



Assembly of First Nations

**Submission to the House of Commons Standing Committee on
Indigenous and Northern Affairs (INAN)**

RE: Indigenous Languages Study

February 3, 2023

Introduction: A State of Emergency

First Nations languages are sourced from the land and hold values, customs, worldviews, legal orders, governance structures, histories, and creation stories. As such, First Nations languages are essential to the transmission of cultural and traditional knowledge to future generations.

A stronger sense of connection to culture, tradition, languages, and land has been linked to improved health outcomes for First Nations.¹ The First Nations Information Governance Centre found that First Nations youth aged 12-17 who participate in cultural activities and understand a First Nations language have higher grades.²

First Nations languages, however, are in a state of emergency and immediate action is required to reverse language loss. Discriminatory and assimilationist government policies and practices led to a devastating interruption in the natural intergenerational transmission of First Nations languages. Residential Institutions ('schools'), day schools, the Sixties Scoop, and laws forbidding traditional ceremonies intentionally suppressed First Nations culture and languages through the forcible removal of more than 150,000 Indigenous children.

First Nations continue to be impacted by these actions. The social services system separates First Nations children from their families at alarming rates. Indigenous children make up 53.8% of all children in foster care despite accounting for only 7.7% of the child population.³ These policies and practices threaten cultural and linguistic continuity among First Nations communities.

The status of First Nations languages vary significantly across this country. The Atlas of the World's Languages in Danger project of the United Nations Educational, Scientific and Cultural Organization revealed that nearly three out of four Indigenous languages in Canada are "endangered" and none are deemed "safe."⁴ Only Cree, Anishinabemowin and Inuktitut are predicted to survive if we maintain the current trajectory.

However, First Nations remain committed to the reclamation, revitalization, maintenance, and normalization of their languages. While there has been a decline in the number of mother tongue speakers of all Indigenous languages, according to 2021 Census data, the number and proportion of second-language speakers continues to grow, up from 24.8% in 2016 to 27.7%.

¹ Oster et al. (2014), https://www.researchgate.net/publication/267043670_Cultural_continuity_traditional_Indigenous_language_and_diabetes_in_Alberta_First_Nations_a_mixed_methods_study

² FNIGC (2020), Factors Associated with School Outcomes among First Nations Youth, https://fnigc.ca/wp-content/uploads/2021/04/FNIGC-Research-Series-School-Outcomes_FINAL_Dec.212020v2-1.pdf

³ Government of Canada (2022), Reducing the number of Indigenous children in care, <https://www.sac-isc.gc.ca/eng/1541187352297/1541187392851>

⁴ UNESCO (2010), Atlas of the world's languages in danger <https://unesdoc.unesco.org/ark:/48223/pf0000187026>

The Government of Canada has also taken steps to reverse the damage of discriminatory policies to reconcile its relationship with First Nations through its commitment to implementing the Truth and Reconciliation Commission's (TRC) Calls to Action, the *Indigenous Languages Act* (ILA), and the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA).

The Government of Canada co-developed the *Indigenous Languages Act* (ILA) with the Assembly of First Nations (AFN), Inuit Tapiriit Kanatami (ITK), and the Métis National Council (MNC). In 2017, Indigenous leadership launched the initiative through a joint statement with the Government of Canada which outlined the co-development principles that would guide the process.⁵ A spirit of cooperation and understanding must continue to ensure the full and meaningful implementation of this historic piece of legislation.

Co-development and Co-implementation of the ILA

The AFN played a critical role in the co-development of the ILA as a member of the Co-development Working Group, along with representatives from ITK, MNC, and the Department of Canadian Heritage (DCH).

With the passing of the ILA on June 21, 2019, the working group evolved into the Joint Implementation Steering Committee (JISC) and the AFN continues to provide guidance on the implementation of the ILA. Two major priorities were identified by the co-development partners following the passing of the ILA:

- 1) Ensuring the transition away from proposal-based funding and towards ongoing funding, including unlocking Budget 2019 funding.
- 2) Establishing the Office of the Commissioner of Indigenous Languages (OCIL), including the appointment process.

Both processes required government consultation in line with provisions within the ILA. As DCH had not originally co-developed consultation materials with Indigenous partners and due to complications caused by the COVID-19 pandemic, the consultation process was delayed.

Indigenous Language Rights

- **Recommendation:** Amend and strengthen the ILA such that the implementation of Article 14 and other articles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) related to Indigenous languages are included within

⁵ Government of Canada (2018). Working collaboratively to preserve, promote and revitalize Indigenous languages. Retrieved from <https://www.canada.ca/en/canadian-heritage/campaigns/indigenous-languages-legislation/working-collaboratively.html>

the operative clauses of the ILA to ensure that First Nations language rights are defined and enforceable.⁶

The right for First Nations to speak their languages is an Inherent, Constitutional (Section 35), and human right. First Nations language rights are reinforced by Treaties, some of which include provisions for non-interference and education. The Supreme Court has recognized language and culture under Section 35 as an Aboriginal right.⁷ The ILA further upholds Indigenous language rights as recognized, affirmed, and protected by Section 35 of the *Constitution Act, 1982*.

The full implementation of the ILA is also essential for the fulfilment of Government and Ministerial promises, including the 2015 commitment to responding to the TRC Calls to Action, specifically, Calls 13, 14, and 15 to uphold minimum standards for Indigenous language rights in Canada. Further, with the passing of the UNDA in 2021, the Government of Canada committed to the implementation of UNDRIP. While several articles pertain to Indigenous languages, of particular importance for the purposes of this report are 1, 5, 8, 11, 12, 13, 14, 15, 16, 31 and 36.

The full implementation of the TRC, ILA and UNDA is required to ensure the reclamation, revitalization, maintenance, and strengthening of Indigenous languages and their recognition as a vital factor for Indigenous cultural continuity, identity, and self-determination.

Lack of Funding for the Full Implementation of the ILA

- **Recommendation:** Provide adequate, sustainable, and long-term funding to support First Nations-led reclamation, revitalization, maintenance, and strengthening activities in keeping with distinctions-based costing (e.g., \$2 billion annually within 10 years for First Nations initiatives alone).
- **Recommendation:** Increase support for the transition towards empowering Indigenous-led processes and decision-making with respect to the distribution of languages funding.

Budget 2019 provided a total of **\$333.7 million over five years and \$115.7 million ongoing** through the Indigenous Languages and Cultures Program (ILCP). **Budget 2021** provided an **additional \$275 million over five years**, as well as \$2 million annually to support co-implementation activities. Budget 2021 funding was primarily split between two elements of the ILCP: the Indigenous Languages Component (ILC) for

⁶ AFN Resolution 47/2022, *First Nations Languages – A Defined and Enforceable Right*, calls on the amendment of the operative clauses of the ILA such that Article 14 of UNDRIP and other related language articles are implemented.

⁷ See: *First Nations Child and Family Caring Society of Canada et al, v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 at para 106; *R v Côté*, [1996] 3 SCR 139; *R v Sparrow*, [1990] 1 S.C.R. 1075, 1990 CanLII 104; *R v Van der Peet*, [1996] 2 S.C.R. 507, 1996 CanLII 216.

Indigenous-led language initiatives and Section 8 and 9 agreements.⁸ Despite these increases in funding, the ILC continues to be severely oversubscribed and does not meet First Nations funding demand.

Further, the ongoing \$115.7 million is subject to the passing of a Treasury Board Submission, which includes an interim First Nations Languages Funding Model as developed by the AFN. The federal government imposed a requirement to develop a new Indigenous Languages Funding Model to unlock ongoing Budget 2019 funding for Indigenous languages, delaying the shift away from proposal-based funding.

Funding limitations result in implementation challenges and inefficient decision-making processes. The AFN has clearly stated that ILCP funding must not be diverted to support initiatives that are not First Nations-led; however, this directive has not been fully respected. For example, DCH receives between \$4-6 million for their operations and administration of the ILCP, and funding continues to be transferred to other activities such as National Indigenous Peoples Day and Indspire, among others.

When accounting for all transfers of funding to various elements of the ILCP, **only approximately \$75 million** of the \$115.7 million provided through Budget 2019 will be available for Indigenous-led initiatives, which is further shared across all three distinctions. First Nations are expected to receive 75% of that remaining \$75 million, further reducing the amount available through the ILC to an estimated \$56.25 million.

Section 8 and 9 agreements, created through the ILA, provide for a new mechanism to develop Nation-to-Nation agreements for languages. Yet, no ongoing funding has been provided to support their success. Section 8 and 9 agreements are time-limited by Budget 2021, which restricts proposals to potentially ineffective short-term projects when language revitalization requires long-term, strategic planning.

A 2021-2022 AFN costing study found that approximately **\$2.0 billion** is required per year to support First Nations languages alone. The study assumes that all First Nations, as well as hub organizations,⁹ would be delivering language revitalization services and receiving sufficient funding to deliver the services demanded. Based on recent calculations, annual costs are expected to increase beyond \$2.0 billion¹⁰ over the next 10 years as fewer than 25% of First Nations are currently receiving ILCP funding.

Since the passing of the ILA, the Government of Canada's funding efforts have been exclusively centered around the ILCP. This approach ignores significant language needs within the education system as funded through Indigenous Services Canada

⁸ First Nations, and First Nations organizations can enter into agreements or arrangements with the federal government, as well as with provincial or territorial governments (tripartite agreements). These Indigenous language agreements are generally understood to facilitate coordinated initiatives, including programs and services.

⁹ Such as, but not limited to, First Nations-led Regionally Designated Organizations that distribute funds and provide unique expertise to First Nations member communities.

¹⁰ The number increases to \$3.307 billion by year 10 (2032-33) when escalated for inflation and population growth.

(ISC) and provincial governments. A coordinated, whole-of-government approach is required to ensure success.

A Whole-of-Government Approach for the Full Implementation of the ILA

- **Recommendation:** Develop a holistic, whole-of-government approach for the full implementation of the ILA with respect to the exercise of Indigenous language rights in education, health, and the justice system, among others.

Successive Canadian governments made significant efforts to eradicate First Nations languages. All levels of government must take considerable measures to reverse the intergenerational impacts of these actions and create a critical mass of speakers in Indigenous languages.

Provincial and territorial support for Indigenous languages is extremely varied. Positive developments exist in British Columbia and Nova Scotia, while Québec's Bill 96, *An Act Respecting French, the Official and Common language of Québec*, is an affront to Indigenous languages rights.

Greater efforts to ensure compliance and alignment of other pieces of legislation and policies with the ILA and UNDA is a necessary step. Nationally, the modernization of the *Official Languages Act*, requires mobilization across all federal government departments to ensure consistence with government commitments to reconciliation.

In 2019, 54% of First Nations students were forced to leave their First Nation to obtain a high school diploma. The lack of secondary schools impedes students' connection to their home, culture, and language as they must attend a non-Indigenous school to obtain a diploma. This challenge, coupled with the fact that the proportion of language speakers is significantly higher on reserve, demonstrates the linkage between language loss and the chronic, discriminatory underfunding of First Nations education.¹¹

The lack of coordinated action to ensure language needs outside of and within schools are met threatens the success of First Nations language revitalization efforts. The Government of Canada has systematically underfunded First Nations languages, education, and education services for decades. Indigenous languages funding that ISC provides through their education formula is limited to approximately \$1500/student for languages. Chronic underfunding in education more broadly has also limited opportunities for First Nations to provide language instruction and immersion programming in schools.

For example, until 2021, ISC did not financially support the inclusion of language and culture spaces or land-based learning areas when building and funding First Nations schools. Therefore, schools built prior to 2021 did not support First Nations access to

¹¹ According to the 2016 Census, approximately one third (30%) of First Nations living on reserve spoke an Indigenous language as their first language, a much larger proportion than those residing off reserve (3%).

language, culture, and spiritual learning priorities, creating a significant backlog in the ability to meet language needs in schools.

About the Assembly of First Nations

The AFN is a national advocacy organization that works to advance the collective aspirations of First Nations individuals and communities across Canada on matters of national or international nature and concern. The AFN receives mandates and directives for the organization through resolutions directed and supported by the First Nations-in-Assembly (elected Chiefs or proxies from member First Nations). In addition to the direction provided by Chiefs of each member First Nation, the AFN is guided by an Executive Committee consisting of an elected National Chief and Regional Chiefs from each province and territory. Representatives from five national councils (Knowledge Keepers, Youth, Veterans, 2SLGBTQQA+ and Women) support and guide decisions.

AFN Language Resolutions

Since the 1980s, AFN First Nations-in-Assembly have passed no less than 24 resolutions calling for immediate action to preserve our languages, see for example:

- Resolution 35/1998, *First Nations Languages*
- Resolution 77/2017, *Support for the continued co-development work on the Indigenous Languages Act*
- Resolution 35/2021, *Indigenous Peoples Exemption: Federal Bilingual Requirements*
- Resolution 17/2022, *Support for a First Nations Languages Funding Model*
- Resolution 47/2022, *First Nations Languages – A Defined and Enforceable Right*