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THE IDEA OF CO-NATION AND THE INTERNATIONAL PROTECTION OF LINGUISTIC RIGHTS: LESSONS FROM BELARUS

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ABSTRACT

This study examines the challenges of implementing linguistic rights for national minorities and the titular nation in Belarus, focusing on the Belarusian, Lithuanian, and Polish languages. It explores theoretical aspects of linguistic rights and the international norms regulating them, analyzing the historical and legal context to understand the current landscape. The distinction between *lex generalis* and *lex specialis* in international law creates barriers to realizing linguistic and cultural rights. The author proposes the concept of “co-nation” to recognize minorities and the titular nation as equal partners, fostering unity against oppression. Utilizing the principle of “good faith” as an ethical assessment tool, the study reveals how concepts like “abuse of rights” and “mens rea” expose the root causes of non-fulfillment of obligations, affecting state accountability under international treaties. The study emphasizes that actions threatening cultural and linguistic heritage could lead to international criminal liability for genocide, as demonstrated by tribunal practices.

KEYWORDS

Linguistic Rights, National Minorities, Good Faith, Co-Nation, Accountability, Implementation, Belarus

INTRODUCTION

On July 3, 2024, Dr. Anais Marin, Special Rapporteur on human rights in Belarus (SR on Belarus), emphasized in her final address to the UN Human Rights Council the ongoing deterioration of human rights in Belarus since 2018¹. Her report highlights severe restrictions on the linguistic rights of national minorities, noting that recent amendments to the education law will abolish the right to instruction in native languages for these groups². For example, the Lithuanian minority association in Astravets, which serves approximately 750 ethnic Lithuanians, faces liquidation, and a local Lithuanian school has been compelled to switch to Russian-language instruction. Similarly, Polish minorities have endured significant repression from 2020 to 2024, including the closure of Polish cultural organizations and restrictions on cultural events. Polish minority schools have also been subjected to comparable restrictions, further undermining their linguistic rights and cultural identity³.

The composition of national minorities in Belarus reflects a rich multicultural heritage, illustrating the country's historical development during the Middle Ages and its connections to broader European history and contemporary values⁴. However, the historical ties between these communities and modern Belarusians are increasingly threatened, potentially causing irreparable damage to cultural and linguistic links. The ongoing socio-political crisis exacerbated by the 2020 presidential election has further curtailed the rights of national minorities, including Poles and Lithuanians. Additionally, as the UN Special Rapporteur's report underscores, the Belarusian language is increasingly perceived by state agents as a marker of political disloyalty, while state policies continue to favor Russian⁵.

To contextualize these dynamics, several empirical indicators provide a substantive basis for analysis. In 2022, PEN Belarus documented 1,390 violations of cultural rights, including 113 cases specifically concerning the preservation of Belarusian heritage and language. Concurrently, the proportion of students receiving instruction in Belarusian has declined sharply—from approximately 40 percent in 1994 to less than 9 percent today⁶—reflecting a sustained trend of Russification within the educational system. Parental inquiries into this linguistic shift are actively discouraged, reinforcing broader constraints on cultural identity. Simultaneously, censorship—exemplified by the

¹ UN Human Rights Council, Report "Situation of human rights in Belarus," Special Rapporteur on the situation of human rights in Belarus, A/HRC/56/65 (9 May, 2024), should be further cited as "Report May 2024, Belarus", // <https://documents.un.org/doc/undoc/gen/g24/072/84/pdf/g2407284.pdf>

² Law No. 300-Z of 17 July 2023 amended the law on the languages of Belarus, abolishing the right to education in their mother tongue for linguistic minorities. Ibid, p.70.

³ Ibid., 71.

⁴ According to the Encyclopedia Britannica, ethnic Belarusians make up about 80% of the population, while Russians comprise the second largest group at around 10%, having migrated during the 1960s to '80s. The rest include Poles, Ukrainians, and smaller communities of Jews, Latvians, Lithuanians, and Tatars. Before World War II, Jews were the second largest group, representing over half of the urban population. David R. Marples and Richard Antony French, "People of Belarus," *Encyclopedia Britannica* (26 December 2024) // <https://www.britannica.com/contributor/Richard-Antony-French/984>

⁵ Report May 2024, Belarus, p.72.

⁶ PEN Belarus, *Belarus 2022: Violations of Cultural Rights and Human Rights of Culture Figures*, (3 March 2023) // <https://penbelarus.org/en/2023/03/03/rus-pravo-na-kulturu-belarus-2022.html>

recent classification of nineteenth-century Belarusian poetry as “extremist”⁷—constitutes a direct infringement on linguistic and cultural rights and poses a serious threat to the preservation of Belarusian heritage.

This article examines the legal dimensions of international human rights law, advocating a multidisciplinary approach to enhance the protection of languages and cultures for both national minorities and the titular nation. It clarifies the rationale for safeguarding linguistic rights and emphasizes accountability for violations under international law.

In 2005, political and legal theorist Tove Malloy posed a provocative question: should minorities be seen merely as cultural groups, or as “co-nations” with institutional and political rights? She argued that, while international law and European policy often emphasize cultural protection, justice may demand recognizing minorities as collective actors with genuine political participation.⁸ The “co-nation” concept, particularly relevant in Belarus due to the shared heritage of Belarusian, Polish, and Lithuanian peoples, offers a potential legal framework to support cultural diversity and facilitate a democratic transition aligned with European values.

The study addresses Belarus’s historical legacies, international standards, and national implementation of linguistic rights, focusing on legal challenges in preserving equality and human dignity. Three core questions guide the analysis:

1. How have historical and political factors influenced language rights in Belarus, particularly the suppression of Belarusian and minority languages?
2. How does international law protect linguistic rights through general (*lex generalis*) and special (*lex specialis*) provisions, and what implications does this have for Belarus?
3. What role do the principles of *good faith* and *pacta sunt servanda* play in evaluating Belarus’s compliance with its linguistic obligations?

These questions underpin conclusions on Belarus’s legal duties toward both national minorities and the titular nation. The study also identifies gaps in international law concerning language rights, which are essential to upholding human dignity and the inherent worth of the individual as enshrined in the UN Charter⁹.

1. METHODOLOGY

The research methodology combines analysis of academic literature, legal documents, and reports from international organizations and human rights defenders regarding Belarus. The author chose Belarus as a case study for several reasons: historical ties among the peoples shaping its culture and identity, the legacy of its multicultural history contributing to medieval Europe’s heritage, and the urgent risk of this heritage’s disappearance due to the ongoing political crisis. The diminishing use of the Belarusian language among its people, alongside the country’s unique internal stability from

⁷ In 2023, two poems by Belarusian writer Vincent Dunin-Martsinkevich, from the 1863 Kastus Kalinowski rebellion, were classified as “extremist” by the Belarusian prosecutor’s office. This is part of a broader crackdown on dissent, particularly against nationalistic sentiments opposing the regime’s pro-Russian stance. Robert Greenall, “Belarus Declares 19th Century Nationalist Poems ‘Extremist,’” *BBC News* (August 17, 2023) // <https://www.bbc.com/news/world-europe-66535462>

⁸ Tove H. Malloy, “Overview: National Minority, or Co-nation?” *National Minority Rights in Europe* (2005), Oxford, online edn, Oxford Academic (22 March 2024) // <https://doi.org/10.1093/acprof:oso/9780199274437.003.0002>

⁹ UN, *Charter of the United Nations*, 1945, No. 1, UNTS XVI, Preamble, para. 2.

centuries of coexistence with national minorities, highlights the importance of respecting linguistic rights.

The study starts with an overview of the historical development of language in Belarus, focusing on the growth and repression of both the Belarusian language and those of national minorities. It then analyzes international legal standards for protecting linguistic rights, categorizing relevant instruments to reflect the legal status of the Belarusian and minority languages. This includes a review of treaties emphasizing Belarus's European heritage and potential integration. The author constructs a table to: (1) identify international norms on linguistic rights; (2) classify these norms for minorities and the general population; (3) clarify the content of linguistic rights in legal frameworks; and (4) outline state obligations and assess their effectiveness.

The analysis of academic research also includes an examination of the concept of *co-nation* as a potential framework for future democratic transition in Belarus.

In the section on national implementation of international norms, the author employs an innovative approach that not only identifies instances of non-compliance but also elucidates their nature and underlying causes. The principles of *pacta sunt servanda* and good faith are applied to interpret and evaluate state actions, taking into account selected limitations on rights, including *abuse of rights* and *destruction of right*. This assessment further incorporates concepts from international criminal law, such as *mens rea* and *linguistic genocide*¹⁰.

2. LANGUAGE IN HISTORICAL RETROSPECTIVE: BELARUSIAN LANDSCAPE

2.1. Language from the Grand Duchy of Lithuania to the Russian Empire: A Brief Overview

The Old Belarusian (or Ruthenian) language served as the official language of the Grand Duchy of Lithuania from the 14th to the 18th centuries, a period during which historians assert that the state encompassed much of what is now modern Eastern Europe. Consequently, over time the Belarusian language has been shaped and influenced by many others. Following the establishment of the Polish-Lithuanian Commonwealth in 1596, Old Belarusian remained the official language for about a century. However, after Belarus was not freely joined but rather incorporated into the Russian Empire in 1795, various discriminatory regulations were imposed. These laws prohibited the publication of books in Belarusian and restricted its use in educational institutions and religious ceremonies. This led to a decline in the status and public use of the national language. Nevertheless, scholars note that according to the 1897 population census, approximately six million Belarusians still used their native language in everyday life¹¹.

2.2. National protest movements against suppression and revival of the language

The cultural revival of the language began in the late 19th and early 20th centuries, influenced by the national Belarusian protest movement against Russian

¹⁰ International criminal law addresses serious offenses like genocide but does not explicitly define "linguistic genocide". Nevertheless, some aspects of this law are relevant to linguistic rights and language suppression.

¹¹ "Franciška Skaryna Belarusian Language Society," *A Review of Language Policy in Belarus* (2012) // <http://tbm-mova.by/monitoring15.html?lang=en>

suppression—including the uprising led by Kastus Kalinowski¹² and the January Uprising of 1863–1864¹³—as well as revolutionary events in Russia and Europe and the liberation of previously occupied territories¹⁴. Notably that the so-called “Belarusianization” was supported by the Bolsheviks a few years after the October Revolution swept through the Russian Empire in 1917¹⁵. Support for Belarusian language and culture was demonstrated in various ways: Belarusian was recognized as one of the state languages, and schools teaching in Belarusian accounted for 93.8% of the total number of schools¹⁶. As part of the new nationality policy of Belarusianization, scholars emphasize significant efforts toward the definitive codification of the Belarusian language¹⁷. Alongside codification, the national language underwent intellectualization, marked by its development and refinement, which involved its development and refinement through diverse media, including academic publications, literature, and journalism.

The promotion of the Belarusian language extended into public discourse through initiatives supporting its use in state administration and education. Notably, the introduction of Belarusian as a mandatory language in schools at all levels and along with its requirement in university admission exams further solidified its role in daily life. Ultimately, legislative measures established full equality for Belarusian alongside Polish, Russian, and Yiddish, making interwar Belarus unique in its recognition of multiple official languages¹⁸.

The revival of Belarusian language and culture was orchestrated by Soviet authorities primarily to suppress alternative forms of statehood in Belarus¹⁹. The Bolsheviks’ main objective behind Belarusianization was to promote Soviet power and ideology in

¹² Leo Horosko, “Kastus Kalinowski: Leader of the National Uprising in Byelorussia 1863–64,” *The Journal of Belarusian Studies* 1(1) (1965): 30–35.

¹³ The January Uprising of 1863–1864, led by Kastus Kalinowski, was a major rebellion against Russian rule in Belarus, Lithuania, and Poland. It stemmed from discontent with Russian policies, including forced Russification. Kalinowski united various groups in the struggle for independence. The Russian Empire brutally suppressed the uprising, capturing and executing Kalinowski, who became a symbol of resistance. Despite its failure, the uprising solidified nationalist sentiments and influenced future independence movements in the region. See: Mikołaj Gliński, “Kastuś Kalinoŭski & the Rise of the Political Idea of Belarus,” *Culture.pl* // <https://culture.pl/en/article/kastus-kalinowski-the-rise-of-the-political-idea-of-belarus>

¹⁴ In 1917, the October Revolution led by Lenin marked the start of communist rule in Russia. The defeat of the Central Powers in World War I spurred revolutionary movements across Europe. The dissolution of the Austro-Hungarian Empire created independent nations like Czechoslovakia and Hungary. The Treaty of Versailles in 1919 ended World War I, redrawing borders and enabling countries like Poland, Lithuania, Latvia, Estonia, and Finland to gain independence. These events reshaped Europe’s political landscape, fostering nationalism and reasserting national identities. See: Orlando Figes, *A People’s Tragedy: The Russian Revolution: 1891–1924* (New York, NY: Penguin Books, 2017); Sean McMeekin, *The Russian Revolution: A New History* (New York, NY: Basic Books).

¹⁵ Alena Marková, “Language, Identity, and Nation: The Special Case of Belarusian State- and Nation-Formation,” *Journal of Belarusian Studies* 8(3) (2018): 25–39 // <https://doi.org/10.30965/20526512-00803003>

¹⁶ Nelly Bekus, “Ethnic Identity in Post-Soviet Belarus: Ethnolinguistic Survival as an Argument in the Political Struggle,” *Journal of Multilingual and Multicultural Development* (2013): 1–16 // <https://doi.org/10.1080/01434632.2013.845197>

¹⁷ Alena Marková, “Language, Identity, and Nation: The Special Case of Belarusian State- and Nation-Formation,” *The Journal of Belarusian Studies* 8 (2018): 25–39 // <https://doi.org/10.30965/20526512-00803003>

¹⁸ *Ibid.*, 28–30.

¹⁹ After the October Revolution in 1917, Belarus underwent significant political changes as national movements sought independence. In early 1918, the Belarusian National Rada declared the Belarusian People’s Republic (BNR). Competing powers, including Bolshevik Russia, Poland, and Germany, complicated the situation. Belarusian leaders sought Polish support for independence amid Poland’s own post-war sovereignty efforts. The Treaty of Brest-Litovsk in March 1918 granted some autonomy, but the Polish-Soviet War in 1920 led to shifts in borders and politics. Ultimately, the BNR’s aspirations remained unfulfilled, resulting in Belarus being divided between the Soviet Union and Poland. This period is crucial for understanding Belarusian national identity and struggles for independence. See: “The Formation of Belarusian Statehood in 1918–1920s: Chronology of Events,” *Archives of Belarus* (6 December 2024) // <https://archives.gov.by/en/welcome-to-the-archives-of-belarus-website/subject-guides-to-archival-records/historical-events/archival-documents-and-materials-5/the-formation-of-belarusian-statehood-in-1918-1920s-chronology-of-events>

non-Russian regions. By fostering the local language, they sought to integrate governance with the population and consolidate control. The destiny and national identity of Belarusians were not prioritized, and peaceful development was abruptly disrupted by Stalinist repressions in the 1930s. These repressions targeted the physical elimination of Belarusian writers, researchers, intellectuals, and activists²⁰. This tragic period profoundly affected Belarusian culture and intellectual life, resulting in a significant loss of talent, knowledge, and creative potential.

Scholars characterize the subsequent Soviet era as one of “routine marginalization” of national cultures, aimed at forming a “single Soviet people” dominated by Russian language and culture, which served communicative functions to reinforce central government control²¹.

2.3 The modern history

The modern history of Belarus began with the dissolution of the Soviet Union and the *Declaration of State Sovereignty* of 27 July 1990, later gaining full independence on 25 August 1991. Among its aims was to reduce Russian linguistic dominance and promote the Belarusian language as a key element of national identity²².

However, entrenched stereotypes and a blurred national identity—shaped by limited historical and institutional memory—enabled a populist leader, Alexander Lukashenko, to win the presidency in 1994²³. In May 1995, Lukashenko initiated a referendum²⁴ proposing to: (a) grant Russian the status of an official state language; (b) replace national symbols with Soviet-style designs; (c) pursue closer economic integration with Russia; (d) amend the Constitution to give the president power to dissolve the legislature²⁵. The referendum’s results diminished the constitutional status of Belarusian, making it one of two state languages. Belarusian intellectuals expressed concern

²⁰ On October 29, 1937, over 100 Belarusians, including 22 writers and poets, were executed by the NKVD, the predecessor of today’s KGB. Although not officially recognized by the government, this date serves as an unofficial day of remembrance for victims of political repression. Estimates suggest that 600,000 to 1.5 million people suffered under Stalin’s regime in Belarus, with some survivors and their relatives sharing their stories. “In Belarus: Remembering the Victims of Political Repression,” *Radio Free Europe/Radio Liberty* (October 29, 2013) // <https://www.rferl.org/a/belarus-political-victims-stalin/25151778.html>

²¹ A. Gadzhiev, *The Great Russian Language as a Means of Interethnic Communication and the Inclusion of the Peoples of Dagestan in the Achievements of the Scientific and Technological Revolution* (in Russian *Velikiy russkiy yazyk kak sredstvo mezhetnicheskogo obshcheniya i vovlechenie narodov Dagestana v dostizheniya nauchno-tehnicheskoy revolyutsii*) (Makhachkala, 1981). M. Barbashin, “Soviet Identity in the Ethnosocial Space: Institutional Features,” *Theory and Practice of Social Development* 7 (2012) // <https://cyberleninka.ru/article/n/sovetskaya-identichnost-v-etnosotsialnom-prostranstve-institutsionalnye-osobennosti>

²² *Declaration Of the Supreme Council of The Republic Of Belarus, July 27, 1990 No. 193-XII “On the State Sovereignty of the Republic of Belarus”* (27 December 2024) // <https://pravo.by/document/?guid=3871&p0=v09000193>

²³ Victory of Populism: Belarus, posted on January 17, 2022 by EDINCER14@KU.EDU.TR // <https://www.democratic-erosion.com/2022/01/17/victory-of-populism-belarus-by-ezgi-goren>. ECPS, *Mapping European Populism – Panel 7: Populist parties/actors and far-right movements in the Baltic countries and Belarus* (19 January 2023) // <https://www.populismstudies.org/mapping-european-populism-panel-7-populist-parties-actors-and-far-right-movements-in-the-baltic-countries-and-belarus-2/>

²⁴ DW, Александра Богуславская, *Как Лукашенко решил хайпануть на белорусском языке*, (25 February 2022) // <https://www.dw.com/ru/kak-lukashenko-reshil-haipanut-na-belorusskom-jazyke/a-60661788>

²⁵ William Partlett, “The Importance of Constitutional Law for Belarusian Democracy: An Analysis of the Amended 1994 Constitution and Considerations for Democratic Reform,” *International IDEA Interim Analysis* (December 2020) // <https://constitutionnet.org/sites/default/files/2020-12/the-importance-of-constitutional-law-for-belarusian-democracy.pdf>

over its future²⁶, and UNESCO later listed it in the *Atlas of the World's Languages in Danger*²⁷.

The constitutional changes paved the way for closer alignment with neighbouring Russia and signalled neglect—or even deliberate disregard—for the Belarusian people's native language and their historical statehood. The recent situation is alarming: even before the political and social crisis of 2020, the use of Belarusian in education, legislation, media, and public life had been steadily declining. In 1999, 85.6% of Belarusians identified Belarusian as their native tongue; by the 2019 census, this figure had dropped to 61.2%. The share of citizens using Belarusian for communication at home is even lower, at just 28.5%²⁸. Between 1996 and 2021, the proportion of students studying in Belarusian decreased by an average of 1% per year. This decline reduces the number of people who can speak Belarusian fluently and use it naturally in daily life, directly increasing the risk of the language disappearing from active use. In fact, 99.2% of respondents stated that communication in state institutions—such as executive committees, police, tax offices, and postal services—predominantly takes place in Russian²⁹.

Public attitudes toward the Belarusian language also reveal contradictions. Many Belarusian speakers report experiencing different treatment—both positive and negative—compared to Russian speakers, who generally encounter a neutral attitude. Yet, when asked which language they or their children would choose for education in Belarus, nearly all respondents (95%) preferred Belarusian³⁰. This indicates a strong underlying desire to raise children in the national language. Legally, the national code states that the language of education and upbringing is determined by the founders of the institution, taking into account parents' wishes. According to the Ministry of Education, Belarusian-language schools and classes are opened at parental request; however, the final decision rests with local executive committees. In practice, this means that a parent's request does not guarantee that their child will have access to Belarusian-language education³¹.

In summary, Belarus's cultural and legal landscape has been profoundly shaped by Russian influence, from the Russian Empire to today. This long-standing external pressure has led to domestic policies that consistently favor Russian over Belarusian. Since the 2020 protests, promoting the Belarusian language has been viewed as opposition by the current regime, which disregards its official status. The situation for national minority languages, like Polish and Lithuanian, has also deteriorated, particularly since 2020, amid tense interstate relations. This context highlights the complex

²⁶ PEN Belarus, *The Belarusian language in the period of socio-political crisis: signs of linguistic discrimination*, (26 September 2022) // <https://penbelarus.org/en/2022/09/26/belaruskaya-mova-u-peryyad-gramadska-palitychnaga-kryzisu-prayavy-mounaj-dyskryminacyi.html>

²⁷ Marat Maytak-Annaorazov, *A nation made speechless: A chronicle of the Belarusian language destruction, from the Bolsheviks to Lukashenko*, (13 January 2023) // <https://theins.ru/en/society/258528>

²⁸ PEN Belarus, *Review of infringements of linguistic rights in Belarus from January 1 to June 30, 2022*, (20 July, 2022) // <https://penbelarus.org/en/2022/07/20/aglyad-parushennyau-mounyh-pravou-u-belarusi-za-peryyad-z-1-studzenya-pa-30-chervenya-2022-goda.html>

²⁹ In 2023, a survey of 482 Belarusian language users aged 15 to 72 focused on accessibility in education, information, and services. The report, "Даступнасць і дыскрымінацыя беларускай мовы ў Беларусі. Вынікі анкетавання, статыстыка і прыватныя гісторыі," includes survey results, legal information, statistics, and personal stories of Belarusian speakers (2 December 2024) // Report Link.

³⁰ Аліна Нагорная, *Даступнасць і дыскрымінацыя беларускай мовы ў Беларусі. Вынікі анкетавання, статыстыка і прыватныя гісторыі* (2 December 2024) // <https://belinstitute.com/sites/default/files/2023-05/31ed368d-6eec-47e7-af83-97c28be7cdcf.pdf>

³¹ See the art. 82 of the Code of the Republic of Belarus about Education of January 13, 2011 No. 243-Z (as amended on 14-01-2022). Accepted by the House of Representatives on December 2, 2010. Approved by Council of the Republic on December 22, 2010.

interplay of external pressures and internal governance, reinforcing Belarus's reliance on Russian influence and undermining the linguistic rights of both national minorities and the Belarusian people.

3. INTERNATIONAL HUMAN RIGHTS LANGUAGE STANDARDS (IHRLS)

This part addresses the following research questions: (1) How does international law define linguistic rights for both individuals belonging to minority groups and the so-called "titular nation"? (2) What types of implementation measures should be considered relevant and sufficient from the perspective of international human rights regarding linguistic rights?

3.1. Language Rights and International Human Rights Standards

The concept of "International Human Rights Language Standards" (IHRLS) is introduced and explored in this article, integrating language rights (LRs) into the broader framework of human rights (HRs) within the "International Human Rights Standards" (IHRS).

3.1.1. Language Rights

Despite numerous provisions at both global and European levels addressing language-related issues, there is no explicit "right to language" recognized within the International Human Rights Language Standards (IHRLS). This absence has sparked considerable academic debate. Méndez, Arzos³², and Thornberry³³ note that provisions such as Article 27 of the International Covenant on Civil and Political Rights (ICCPR) are not universally endorsed and apply only to ratifying states. Dunbar³⁴ emphasizes that human rights law does not treat linguistic rights as fundamental under international law. Rousseau³⁵ supports this view, observing that while advocates for linguistic human rights acknowledge the limited scope of international legal norms, philosophical and political circles largely contest the classification of language rights as human rights.

The author aligns with De Varennes, who argues that many aspects of so-called "language rights" align with already established individual human rights, such as non-discrimination and freedom of expression³⁶. While these widely recognized rights provide a flexible framework for addressing the needs of individuals and linguistic minorities, notable gaps and peculiarities remain that require further analysis. De Varennes also contends that although only specific groups, such as national minorities, currently enjoy language rights, the principle of inclusiveness in human rights law should be extended to all individuals³⁷.

³² Manuel Toscano Méndez, "Language Rights as Collective Rights: Some Conceptual Considerations on Language Rights," *Revista Internacional de Filosofía Política* 1 (2004): 83–100; Xabier Arzos, "The Nature of Language Rights," *Journal on Ethnopolitics and Minority Issues in Europe* 6 (July 2007): 1–35. © (2007) by European Centre for Minority Issues.

³³ Patrick Thornberry, *International Law and the Rights of Minorities* (Oxford, Clarendon Press, 1991), 387.

³⁴ Robert Dunbar, "Minority Language Rights in International Law," *50 International and Comparative Law Quarterly* (2001): 90–120.

³⁵ Dominique Rousseau, "La philosophie du droit [The Philosophy of Law]": 79, 82; in: Henri Giordan (ed.), *Les Minorités en Europe: Droits Linguistiques et Droits de l'Homme*, Éditions Kimé (Paris, 1992), cited from Xabier Arzos, "The Nature of Language Rights," *Journal on Ethnopolitics and Minority Issues in Europe* 6 (July 2007): 11.

³⁶ Fernand De Varennes, *Language, Minorities and Human Rights* (Martinus Nijhoff Publishers, The Hague, 1996), 275.

³⁷ *Ibid.*

A particularly progressive approach comes from Malloy, who introduces the term “co-nation” as an alternative to “minority.”³⁸ She suggests that minority groups should be recognized as co-equal nations rather than as subordinate communities. The main rationale for this concept is that the term “national minority” implies second-class citizenship. In contrast, “co-nation” better reflects the relationship between the state and the minority group. Malloy also highlights a contradiction between individual human rights and group rights in international law³⁹. To avoid this tension, the co-nation doctrine enables states to address the status of existing co-nations as collective entities.

Eide, in his “Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,” explains that it is possible to allocate different rights to various categories of minorities, with national minorities enjoying stronger protections related not only to their culture but also to the preservation and development of their national identity⁴⁰. As a supporter of both Eide and Malloy, the author views “co-nation” as an innovative and suitable concept for accommodating national minorities in European democracies—addressing not only cultural and linguistic rights but also the right to political representation. This terminology is particularly relevant for autochthonous populations native to specific regions of Europe, as well as historically concentrated non-sovereign nations divided by borders.

Additionally, debates persist over the distinction between “linguistic” and “language” in the context of human rights. Some international human rights law instruments refer to “language rights” within the framework of minority rights and the rights of indigenous peoples, while others speak of “minority languages.” This article uses “language” and “linguistic” interchangeably when discussing rights.

While the recognition of language rights within the human rights framework remains contentious and lacks explicit legal endorsement, ongoing academic discourse highlights their alignment with established human rights principles. This discourse also underscores the complexity of enforcing such legal provisions. Furthermore, there is a need for a broader understanding of linguistic rights that reflects the principle of universality and other UN Charter values—reaffirming faith in fundamental human rights, the dignity and worth of the human person, and the equal rights of men and women, as well as of nations both large and small⁴¹.

3.1.2. International Human Rights Standards (IHRS)

The concept of International Human Rights Standards (IHRS) is relatively new and presents challenges in terms of precise definition⁴². A normative recognition of “International Standards in the Field of Human Rights” and its criteria are outlined in UN General Assembly Resolution “Setting International Standards in the Field of Human Rights” (1986)⁴³. This

³⁸ Tove H. Malloy, “Overview: National Minority, or Co-nation?” *National Minority Rights in Europe* (2005), Oxford; online edn, Oxford Academic (22 March 2024).

³⁹ *Ibid.*, 52.

⁴⁰ Asbjorn Eide, *Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, UN doc. E/CN.4/Sub.2/AC.5/2001/2, para. 7 (2001) // E/CN.4/Sub.2/AC.5/2001/2

⁴¹ UN, *Charter of the UN*, 24 October 1945, Preamble, para three.

⁴² Liudmila Ulyashyna, “International Human Rights Standards: Problems of Legal Definition and Challenges by Application”: 25–35; in: J. Jaskiernia (ed.), *Wpływ standardów międzynarodowych na rozwój demokracji i ochronę praw człowieka*, Vol. 1 (Warsaw Wydawnictwo Sejmowe, 2013); S. M. Oganessian, *The Concept of International Human Rights Standards* / S. M. Oganessian, *International Public and Private Law 2* (2008): 18–21. *Human Rights Standards: Learning from Experience, Report* (Versoix, Switzerland, 2006) (2 December 2024) // <https://www.icj.org/wp-content/uploads/2006/09/human-rights-standards-learning-from-experience.pdf>

⁴³ UN General Assembly Resolution “Establishing International Standards in the Field of Human Rights” 41/120, para. 4, a), c) (December 4, 1986) // <https://www.un.org/ru/ga/41/docs/41res.shtml>

resolution mandates that the “standards” must meet the following criteria: a) consistency with existing international legal norms, b) recognition of the value of dignity and human rights, c) maintenance of legal certainty regarding rights and obligations, d) implementation of effective mechanisms, and e) garnering international consensus and support.

While scholars continue to seek a single, comprehensive definition that encompasses the most crucial elements of this notion⁴⁴, for this research the author uses the definition provided by a group of international experts representing prominent global non-governmental organizations in their joint project titled *Human Rights Standards: Learning from Experience* (2006): “Standards are defined as internationally recognized documents (instruments), regardless of whether they are binding or recommendatory for states. The former codifies legal obligations (‘hard’ law), while the latter offers recommendations on implementation and policy (‘soft’ law)”⁴⁵.

3.1.3. The framework of the International Human Rights Language Standards (IHRLS)

Under the framework of International Human Rights Language Standards (IHRLS), the following instruments—global and regional—shall be identified: the UN Charter⁴⁶, the Universal Declaration of Human Rights (UDHR)⁴⁷, the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)⁴⁸, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁴⁹, the ICCPR⁵⁰, the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁵¹, the Convention on the Rights of the Child (CRC)⁵², UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (DRPBM)⁵³, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)⁵⁴, Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Protocol 1)⁵⁵, Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms on the Prohibition of Discrimination (Protocol 12)⁵⁶, Framework Convention for the Protection of National Minorities (FCPNM)⁵⁷, European Charter for Regional or Minority Languages (ECRML)⁵⁸, CoE Recommendations of the Committee of Ministers to Member States concerning modern

⁴⁴ Liudmila Ulyashyna, *International Legal Standards in the Human Rights Regime and their realization* (in Russian: *Mezhdunarodnye standarty v oblasti prav cheloveka i ih realizacija*) (Vilnius: EHU, 2013).

⁴⁵ *Human Rights Standards: Learning from Experience, Report, 4.*

⁴⁶ UN, *Charter of the United Nations*, 1 UNTS XVI, 24 October 1945.

⁴⁷ UN General Assembly, *Universal Declaration of Human Rights*, 217 A (III), 10 December 1948.

⁴⁸ UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, United Nations, Treaty Series, Vol. 78, 277, 9 December 1948.

⁴⁹ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, United Nations, Treaty Series, Vol. 660, 195, 21 December 1965.

⁵⁰ UN General Assembly, *International Covenant on Civil and Political Rights*, United Nations, Treaty Series, Vol. 999, 171, 16 December 1966.

⁵¹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, United Nations, Treaty Series, Vol. 993, 3, 16 December 1966.

⁵² UN General Assembly, *Convention on the Rights of the Child*, United Nations, Treaty Series, Vol. 1577, 3, 20 November 1989.

⁵³ UN General Assembly, 1992, *Resolution 47/135: UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, Adopted on 18 December 1992.

⁵⁴ CoE, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, ETS 5, 4 November 1950.

⁵⁵ CoE, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, ETS 9, (1952) // www.refworld.org/legal/agreements/coe/1952/en/35969

⁵⁶ CoE, *Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms on the Prohibition of Discrimination*, ETS 177, 4 November 2000.

⁵⁷ Council of Europe, *Framework Convention for the Protection of National Minorities*, ETS 157, 1 February 1995 // www.refworld.org/legal/agreements/coe/1995/en/39412

⁵⁸ CoE, *European Charter for Regional or Minority Languages*, ETS 148, 4 November 1992 // www.refworld.org/legal/agreements/coe/1992/en/41001

languages (CoE No. R (98)⁵⁹, the *Oslo Recommendations regarding the Linguistic Rights of National Minorities* (OSCE Oslo RLRNM), adopted by the Organization for security and cooperation in Europe (OSCE)⁶⁰.

All of the aforementioned UN conventions and legal instruments have been ratified by the Republic of Belarus. Despite that Belarus is not a member of the Council of Europe, academic research conducted by Belarusian scholars from 1992 to 2022 frequently referenced the European framework. Furthermore, the European community currently supports Belarusians who see their country as part of Europe and promotes training in European standards⁶¹.

3.2. Minority, Titular Nation, and Co-Nations: general approaches and the Belarusian Context

Current research on International Human Rights Language Standards (IHRLS) focuses on two beneficiary groups: national or ethnic minorities and representatives of the titular nation.

A working definition of a minority involves specific criteria that can refer to objective elements, such as race, language, ethnicity, and religion, or to subjective ones, such as group self-identification as a minority. In this article, the author uses “national” and “ethnic” interchangeably to avoid confusion. For the working definition, a rational approach is adopted, synthesizing elements from Article 27 of the ICCPR and Articles 1 and 3 of the FCPNM. Based on this synthesis, the definition is presented as follows:

A group of persons belonging to a community with specific ethnic, religious, or linguistic characteristics who enjoy their own culture, profess or practice their religion, or use their own language forms an integral part of the international protection of human rights. Persons belonging to such minorities shall not be denied the rights arising from their membership in these communities.

Beneficiaries of linguistic rights for the titular nation belong to the dominant ethnic group within a nation-state. Unlike “minority” or “indigenous peoples,” which receive specific international protections due to their vulnerable status, the term “titular nation” lacks universal recognition in international law. It typically refers to the predominant ethnic group that holds cultural, linguistic, and historical influence within a nation-state. In this research, Belarusians are identified as the dominant ethnic group in Belarus, possessing a significant cultural and historical heritage.

As guaranteed by the national constitution, the linguistic rights of the titular nation in Belarus—a bilingual country—are protected. Under international human rights law, these rights fall under the provisions of non-discrimination and cultural rights. Actions by a state or third parties aimed at language suppression can invoke international responsibility and, depending on the context and intent, may constitute international crimes as regulated by international criminal law.

⁵⁹ CoE Recommendation No. R (98) 6 of the Committee of Ministers to Member States *concerning modern languages* (adopted by the Committee of Ministers on 17 March 1998 at the 623rd meeting of the Ministers’ Deputies).

⁶⁰ Organization for Security and Co-operation in Europe, *The Oslo Recommendations regarding the Linguistic Rights of National Minorities*, (1998).

⁶¹ A decision to launch a Council of Europe Contact Group on Cooperation with Belarusian Democratic Forces and Civil Society was taken in September 2022. It met for the first time two months later, and the momentum continued with the adoption of the 2023 Council of Europe Reykjavík Summit Declaration, which underlined the need for co-operation and the commitment to pursue the work of the contact group // <https://rm.coe.int/4th-summit-of-heads-of-state-and-government-of-the-council-of-europe/1680ab40c1>. CoE, Doc. 16065, 15 October 2024, A democratic future for Belarus, Reply to Recommendation 1: Recommendation 2266 (2024), Committee of Ministers.

A new approach to the existing framework on minorities introduces the term “co-nation,” suggesting that minority groups should be recognized as co-equal nations. This emphasizes equal recognition of cultural, linguistic, and representation rights. This perspective is particularly relevant in the context of Belarus, highlighting the historical ties among the Belarusian, Polish, and Lithuanian peoples and their shared struggle against language suppression. For modern Belarus, which has been forcibly deviated from its *de jure* democratic status as proclaimed in its Constitution, the notion of “co-nation” could serve as a promising legal instrument in future democratic transformation.

3.3. IHRLS: Analysis of the International Legal Framework

This part presents the international framework concerning linguistic rights by examining relevant sources from the international legal regime. The author clarifies the scope, content, and implementation measures of these rights, emphasizing the complex interplay between the linguistic rights of minorities and those of the majority. The analysis includes key international instruments listed in the previous section. These sources provide insight into the legal obligations of states to protect and promote the linguistic rights of all individuals, particularly in multicultural contexts.

The Table “Protection of linguistic rights” includes provisions from a selection of global (UN) and regional (CoE) instruments for further analysis. The author’s choice is guided by the research’s scope and aims to illustrate the distinct rights of various groups and their interconnections in protection through a synergistic approach to *lex generalis* and *lex specialis* norms, aligning with the objectives outlined in the UN Charter and the CoE Statute.

Within the framework of IHRLS, the author emphasizes that IHRLS is an operative concept for both minority and broader groups, adhering to general principles applicable in any case where individual rights are affected.

3.3.1. Instructions for Reading the Information in the Table:

Each row labeled with the letter “a” includes global acts, while the corresponding row labeled with “b” contains regional acts.

Row 1 identifies two main groups that are the subjects of the research:

- Minorities: individuals belonging to national, ethnic, religious, and linguistic groups.
- Titular Nation or “All”: any person protected under the international human rights regime (*lex generalis*).

Row 2 includes two main categories of acts that constitute the notion of “International Human Rights Linguistic Standards”: hard law and soft law instruments.

Row 3 provides an overview of the content of individual rights for minorities and the titular nation (“all”), as well as the obligations of states toward these groups.

The table also includes a right-hand column with additional comments on possible overlaps in normative provisions concerning the linguistic rights of both groups—minorities and “all”—as well as remarks on the rationale and aims of the relevant treaties.

3.3.2 Table “Protection of linguistic rights”

1.	Minorities (persons belonging to national or ethnic, religious, and linguistic minorities) Lex specialis		Titular nation (all) Lex generalis		Comments on the overlaps of Lex specialis with Lex generalis
2.	hard law	soft law	hard law	soft law	One purpose of the UN ⁶² is to foster international cooperation for human rights and fundamental freedoms for all , without distinction of race, sex, language , or religion. All lex specialis provisions regarding minority groups are integral to the broader international human rights framework. They have been adopted with the dual goal: to protect those belonging to minorities and to safeguard language as an element of diversity.
a	UN, ICCPR, Art. 27	UN, DRPBM) ⁶³	UN, Charter, Art. 2 UDHR, Art. 2, p. 1 UN, ICCPR, Arts. 24 and 26	The Universal Declaration of Linguistic Rights (UDLR) ⁶⁴ provides a comprehensive framework for the protection and promotion of linguistic diversity and rights. It addresses issues such as language use in education, media, public administration, and judicial proceedings.	
b	CoE, FCRML (entire text) ⁶⁵	OSCE, Oslo RLRNM (entire text) ⁶⁶	ECHR, Article 14. Prohibition of discrimination	CoE No. R (98) ⁶⁷	The FCRML, in its preamble (paras 2 and 3), emphasizes the CoE’s aim to achieve greater unity among its members to safeguard and realize their common ideals and principles. It also highlights the need to protect historical regional and minority languages in Europe, some of which are at risk of extinction, contributing to the maintenance and development of Europe’s cultural wealth and traditions.

⁶² UN Charter, Art. 1.

⁶³ UN General Assembly. 1992, *Resolution 47/135: UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, Adopted on 18 December 1992.

⁶⁴ The Universal Declaration of Linguistic Rights, or Barcelona Declaration, was endorsed in 1996 by the International PEN Club and NGOs to promote linguistic rights, especially for endangered languages. It was adopted at the World Conference on Linguistic Rights in Barcelona from June 6 to 9, 1996. Despite being presented to the UNESCO Director-General that year, it has not received formal UNESCO approval (2 December 2024).

⁶⁵ Council of Europe, *Framework Convention for the Protection of National Minorities*, ETS 157, 1 February 1995 [accessed 11 July 2024] // <https://www.refworld.org/legal/agreements/coe/1995/en/39412>

⁶⁶ Organization for Security and Co-operation in Europe, *The Oslo Recommendations regarding the Linguistic Rights of National Minorities*, Published on 1 February 1998.

⁶⁷ Council of Europe, *Recommendation No. R (98) 6 of the Committee of Ministers to Member States concerning modern languages* (adopted by the Committee of Ministers on 17 March 1998 at the 623rd meeting of the Ministers’ Deputies).

3.	Individual Minority Rights (content)	State obligations - lex specialis towards minorities rights	Individual Human Rights (content)	State general obligations - lex generalis towards all HRs	Comments on overlaps: lex specialis and lex generalis.
a	ICCPR, Art. 27: In those states where minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture and to use their own language. ICSCR, Arts. 13, 15: Article 13: Recognizes the right to education, respecting cultural identity and supporting education in minority languages. Article 15: Affirms the right to participate in cultural life, including the maintenance of cultural identity linked to language DRPBM: Arts. 2 and 3: Persons belonging to minorities have the right to: -Enjoy their	ICCPR, Art. 2: 1. Each State Party must respect and ensure the rights in the Covenant for all individuals within its territory, without distinction (e.g., race, language, religion). 2. States must take necessary legislative steps to implement these rights where not already provided. 3. States undertake to: (a) Ensure effective remedies for rights violations. (b) Provide competent authorities to determine claims for remedies. (c) Enforce granted remedies. ICSCR, Art. 2 1. States undertake to take steps, especially economic and technical, using available resources to progressively realize rights through appropriate means, including legislative measures. 2. States guarantee that the rights in this Covenant will be exercised without discrimination based on race, color, sex, etc. 3. States may decide the extent to which they guarantee the economic rights recognized in this Covenant to non-nationals.	UDHR, Art. 2-1: Everyone is entitled to all rights and freedoms in this Declaration, without distinction of any kind, including race, colour, sex, language, religion, opinion, national origin, or status. ICCPR, Art. 26 prohibits discrimination on any ground, including language, ensuring that individuals can enjoy their rights without discrimination. ICSCR, Arts. 13, 15: Article 13: Recognizes the right to education, respecting cultural identity and supporting education in minority languages. Article 15: Affirms the right to participate in cultural life, including the maintenance of cultural identity linked to language. CRC, Art. 8. 1. States Parties undertake to respect the right	ICCPR, Art. 2 1. State must respect ...rights for all individuals within its territory, without distinction. 2. States must take legislative steps to implement these rights. 3. States undertake to: (a) Ensure effective remedies for rights violations, (b) Provide competent authorities to address claims for remedies, (c) Enforce granted remedies. ICSCR, Art. 2: 1. Each State shall take steps, individually and through international cooperation, to progressively realize the Covenant's rights using available resources, including legislation. 2. States must ensure rights are exercised without discrimination. 3....[states] may determine to which extent they guarantee economic rights to non-nationals, considering human rights and their national economy.	Article 27 of the ICCPR protects individuals belonging to groups sharing a common culture, religion, and/or language, regardless of their citizenship. Article 2 of the ICCPR, which defines the state's general obligations (implementation measures), applies to all rights for everyone within the state's territory, with exceptions only for rights reserved for citizens, such as political rights under Article 25. Therefore, states must ensure the realization of Article 27 rights for all individuals, not just citizens. Linguistic rights for all, including representatives of titular nations, are implied in the rights to education, identity preservation, and cultural participation. While specific provisions in international instruments for minorities may include lex specialis norms, the concept of "general positive obligations of States" applies to both specific provisions and every right enshrined in the ICCPR. Accordingly, Articles 2 of the ICCPR, ICESCR, and CRC impose obligations on states toward minorities and titular nations.

a	culture, religion, and language freely. -Participate in cultural, social, economic, and public life. -Engage in decisions affecting their minority or region, as per national law. -Establish their own associations. -Maintain contacts with other minority members and related citizens of other states.	DRPBM: Arts. 1.1, 1.2: Protect the linguistic identity of minorities; adopt appropriate measures. Arts. 4.1, 4.2: Ensure minorities can fully exercise their human rights; create favorable conditions for culture and language, barring violations of national law. Art. 8.1: States must fulfill obligations under international treaties in good faith.	of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. 2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.	CRC, Art. 2.1. States shall respect and ensure the rights in this Convention for every child within their jurisdiction without discrimination of any kind. 2.2.States shall protect children from discrimination or punishment based on their parents' or family members' status or beliefs. HRC, GC 26.... States must treat all without distinction of language. This applies to all individuals within the State's jurisdiction, regardless of minority status.⁶⁸	Children's rights are governed by the general norms of the ICCPR and CRC, along with specific provisions for children in minorities as outlined in the DRPBM. This discourse highlights the need for special protection of linguistic rights under international law. While these rights are integral to recognized individual rights—such as freedom of expression and the right to education—the practical implementation of linguistic rights requires special measures, as must be ensured in fulfilling international obligations.
b	CoE FCPMR Art. 3: 1. Every person belonging to a national minority has the right to choose to be treated as such, without disadvantage from this choice. CoE FCPMR Art. 3: 1. Every person belonging to a national minority has the right to choose to be treated as such,	CoE FCPMR, Art. 7: Principles of States' policies: -Recognize cultural wealth. -Respect geographical areas to promote language use. -Safeguard languages. -Facilitate language use in public and private life. -Maintain links between language groups. -Provide language teaching at all levels. -Offer opportunities for non-speakers to learn.	ECHR, Art. 14 prohibits discrimination on any ground, including language, ensuring that individuals can enjoy their rights without discrimination. Protocol 12 ECHR, Art. 1 General prohibition of discrimination. The enjoyment of any right set forth by law shall be secured without discrimination on any	ECHR, Art. 1 Obligation to respect Human Rights. The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.	According to the Art. 1 of the Framework Convention for the Protection of National Minorities (FCPMR) emphasizes that the protection of national minorities and their rights is integral to international human rights obligations. This underscores that states must uphold minority rights as part of their general human rights commitments. Additionally, Article 26 of the Vienna Convention on the Law of Treaties reiterates the

⁶⁸ UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, CCPR/C/21/Rev.1/Add.5, 8 April 1994, 4 (12 July 2024) // <https://www.refworld.org/legal/general/hrc/1994/en/26900>

b.	without disadvantage from this choice. 2. Individuals may exercise their rights and enjoy freedoms from the Framework Convention individually or in community with others.	-Support research on regional or minority languages. -Promote transnational exchanges for similar languages.	ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.		principle of <i>pacta sunt servanda</i> , stating that valid treaties must be fulfilled in good faith. This is reflected in Article 2 of the FCPNM, which requires that its provisions be applied in good faith, fostering understanding, tolerance, and cooperation among states.
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3.3.3. Analyzing Minority and Majority Protections within International Frameworks: A Belarusian Context

The review focuses on two protection regimes: *lex specialis* (for minorities) and *lex generalis* (for all). The body of treaties and soft law addressing minority rights is relatively limited, including key documents such as the European Framework Convention for the Protection of National Minorities (FCPMR), the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities (UN DRPBM), and the OSCE Oslo Recommendations on Linguistic Rights (1998). These instruments recognize the importance of minority languages to cultural identity and promote their use in education and daily life.

In contrast, general human rights documents (such as the UDHR, ICCPR, ICESCR, and CRC) contain universal provisions that apply to national minorities. For instance, Article 27 of the ICCPR affirms minority representatives’ right to enjoy their culture and use their language. The UN Human Rights Committee’s General Comment No. 23 addresses challenges in realizing linguistic rights, while Articles 13 and 15 of the ICESCR underscore the right to culturally respectful education and participation in cultural life. The analysis suggests that general human rights protections can enhance the rights of both minorities and the majority when their language rights are threatened. However, the existence of two separate regimes—*lex specialis* and *lex generalis*—raises concerns about the universality and inclusivity of human rights law, undermining their synergy and legal certainty.

In Belarus, the titular nation lacks effective international protections for linguistic rights despite significant threats to the Belarusian language. Challenges faced by Belarusian speakers are often linked to state policies that associate the language with political disloyalty. Additionally, remedies for restoring linguistic rights are inadequate, and international accountability mechanisms for human rights violations are insufficient, particularly for countries openly disregarding their obligations.

These shortcomings are part of broader issues. The current political climate in Belarus exacerbates these challenges and undermines the rights of all citizens, especially those wishing to use the Belarusian language. Threats to speakers of national languages are often tied to political agendas favoring some groups over others.

As a result, both general and specialized international laws fail to effectively protect languages and their users under Belarusian authority. International accountability and enforcement mechanisms remain weak and do not sufficiently address the reasons behind a state’s failure to meet its obligations.

4. ASSESSING IMPLEMENTATION OF LINGUISTIC RIGHTS: KEY LENSES

This section explores the concept of implementation within the context of international human rights protection. By referencing the Vienna Convention and principles of *good faith*, the author establishes a framework for analyzing Belarus's compliance with its obligations, using good faith as a measure of effective implementation. A three-level scale is proposed to assess the fulfilment of international obligations concerning the linguistic rights of minorities and the non-discrimination of the titular nation based on state language use. This scale will be tested against data regarding Belarus's implementation of these obligations.

4.1. "Implementation" and "general legal obligations of states"

Numerous studies have analyzed the concepts of "general legal obligations of states" and "implementation" within the human rights regime⁶⁹. The author will use these terms synonymously, focusing on the global treaties presented in Table 1. Although the term "implementation" is not explicitly used in major human rights treaties, the relevant language conveys its essence. For instance, Article 2 of the ICCPR states that the state must take necessary measures, in accordance with its constitutional procedures, to give effect to the rights.

The Human Rights Committee (HRC), acting as a monitoring body of the ICCPR, first used the term "implementation" in its General Comments, noting that Article 2 allows States parties to choose their methods of implementation⁷⁰. The HRC emphasized that implementation cannot rely solely on constitutional or legislative measures, which are often insufficient. The Covenant obliges States not only to respect human rights but also to ensure their enjoyment for all individuals under their jurisdiction, requiring specific actions to enable this enjoyment. Therefore, the HRC defined "implementation" as encompassing the full range of actions outlined in Article 2 of the ICCPR.

The Committee on Economic, Social and Cultural Rights (Committee), which monitors implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), addressed implementation in its General Comment 21 on cultural rights (Article 15)⁷¹. It recommends that states take immediate steps to ensure non-discriminatory access to cultural life, emphasizing that core obligations, especially concerning non-discrimination, do not require significant financial resources. States are expected to progressively realize rights while promoting democratic participation to reduce disparities⁷². The Committee also notes that promoting access to intangible

⁶⁹ Julie Fraser, "Domestic Implementation of International Human Rights Treaties: The Role of Public and Private Actors," *Social Institutions and International Human Rights Law Implementation* (Cambridge: Cambridge University Press, 2020), 114–163; Vera Shikhelman, "Implementing Decisions of International Human Rights Institutions: Evidence from the United Nations Human Rights Committee," *European Journal of International Law* Vol. 30, No. 3 (2019): 753–777; Manfred Nowak, "Challenges to National Implementation of International Human Rights Standards," *Global Standards – Local Action* (Intersentia, Wien-Graz, 2009), 121–135; Jonas Christoffersen, "Impact on General Principles of Treaty Interpretation," *The Impact of Human Rights Law in General International Law*, ed. Menno Kamminga and Martin Schenin (Oxford University Press, 2009), 43; Liudmila Ulyashyna, Maryia Zharylouskaya, "International Obligations of the Republic of Belarus in the Field of Human Rights and Trade Union Rights: A Comparative Legal Analysis of the Right to Freedom of Association," *International Academic Journal* Vol. 3, Issue 1 (2022): 66–81.

⁷⁰ Human Rights Committee, General Comment 3, Article 2 *Implementation at the national level* (Thirteenth session, 1981), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 4 (1994).

⁷¹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment No. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights)*, E/C.12/GC/21, 21 December 2009 [accessed 01 November 2024] // <https://www.refworld.org/legal/general/cescr/2009/en/83710>

⁷² *Ibid.*, pp. 66–71.

cultural goods, such as language and traditions, does not require extensive resources. It called for indicators to monitor participation in cultural life and emphasized accountability mechanisms for investigating cultural rights infringements. Regarding linguistic rights, the Committee highlights the importance of allowing individuals, particularly minority and indigenous peoples, to use their own language, urging states to protect and promote these rights⁷³.

Both these treaties—ICCPR and the ICESCR—demonstrate that monitoring bodies have clarified the scope of national implementation, particularly concerning linguistic rights, framing it as the obligation of “giving effect to the rights.”

4.2. *Pacta sunt servanda* and good faith

The HRC emphasizes that the concept of “implementation” is rooted in the principles of *pacta sunt servanda* and good faith. By referencing the Vienna Convention on the Law of Treaties⁷⁴, the HRC underscored the importance of these principles in human rights treaties⁷⁵.

The principle of *pacta sunt servanda* incorporates good faith in two ways: as a subjective element in a state’s treaty performance and as a method for interpreting that performance⁷⁶. The UN Charter asserts that the rights and benefits of UN membership can only be achieved if obligations are fulfilled in good faith⁷⁷. Human rights instruments reflect this principle through specific language indicating intent and interpretative potential. For instance, the CoE Statute states: “the State Party is expected to collaborate sincerely and effectively in the realization of the aim of the Council.” Human rights treaties caution against deviations from good faith performance. The ICCPR explicitly states that no state, group, or individual may interpret the treaties in a way that undermines protected rights. Actions aimed at destroying these rights or imposing unauthorized limitations are considered abuses, with potential consequences from international bodies (e.g., Article 5 of the ICCPR, Articles 17 and 18 of the ECHR). Additionally, the UN DRPBM emphasizes that states must fulfill their obligations under international treaties in good faith⁷⁸.

In summary, human rights law has developed the principles of *pacta sunt servanda*, emphasizing good faith through terms like “sincerely and effectively,” and prohibiting the abuse and destruction of rights, thereby reinforcing states’ obligations in treaty implementation.

4.3. *Mens Rea* or Intent to Destroy?

Raphael Lemkin’s foundational work on the Genocide Convention⁷⁹ emphasizes the need to protect groups as entities and aimed to criminalize acts that destroy a group’s language and culture. Unfortunately, this vision has not been realized, leading to a narrow

⁷³ *Ibid.*, pp.72–24.

⁷⁴ Vienna Convention on the Law of Treaties, United Nations, *Treaty Series* Vol. 1155, (23 May 1969): 331, art. 26 // <https://www.refworld.org/legal/agreements/un/1969/en/73676>

⁷⁵ “Pursuant to the principle articulated in article 26 of the Vienna Convention on the Law of Treaties, States Parties are required to give effect to the obligations under the Covenant in good faith”. See: General comment no. 31 (80), The nature of the general legal obligation imposed on States Parties to the Covenant: International Covenant on Civil and Political Rights. (29 March 2004) / Human Rights Committee, 80th session.

⁷⁶ *Vienna Convention*, art. 31.

⁷⁷ *UN Charter*, Preamble para. 4, Art. 1, parts 1 and 3.

⁷⁸ See the Table above.

⁷⁹ Facing History & Ourselves, *Raphael Lemkin and the Genocide Convention*, last updated August 2, 2016 (2 December 2024) // <https://www.facinghistory.org/resource-library/raphael-lemkin-genocide-convention#citation-information-276>

definition of genocide in international law and national criminal codes⁸⁰, as seen in Belarus, where current policies further marginalize linguistic rights. Notably, Lemkin was born in 1900 in the Grodno region of modern Belarus, then part of the Russian Empire, and he developed a legal framework for combating genocide that included provisions for cultural and linguistic destruction.

However, modern international criminal law is evolving through case law, with international tribunals recognizing that an ethnic group is defined by various factors. This allows us to view the Belarusian-speaking population and national minorities not just as linguistic communities but as cultural entities facing existential threats⁸¹. The *mens rea*, or guilty mind, behind actions targeting these groups can be divided into specific intent—deliberately aiming to destroy the group—and general intent—awareness that one's actions contribute to this destruction. Recent measures in Belarus, such as restricting the use of Belarusian in education and media, illustrate both intents and adversely affect the cultural identity of the Belarusian people.

The ongoing suppression of the Belarusian language underscores the need to assess language rights within human rights standards, particularly regarding intent related to genocide. The crisis in Belarus, marked by political repression and cultural erasure, mirrors situations in neighboring countries where language is weaponized. Recognizing intent is crucial for legal accountability and the protection of linguistic rights, ensuring Belarusian speakers and national minorities like Poles and Lithuanians are seen as integral parts of Europe's cultural fabric.

In conclusion, the *mens rea* accompanying the systematic suppression of linguistic rights sharply contrasts with the principle of good faith and could potentially extend to genocide. Understanding these indicators of wrongdoing is essential for addressing discrimination and cultural erasure, holding states accountable, and safeguarding linguistic rights under international law.

CONCLUSIONS

The situation regarding language rights in Belarus illustrates the complex interplay of historical, political, and legal factors contributing to the suppression of the Belarusian language and those of national minorities. Analyzing international legal norms for protecting linguistic rights highlights the need for both general and special provisions in human rights law. Existing divisions in legal protection can hinder effective safeguarding of languages, as seen in Belarus, where both the titular nation and national minorities face restrictions on their language and culture.

⁸⁰ 127. Genocide. Actions committed with the aim of systematically destroying, in whole or in part, any racial, national, ethnic, or religious group, or a group defined on the basis of any other arbitrary criterion, through the killing of members of such group or causing them serious bodily harm, or deliberately creating living conditions intended to bring about the complete or partial physical destruction of such group, or the forcible transfer of children from one ethnic group to another, or taking measures to prevent births within such group (genocide) shall be punished by imprisonment for a term of twelve to twenty-five years, with or without a fine, or life imprisonment, or the death penalty "Criminal Code of the Republic of Belarus," *National Legal Internet Portal of Belarus* (July 9, 1999) // <https://pravo.by/document/?guid=3871&p0=hk9900275>

⁸¹ Raphael Lemkin aimed to define a group in his advocacy for the Convention by including all its constitutive elements. In the Akayesu trial, the ICTR acknowledged that an ethnic group encompasses more than just language or culture. While language is important, it is not the only factor. The ICTR recognized the Tutsi victims as an ethnic group, despite their shared language and culture with the predominantly Hutu perpetrators. The Chamber defined an ethnic group as one whose members share a common language or culture (ICTR, *The Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, September 2, 1998, para. 513). This approach reflects a broader understanding of ethnic identity, recognizing multiple factors beyond language.

The concept of “co-nation” offers a promising legal approach, accommodating different nations with a full range of cultural rights and the right to participation, which is crucial for the future of Belarus. This framework recognizes minority groups and the titular nation as equal partners in the cultural landscape, fostering unity against an oppressive regime that seeks to suppress national languages.

However, the current political climate poses significant challenges to fostering an inclusive national identity. The suppression of the Belarusian language and the marginalization of national minorities reflect a broader agenda undermining Belarus’s cultural diversity and European heritage. Effective legal protections are weakened by the government’s disregard for international obligations, highlighting the urgent need for strengthened international accountability.

Although the Genocide Convention does not explicitly include cultural genocide—a concept championed by its author, Raphael Lemkin—the need for recognition of cultural destruction remains pressing. The findings of the Rwanda tribunal pave the way for future adjudications that address these gaps and emphasize the importance of recognizing ethnic groups as cultural entities. Actions diminishing linguistic rights threaten the cultural integrity of Belarus as a whole. Comprehensive measures are necessary to protect linguistic rights, promote community dialogue, and hold the state accountable under international law.

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