

**Brief to the Parliamentary Standing Committee on Indigenous and  
Northern Affairs Regarding the Indigenous Languages Study**

**By Andrea Bear Nicholas**

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## To the Standing Committee on Indigenous and Northern Affairs

Nil ntəliwis Atəliye Pel Nihkələss. Noceyaw Nekotkok naka Wəlastəkok, Wəlastəkwe-wəna nil.

My name is Andrea Bear Nicholas. I come from the Maliseet First Nation at Tobique on the St.

John River in New Brunswick, and I am Maliseet. I served as Chair in Native Studies at St.

Thomas University for twenty years and am now Professor Emerita. Two years ago I was

awarded a Doctorate (Honoris Causa) by the Universite de Moncton for my work in the

revitalization of Indigenous languages in the Maritimes. I am now requesting an opportunity to

address your Standing Committee with regard to your Indigenous Languages Study in order to

make the case for Canada to move quickly to bring its laws in line with Articles 13, 14, 15 and

16 in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). I would

especially urge Canada to focus on Articles 13(1), 14(1) and 14(3) as priorities. Let me explain

my reasons for prioritizing these three key UNDRIP articles.

**Article 13 (1)** *“Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.”*

By naming *histories, languages, oral traditions, philosophies, writing systems, and literatures*

this Article defines the central aspects of culture over which Indigenous Peoples should have the

right to full control. Yet in Canada this right is denied by the Copyright Act which awards

copyright to those who collect these traditions, rather than to those who have created them. In

effect, it awards scribes, recorders, and videographers not only the legal right to the monetary

benefits of copyright, but also the legal right to prevent Indigenous Peoples from publishing or

utilizing any of their own traditions that have been collected by others. For Canada to bring its

laws in line with this article would require Government to remove the section of the Copyright Act which gives collectors and recorders exclusive rights to those traditions.

**Article 14(1):** *Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.*

**Article 14(3):** *States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.*

In addition to declaring in Article 14(a) that Indigenous People should have the right to *establish and control their educational systems and institutions*, these articles both declare that schools should not just teach Indigenous languages, but that schools should be conducted IN THE MEDIUM of Indigenous languages whenever possible. And as declared in Article 14(3), States must “*take effective measures*” to ensure that Indigenous people have access to this form of education, which means that government must fund it in the same way that it provides funding for the education of Francophones and Anglophones in the medium of their languages.

With respect to Article 14(1) and 14(3) I have worked toward the revitalization of Maritime Indigenous languages through the establishment of immersion programs throughout the two decades that I served as Chair in Native Studies. At a conference held in my first year, a resolution was passed by over 200 participants calling for university support in the struggle to save our languages through immersion schooling. In the following year I began working with Dorothy Lazore the founder of the Mohawk immersion school at Kanawa:ke to develop thirteen

courses for teachers and speakers of Indigenous languages, which courses were approved as an official certificate program in Immersion Teacher Training by the Maritime Provinces Higher Education Commission in 2003. Since then we have graduated the first cohorts of teachers who launched the very successful immersion programs at Eskasoni and Listuguj, which still exist.

Although we have trained many speakers of my language to become immersion teachers, as of yet there have been only sporadic attempts at immersion in any of our eight communities. This inability to establish an immersion program is due to a combination of factors including a lack of political support, a lack of adequate funding, and an aging and rapidly dwindling number of lifelong Wəlastəkwey speakers. The lack of political support is largely a consequence of the indoctrination that our people have been subjected to in schools conducted in the medium of English or French since the late 1800s. The lack of funding for immersion schools is a stark reflection of the second class status of Indigenous Peoples and their languages in this country, as compared to the status enjoyed by Anglophones and Francophones. The aging and rapidly dwindling number of lifelong speakers of Indigenous languages is the direct consequence of mandatory schooling in English or French, where Indigenous children are physically separated from proficient adult speakers for the better part of each day, even in schools that offer Indigenous language classes. The result is that these children are completely denied the opportunity to become proficient in their mother-tongue.

On the other hand there are enormous benefits to be gained from education in the medium of the mother tongue. Research has consistently shown that students in such programs generally do as well a, and very often better in school than those in French or English medium schooling. One study has also found that certain kinds of cognitive flexibility and metalinguistic awareness develop earlier and better in bilingual children than in monolingual ones.

Considering the huge gap in school completion rates between Indigenous and non-Indigenous Peoples in Canada, and considering how long these benefits of immersion schooling have been known, it raises serious questions as to why Canada still has not moved to fund this form of education.

It is here that the adoption of Article 14 could make a huge difference, both for our languages and for the educational situation of First Nations children. It would especially benefit small communities that do not have the necessary political support, or the financial capacity, or even a critical mass of fluent speakers. This is actually the situation of most First Nations communities in this country since only three out of sixty or more Indigenous languages are expected to survive this century. For most of these languages the decline in the number of speakers is occurring much faster now than it ever did in the past. My language is just one example. In 2006 it was considered no longer **Safe** or even **Vulnerable**, but **Definitely Endangered** on the UNESCO five level scale of language endangerment. Since then, however, it has dropped two categories rapidly, to **Severely Endangered**, then to the fifth and last category, **Critically Endangered**. With barely 60 fluent, mostly elderly, Wəlastəkwey speakers in five communities at present, my language is likely to become **Extinct** in the next decade or so unless something drastically different is done very soon.

With Canada now poised to begin bringing its laws in line with UNDRIP, there is hope that mine and many other languages can be saved if Articles 14(1) and 14(3) quoted above could be addressed as a top priority. They would be the simplest and quickest of all articles to be addressed in UNDRIP since no new law would need to be passed, as is the case for most other articles. These language articles could be addressed simply by amending the existing Indigenous Languages Act of 2019 with a guarantee of linguistic rights in education. As well, Article 14(1)

and 14(3) are without a doubt the most urgent articles to be adopted considering both the accelerating rate at which Indigenous languages are disappearing and the ongoing harm occurring to them in any school conducted in English or French.

Regarding the copyright matter I began working in the 1990s with my husband, a fluent speaker and teacher of our language, to prepare texts entirely in Wəlastəkwey for use in immersion programs. One project was to publish nearly 40 large reels and nearly 4000 pages of stories in our language that had been collected in the 1970s by a linguistics professor. He agreed in writing to turn over copyright to the families of the storytellers once he was paid \$4000 for the tapes. But once paid, he changed his mind and refused to let us publish the stories. We were also warned by our lawyer that we would risk being sued if we used the stories in our language programs. This meant that learners of our language in a major two-year adult language program were deprived of a rich collection of *history, oral traditions and philosophy* entirely in our language due to the injustice of Canadian copyright law. That this situation still exists is the reason I am calling for Article 13(1) to be addressed. All that it would require is to remove that section of the Canadian Copyright Act that grants copyright to collectors, and to replace it with a provision ensuring that Indigenous storytellers, knowledge keepers, and/or their First Nations will retain rights to all oral traditions and knowledge that they may happen to share with collectors, academics, and others.

Now that Canada has passed the UNDRIP Act it needs to begin bringing its laws in line with UNDRIP immediately considering the uncertainties that an imminent change of government could bring, And it must begin with the language articles in UNDRIP for all the reasons outlined above, if only for the centrality of language to all other aspects of Indigenous forms of life, and to all other Articles in UNDRIP.