Seven Years War, Britain defeated colonial power France and imposed English law on the francophone subjects of former New France.[47] The implementation degree of assimilationist policies fluctuated during the existence of British North America, and concessions were sometimes made to prevent francophones from, out of protest, joining the rebellious southern colonies that would become the United States.[48] Such threats resulted in Québec receiving its own titular government and status as a province of the newly founded Dominion of Canada. Throughout numerous changes to the borders and realities of francophone Canadians, the French language has consistently been the factor permitting the existence of a collective identity, differentiating the Québécois from their anglophone territorial surroundings.

The first historical claim to linguistic discrimination faced by French Canadians arose in December 1763. After the Seven Years' War ended and a royal proclamation was issued, King George III of Great Britain sent instructions to Governor James Murray regarding the administration of the newly acquired colony. The monarch's directives were aimed at establishing British institutions and facilitating the assimilation of the Canadian population. Amongst the measures implemented was the mandatory adoption of English as the sole administrative language, replacing French in business and political spheres. The French seigneurial system was largely replaced with townships for land division, and English criminal laws (but not civil laws) were enforced. These measures were designed to integrate the colony into the British Empire and to diminish French cultural influences.[49]

While policies fluctuated between the goals of appeasing the francophone population and imposing British colonial rule, English-centric policy was solidified with Lord Durham's directives in 1839. This confirmed the abolition of the seigneurial system, imposed English as the sole official language, and unified the separate colonies of Lower and Upper Canada into a united Province of Canada – assimilating the French Canadians of Lower Canada into the new entity. The Union Act of 1840 curtailed the use of French in various aspects of public life,

[46] Statistics Canada. "Statistics on Official Languages in Canada." Official languages and bilingualism, February 8, 2024. https://www.canada.ca/en/canadian-heritage/services/official-languages-bilingualism/publications/statistics.html.
[47] Keating, Michael. *Nations against the state: The new politics of nationalism in Quebec, Catalonia and Scotland*. Houndmills: Palgrave, 2001.
[48] Moisan, Sabrina, and Jean-Pierre Charland. *L'histoire du Québec en 30 secondes: Les évènements Les Plus marquants, expliqués en moins d'une minute*. Montréal (Québec): Hurtubise, 2021.
[49] Campeau, Francis, Sylvain Fortin, Rémi Lavoie, and Alain Parent. *Mémoire.qc.ca: Des origines à 1840: Histoire du Québec et du Canada: 3E secondaire*. Montréal (Québec) Canada: Chenelière éducation, 2018.

limited French political power by banning French in the legislative assembly, promoted British immigration and reduced French Canadians to a minority.[50] Despite preserving their own sense of group identity, assimilation pressures persisted and the addition of new anglophone western provinces only made the future look more uncertain. Urbanisation in Québec intensified resentment against the economic dominance of anglophones as well as conservative Catholic institutions.[51]

Figure 2: Province of Québec within Canada (source: own work)

The Québec independence movement began in earnest following the Second World War, during the Quiet Revolution. This period marked a shift away from the pre-1950 Québec

[50] *Ibid.,* 30.
[51] Keating, Michael. *Nations against the state: The new politics of nationalism in Quebec, Catalonia and Scotland*. Houndmills: Palgrave, 2001.

nationalism characterised by a fusion of church and state – one so extreme that French Canadians were portrayed in the Tremblay Report as 'a homogenous group' and 'the only group whose religious and cultural particularism almost exactly coincide.'[52] Instead, around the time of the 1980 sovereignty referendum, the conceptualisation of identity was substantially reframed from being 'French Canadian' to a distinctly more inclusive 'Québécois' identity. Bill 101 greatly extended the use of French in both the public sphere and notably in business, replacing the previously dominant role of English.[53] English Member of Parliament Suzanne Tremblay noted in 1994 that 'waves of immigrants settled in Quebec, coming first from Great Britain, Ireland, and Mediterranean and Slavic countries, then more recently from Asia, Africa, Latin America and West Indies. Quebecers do not make a distinction. They are all true Quebecers.'[54] This was defined by Québec national assembly as 'a modern, multi-ethnic community, founded on shared common values, a normal language of communication and participation in collective life.'[55] This shift exemplified the move from ethnic nationalism to civic nationalism.[56]

The Québec independence movement is primarily based on linguistic arguments. Despite ethnic diversity and shared values, French is seen as the defining element of the Québec population. Following the informal adoption of the 'new' Québec identity, members of both Québec's provincial National Assembly as well as Canada's House of Commons in the Ottawa Parliament have framed language as being the main identifying factor of the Québécois. Member of the National Assembly (MNA) André Boulerice stated in the lead up to the 1995 referendum that:

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[52] Kwavnick, David. *Tremblay Report*. Montréal: McGill-Queen's University Press, 2014, 6.
[53] Keating, Michael. *Nations against the state: The new politics of nationalism in Quebec, Catalonia and Scotland*. Houdmills: Palgrave, 2001, 69.
[54] Ottawa, *Parliamentary Debates*, House of Commons, 7 February 1994.
[55] Keating, Michael. *Nations against the state: The new politics of nationalism in Quebec, Catalonia and Scotland*. Houdmills: Palgrave, 2001.
[56] See, for example, Breton, Raymond. "From Ethnic to Civic Nationalism: English Canada and Quebec." *Ethnic and Racial Studies* 11, no. 1 (January 1988): 85–102. https://doi.org/10.1080/01419870.1988.9993590.
Note: Breton outlines how ethnic nationalism emphasises shared ancestry, language, and cultural heritage as the basis for national unity. It tends to prioritise the preservation of ethnic traditions and the protection of an ethnic group's interests. In contrast, civic nationalism focuses on forming national identity based on shared political values, principles, dissociation the cultural from the political. It promotes inclusivity, emphasising that individuals from diverse ethnic backgrounds can belong to the nation as long as they adhere to common civic ideals. While Québec adopted civic nationalism radically in the mid-20th century, English Canada adopted civil nationalism earlier, albeit more gradually as assimilation efforts failed.

'We will never forget, we are, us as francophones, 40 times a minority in North America. The only real guarantee is sovereignty. For the past 30 years, Ottawa consistently tells us no!'[57]

MNA Marie Malavoy similarly stated:

'From now on we need to have strong will to promote our francophone culture and language, as our position is fragile in North America'.[58]

Accordingly, modern Québécois identity focuses on being francophone rather than solely on ethnicity or religion. Québec is portrayed as a secular, multicultural state that values French as its language of communication and business. Diving deeper into whether such an understanding can justify unilateral independence, the subsequent section explores Québec's quest for independence within contemporary international law.

5.1.2 Doctrinal Analysis: An existing right to an independent state?

Today, it is hard to deny a substantive 'peoplehood' to the Québécois. French Canadians are officially considered a linguistic minority by various actors including the Government of Canada. As demonstrated above, the most important identity marker for the Québécois lies in speaking French. It would be equally difficult to argue that Québécois lack possession of collective identity. The Québécois no longer directly associate with French people from France, and are culturally distinct from any other neighbouring peoples, such as English Canadians, Americans or First Nations Peoples.

Contemporary language policy in Canada and Québec has significantly improved in the past 50 years. Francophones in Québec today enjoy substantive rights and services in nearly all aspects of life.[59] Although there continue to be active policies to protect the French language from the 'sea' of English surrounding the province, there are no direct violations of Article 27 regarding French within Québec or Canadian politics. The Canadian government has been successful in granting Québec substantive internal self-determination, a right it possesses given

[57] Québec, *Débats de l'Assemblée nationale*, Assemblée nationale, 20 September 1995, 5172.
[58] *Ibid.,* 5173.
[59] See, for example, Official Languages Act, R.S.C., 1985, c. 31 (4th Supp.), s. 4.

the existence of collective identity.[6061] Although the Canadian Government is always free to recognise the outcome of any potential future separation referendum Québec decides to hold, so long as effective internal self-determination persists Québec possesses no inherent right to separate unilaterally. The Supreme Court of Canada confirmed the spirit of remedial secession in the following statement:

"[…] the international law right to self-determination only generates, at best, a right to external self-determination in situations of former colonies; where a people is oppressed, as for example under foreign military occupation; or where a definable group is denied meaningful access to government to pursue their political, economic, social and cultural development. In all three situations, the people in question are entitled to a right to external self-determination because they have been denied the ability to exert internally their right to self-determination. Such exceptional circumstances are manifestly inapplicable to Quebec under existing conditions. Accordingly, neither the population of the province of Quebec, even if characterized in terms of "people" or "peoples", nor its representative institutions, the National Assembly, the legislature or government of Quebec, possess a right, under international law, to secede unilaterally from Canada".[62]

In essence, the Court found that none of necessary prerequisites for secession applied to Québec. Additionally, the Québécois enjoy substantive internal self-determination. By suggesting that the right to secession would exist had the prerequisites been met, the Supreme Court comes close to aligning with remedial secessionist theory.

If anything, the status of French in Québec is so engrained that one of the salient language policy debates within Canada today, in a partial reversal of the changes brought on by the Quiet Revolution, revolves around the rights of Anglophones in Québec – which is complicated by the non-minority status of English within Canada, although the Canadian government itself does recognise English as a minority language in Québec.[63, 64] This does not

[60] In 2006, the Canadian House of Commons recognised Québec as a 'nation' within Canada. While the recognition is nothing more than titular, it represents Québec's unique status within the Canadian federation.
[61] Among other sources, the British North America (Constitution) Act of 1867 encodes Quebec's special character in writing. See Constitution Act, 1867, 30 & 31 Vict., c. 3 (U.K.).
[62] Reference re Secession of Quebec, 1998, 2 S.C.R., 217.
[63] May, Stephen. *Language and minority rights: Ethnicity, nationalism and the politics of language*. London: Routledge, 2012., 251.
[64] Official Languages Act, R.S.C., 1985, c. 31 (4th Supp.), s. 4.

mean Québec identity has weakened. Partially, in fact, the recent popularity of governing political party Coalition Avenir Québec (CAQ) shows that public opinion has shifted from placing weight on issues of independence and sovereignty to questions of language, culture, and identity protection – or, in essence, ensuring internal self-determination.[65] The CAQ is an openly nationalist party yet refrains from calling for independence. Contemporary Québécois' support for independence is relatively low at 33 percent in 2022. While a Republic of Québec may not be on the immediate horizon, Québec remains unique: partially a nation carved by its francophone identity, home to Montréal – Canada's most multilingual city – all within Canada, one of the world's most multicultural states.[66,67] Navigating a route that enables preserving a distinct identity and embracing a multicultural Canada will continue to be an evolving journey in Québec in the future.

5.2 Between Georgia and Russia: Abkhazia's pursuit of cultural independence

5.2.1 Context and History

The case of Abkhazia (Апсны/*Apsny* in Abkhaz) provides another example of remedial secession along linguistic lines. The Abkhaz people, indigenous to the areas bordering the Black Sea's northeast coast, have a history tracing back to ancient tribes of the North and South Caucasus. In modern history, Abkhazia has been at the crossroads of empires, nations, and peoples. For centuries, the area fluctuated between kingdoms centred around a variety of regional capitals including Kutaisi (as part of the Imeretian Kingdom), Sochi (as part of Circassia), Tbilisi (as part of the Kingdom of Georgia) and was ruled at several large time periods independently from various capitals in Abkhazia – most often Sukhumi.[68]

Formally integrated into the Russian Empire in 1864, Abkhazia was a part of the short-lived Democratic Republic of Georgia from 1918 until 1921 after the failure of the attempted Transcaucasian Republic. After tensions escalated, Abkhazia declared independence and joined the Soviet Union (USSR) as the Abkhaz Soviet Socialist Republic (SSR) from 1921-

[65] Hurteau, Philippe. "CAQ : Quel Retour Du Nationalisme Économique ?" *Nouveaux Cahiers du socialisme*, January 5, 2021. https://www.cahiersdusocialisme.org/caq-quel-retour-du-nationalisme-economique/.
[66] Valiante, Giuseppe. "New Census Numbers Show Montreal to Be Canada's Most Trilingual City." Canadian Broadcasting Corporation, December 30, 2017. https://www.cbc.ca/news/canada/montreal/montreal-census-numbers-trilingual-city-1.4468133.
[67] Statistics Canada. "Languages at Work: Spotlight on Montréal." StatsCan Plus, February 21, 2023. https://www.statcan.gc.ca/o1/en/plus/3032-languages-work-spotlight-montreal.
[68] Lattimer, John, ed. "A Question of Sovereignty: The Georgia–Abkhazia Peace Process." *Accord (Conciliation Resources)*, no. 7 (1999): 5–97. https://doi.org/10.1017/s009059920004277x.

1931 after which it was integrated as an autonomous republic integrally part of the Georgian SSR. This reorganisation is partially attributed to Stalin (ethnically Georgian himself), who despite his fondness for the region, did not favour its ethnic inhabitants.[69] Nestor Lakoba, Abkhazia's native Bolshevik leader, was poisoned by Georgian rival Levrantiy Beria presumably with Stalin's approval in 1936. Beria proceeded to consolidate power in Abkhazia under Georgian auspices, opening a dark chapter for the Abkhaz language. Abkhaz was replaced with a Georgian alphabet-based script, and its teaching in schools was banned. Georgian or Russian became the language of instruction, and public Abkhaz usage diminished under threats of punishment. Place names were Georgianised, with Sukhum becoming Sokhumi. This period fostered resentment among Abkhazians, who viewed Stalin and Beria as primarily Georgian rather than Soviet.

After Stalin's death and Beria's execution in 1953, Abkhazia's assimilation into Georgia was halted, though it remained within the Georgian SSR while also looking towards Russia – being the USSR's largest Black Sea resort destination. In 1954, Abkhaz adopted its sixth script, an adapted Cyrillic, and theories relating to a shared Abkhaz-Georgian heritage were denounced. Many Armenians and Russians settled in Abkhazia, and with a degree of Russian support, Abkhaz leaders campaigned for more rights. Unrest began in 1977 when a group of Abkhaz intellectuals petitioned to join Russia, resulting in their punishment and further protests from Tbilisi.[70]

[69] De Waal, Thomas. *The Caucasus: An introduction*. New York: Oxford University Press, 2019.
[70] Hewitt, B. G. "Abkhazia: A Problem of Identity and Ownership." *Central Asian Survey* 12, no. 3 (January 1993): 267–323. https://doi.org/10.1080/02634939308400819.

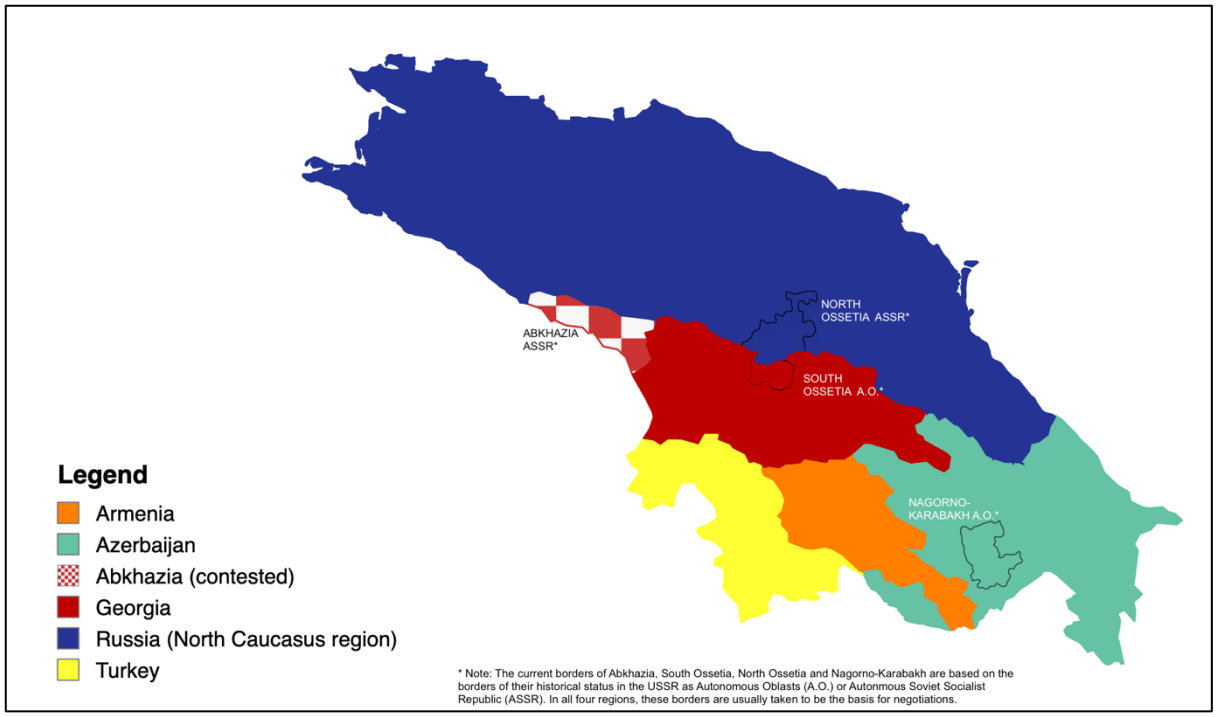

Figure 3 – Secessionist movements within the South Caucasus (source: own work)

Georgian party leader Eduard Shevardnadze made concessions to appease tensions, including establishing the trilingual Abkhaz-Georgian-Russian Abkhazia State University, initiating Abkhaz television broadcasts, and introducing quotas for ethnic Abkhaz in Georgian bureaucracy. Shevardnadze's policies were seen as betrayal for many Georgians, contributing to a swift rise in Georgian nationalism – eventually culminating in resentment to both the Sukhumi and Moscow administration and a desire for independence from the USSR. Many Georgians sought to reverse the 'privileges' accorded to the Abkhazians, claiming marginalisation of the Abkhazia's Kartvelian population (mainly Mingrelians), who made up 40 percent of the region's population. While Abkhaz, Georgian and Russian were officially given equal status, and public services operated in all three languages, it is beyond doubt that Abkhazia's Mingrelian population faced social prejudice.[71]

Nationalist leader Zviad Gamsakhurdia lead protests culminating in the 9 April Tragedy, where Soviet forces killed twenty-one and injured hundreds when attempting to control the situation. Although they were successful in doing so, most of the public support that remained in Georgia for Moscow disappeared. Two years later, when Georgia officially proclaimed independence from the USSR on 9 April 1991, Abkhazia did not recognise the proclamation,

[71] De Waal, Thomas. *The Caucasus: An introduction*. New York: Oxford University Press, 2019, 130-160.

and maintained that the region was part of the USSR. On 14 August 1992, Georgia's National Guard attacked Sukhumi, provoking the 1992-93 Abkhaz War. The operation, initially to liberate captured Georgian officials, turned into a reckless assault and resulted in the pillage of Sukhumi by Georgian soldiers. The war lasted over a year and resulted in Abkhaz victory. Many ethnic Georgians and Mingrelians fled to Georgia, although many Mingrelians later returned to the Gali region, which is still comprised of 90 percent Kartvelians.[72]

In many ways, the Abkhaz are defined by their language. Other indicators of cultural identity, such as religion or cuisine, are conflated with neighbouring regions. Religion, is especially mixed, with strong followings of Orthodox Christianity, Islam and Abkhaz paganism. Alexei Voronov describes Abkhazia as possessing a 'language culture', suggesting that the Abkhazian cultural identity basis is linguistic.[73]

Today, Abkhazia is one of the many 'frozen conflicts' of the former USSR. It continues to utilise the borders based on the former area of the Abkhaz Autonomous Soviet Socialist Republic and sees itself as independent from Georgia – although it heavily relies on Russia for political and economic support. While it is currently neither in Georgia, Abkhazia or Russia's interests to re-open the conflict, it is likely that the current status quo will not last forever. Talks have stagnated since Abkhazia's 1999 independence declaration, and even if Georgia were to cede to Abkhazian demands of autonomy, it is unlikely that Abkhazia would be willing to accept joining Georgia without a struggle.[74] As of 2024, the Abkhaz language and culture in breakaway Abkhazia has emerged to flourish in public and private spaces, albeit while an element of Russification has also taken place. In a partial reversal of past hardships, Abkhazia's ethnic minorities, including Mingrelians, Armenians, and Greeks have been substantially marginalised. Reports indicate difficulties obtaining official documents, accessing education, and limited youth prospects.[75]

5.2.2 Doctrinal Analysis: The right to secession

Abkhazia offers a compelling case study in the context of a remedial secessionist theory based on linguistic rights. As discussed, the Abkhaz language faced discrimination during the

[72] *Ibid.,* 136.
[73] Voronov, Yuri. "Abkhazians: Who Are They?" *Abkhaz World* , 1995.
[74] De Waal, Thomas. *The Caucasus: An introduction*. New York: Oxford University Press, 2019, 130-160.
[75] "Abkhazia: Freedom in the World 2024 Country Report." Freedom House, 2023. https://freedomhouse.org/country/abkhazia/freedom-world/2024.

Stalin era. While there existed a fear of what Georgian policies could look like in the 1980s and 90s, especially in the face of the Gamsakhurdia-led protests against Abkhaz reconciliation, the realities of what would have happened had Abkhazia joined Georgia – avoiding war – will never be known. Contemporarily, Georgia treats its Armenian and Azerbaijani minorities in ways that respect language and culture.[76] Yet the treatment of Abkhazians and Ossetians always faced more challenges, perhaps due to large populations and a geographically constrained identity. The Gamsakhurdia government's openly anti-Abkhaz policies led to resistance in Abkhazia, culminating in its declaration of *de facto* independence from the USSR.

Abkhazia's case therefore raises two questions: Firstly, if a people are facing threats of linguistic subjugation violating Article 27, yet that threat has *not yet* been carried through, does that people have a right to remedial secession? Secondly, if a people have faced grave historical injustices from which the population has not fully recovered, is there a claim to 'historically-justified' remedial secession?

The influential Report of the International Committee of Rapporteurs on the Åland Islands clarifies that remedial secession is understood as an 'exceptional solution, a last-resort when the State lacks either the will or the power to enact and apply just and effective guarantees.'[77] The violation must be substantial and persistent – and the state's response must be inadequate or non-existent. Consequently, mere threats do not suffice, as the principle of 'exhaustion of remedies' requires pursuing all avenues within the state's legal framework before secession can be considered a legitimate recourse.[78] In essence, the very possibility of an anticipatory aspect – legitimising secession if there is evidence that a threat is imminent, posing an existential risk to the group's cultural survival – would contradict the very principle of 'last-resort'.

The second question is more straightforward: remedial secession usually applies to ongoing injustices and is centred on the lack of self-determination within the existing state structure, with very few exceptions (such as colonialism). To claim historically-justified remedial secession, the people need to demonstrate that past injustices resulted in continuous and severe violations of fundamental rights that continue to result in current denial to internal self-determination, leaving no viable alternative but secession. Applying this logic to Abkhazia

[76] There even exists villages in Georgia where Armenians and Azerbaijanis live side-by-side and attend schools together, something that is not even seen in their respective countries.
[77] International Committee of Rapporteurs, "Report of the International Committee of Rapporteurs (Beyens, Calonder, Elkens)," LN Council Document B7/2I/68/106 [VII], April 16, 1921, paras. 22-23.
[78] Simon, Thomas W. "Remedial Secession: What the Law Should Have Done, from Katanga to Kosovo." *Georgia Journal of International & Comparative Law* 40, no. 105 (2011): 107–73.

does not bestow strong grounds for the Abkhazian independence movement. As morally dubious as it may sound, it would have been necessary for Abkhazia to wait to see how the situation would have looked like as part of Georgia rather than attempting to break away from Tbilisi's political decisions. Fundamentally, both the first and second questions confirm that remedial secession only applies when the discrimination faced is not of a historical or anticipatory nature but is current and persistent.

There are three additional final points to mention here. Firstly, the USSR made provisions for the legal secession of its constituent republics if they so desired. As such, Georgia did not need to justify its request for secession based on repression or any other justification.[79] As a part of the Georgian SSR, Abkhazia did not possess this right. Secondly, the minority treatment in Abkhazia after its proclaimed independence is highly questionable. The current international law framework makes it imperative that all peoples residing in the newly-founded state be respected in an equal manner, thus the discrimination faced by Mingrelians and Armenians would require a closer analysis. The UNGA shared this concern in a 2008 resolution declaring that it was "deeply concerned by the demographic changes resulting from the conflict in Abkhazia, Georgia."[80] Lastly**,** third-party states are generally prohibited from the chance to annex a new territory.[81] Although Russia recognised Abkhazia as a separate state in 2008 – itself justifying its recognition using the doctrine of remedial secession, – a closer analysis of Russia's role in securing Abkhazia's security and funding its economy suggests Abkhazia is mostly reliant on Russia. This is debatable and there are also grounds to see the war as a solely Georgia-Abkhazia conflict rather than a Georgia-Russia proxy war – a position both Georgia and the Abkhaz administration have attempted to uphold. After the end of the Abkhazian War, Russia attempted to mediate a truce and lead Georgia and Abkhazia to sign an agreement. Russia did not give clear preference to Abkhazia in its international relations until the 2000s – showcasing the dynamic and multifaceted nature of the relationship between the well-entrenched norm of territorial integrity and the expanding scope of remedial secession, itself used by Russia in 2008 to justify its recognition of Abkhazia as an

[79] Sunstein, Cass R. "Constitutionalism and Secession." *The University of Chicago Law Review* 58, no. 2 (1991): 633. https://doi.org/10.2307/1599969.
[80] United Nations. General Assembly. "97th Meeting, 62nd Session" United Nations, 2008.
[81] Buchanan, Allen. *Secession: The Morality Of Political Divorce From Fort Sumter To Lithuania And Quebec.* London: Routledge, 1991.

independent state.[82, 83] At a minimum, however, Abkhaz-Russian relations raise serious questions.

With regards to Abkhazia, it appears that there are no grounds for remedial secession from Georgia in the current international law framework. As discussed, this is due to the following considerations: i) while historical injustices occurred and threats existed, there were no clear negative actions against Abkhazians in 1992 when the war broke out; ii) Abkhazia possessed the Soviet status of *autonomous oblast,* eliminating the potential right to secession as written in the constitution; iii) the fair treatment of ethnic minorities within Abkhazia was not accorded; iv) Russia's stakes in the conflict are questionable. Could Abkhazia have claimed a right to remedial secession if it had been subjugated to the policies it endured under Stalin? Had the framework existed at the time, it likely could have. In 1992, the claim to the legal right to remedial secession was dubious and would have rested on more solid grounds had there been extant present-day discrimination – not just negative speeches and menaces – towards the Abkhaz-speaking population. Contemporary Abkhazia would benefit from seeking reconciliation within Georgia, perhaps as an autonomous region. This would not only lead to greater recognition within the international community, but it could also help in unlocking Georgian-Russian relations – with Abkhazia occupying a space in the middle. Lastly, it is perhaps a remorseful solace to Abkhazians that if they were to be faced with a 1950-type situation from Georgia, remedial secession could be deemed acceptable in international law. The future for Abkhazia is uncertain, and while the status quo has remained peaceful thus far, recent events such as that in Nagorno-Karabakh demonstrate that the post-Soviet frozen conflicts of the Caucasus are far from extinguished.

6. Discussion

Both the Québec and Abkhazia cases underscore the prevailing international law principle of territorial integrity, affirming them as integral parts of Canada and Georgia, respectively. The cases show that remedial secession can be argued for on the basis of language, yet discrimination must crucially be significant and persistent. In Québec, such discrimination did not reach a level warranting secession. The situation in Abkhazia is more nuanced, as past

[82] Laurinavičiūtė, Lina, and Laurynas Biekša. "The Relevance of Remedial Secession in the Post-Soviet 'Frozen Conflicts.'" *International Comparative Jurisprudence* 1, no. 1 (November 2015): 66–75. https://doi.org/10.1016/j.icj.2015.10.008.
[83] Simon, Thomas W. "Remedial Secession: What the Law Should Have Done, from Katanga to Kosovo." *Georgia Journal of International & Comparative Law* 40, no. 105 (2011): 107–73.

injustices against the Abkhaz language laid the groundwork for assimilation with Georgia, notwithstanding atrocities during the Abkhaz War.

This analysis of remedial secession based on linguistic discrimination aims to provide insight into the contemporary application of international law principles to secessionist movements. Québec and Abkhazia highlight both the complexities and limitations of justifying secession on linguistic grounds.

The primary implication of the research is that the international legal framework can accommodate secessionist claims based on linguistic discrimination alone in a similar way that it handles the broader notion of remedial secession. For Québec, despite a strong collective identity centred on the French language and a history of linguistic discrimination, the current level of internal self-determination granted by the Canadian government negates any legal grounds for unilateral secession. This reinforces the notion that remedial secession is only considered a last resort in cases of severe and persistent rights violations. In the case of Abkhazia, while historical injustices and threats of future discrimination are noted, these do not meet the threshold for remedial secession as the discrimination must be ongoing and leave no viable alternatives within the existing state structure. Additional questions arise concerning the breakaway state's relationship with Russia and its treatment of internal minorities.

However, this analysis also reveals limitations in the current international law framework. One such limitation is the ambiguity surrounding the application of the remedial secession principle. The cases studied suggest that clearer guidelines on what constitutes sufficient grounds for secession are needed, especially in contexts where historical injustices and future threats are prominent but do not fit neatly into the existing legal criteria. Additionally, minority treatment within secessionist territories, like in Abkhazia, raises concerns about the adherence to international human rights standards by newly independent states.

Further academic research could focus on developing more precise criteria for remedial secession that consider historical injustices and imminent threats of rights violations. Additionally, comparative studies involving other secessionist movements worldwide could provide a broader understanding of how linguistic and cultural discrimination interact with self-determination and secession rights. Incorporating *jus cogens* could also be pivotal in establishing the threshold for what constitutes severe and persistent violations justifying secession.

Investigating the role of international organisations in mediating such disputes and ensuring the protection of minority rights within secessionist regions could also provide valuable insights.[84]

7. Concluding Remarks

In conclusion, both case studies demonstrate the confines of remedial secession's applicability. It confirms that a *linguistic minority* that is also a *people* possessing collective identity yet facing systematic discrimination based on language have an extant right to self-determination in contemporary international law. As such, language can often be considered a proxy for cultural identity and thus be integral to remedial secession. This discrimination can be quantified by consistent and clear violations of ICCPR Article 27.

In accordance with norms surrounding territorial integrity, sincere and substantiated efforts towards internal self-determination are first to be explored. Yet, if there is clear denial to the right of internal self-determination, external self-determination is available as a last resort option. When used as an argument for secession, the use of linguistic rights as a justification for allowing independence movements that would otherwise be deemed illegal depends highly on the kinds of discrimination faced at the time of the attempted secession.

This paper builds on remedial secessionist theory by expanding its incorporation to qualify freedom from linguistic discrimination as a human right. It thereby adds to the current framework by advocating for internal over external self-determination, but noting that for cases in which basic linguistic rights are persistently not respected an extant legal right to secession may apply.

[84] For instance, the role of the 2008 ICJ *Georgia v. Russia* case with regards to the Committee on the Elimination of Racial Discrimination (CERD) would likely be an insightful analysis.

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