



Co-developing a *First Nations, Inuit  
and Métis Languages Act*:

Preparatory Sessions  
Presentation

Assembly of First Nations (AFN)



# Background

On December 6<sup>th</sup>, 2016, Prime Minister Justin Trudeau announced that the Government of Canada would jointly develop legislation for the revitalization and recovery of First Nations, Inuit, and Métis languages:

*We know all too well how residential schools and other decisions by governments were used as a deliberate tool to eliminate Indigenous languages and cultures. If we are to truly advance reconciliation, we must undo the lasting damage that resulted.*

*So today, I commit to you that our government will enact an Indigenous Languages Act, co-developed with Indigenous Peoples, with the goal of ensuring the preservation, protection, and revitalization of First Nations, Métis, and Inuit languages in this country.*



# Background

On June 14th, 2017, Canada/Assembly of First Nations (AFN)/Inuit Tapiriit Kanatami (ITK)/Métis Nation (MNC) agreed to a Statement of Co-development Principles in the development of First Nations, Inuit, and Métis languages legislation. All parties agreed to:

- Co-develop legislation that addresses the revitalization, recovery, preservation, protection, maintenance, and promotion of First Nations, Inuit and Métis languages, through two mechanisms: a joint co-development working group to discuss issues of common concern, and bilateral working groups between Canada, AFN, ITK, and MNC to address issues that are specific to each cultural group.
- Co-develop legislation in a way that supports the full and meaningful implementation of the Truth and Reconciliation Commission (TRC) Calls to Action and the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), and the federal government's commitment to a nation-to-nation, government-to-government, or Inuit-Crown relationship.



# Background

- Co-develop legislation that recognizes First Nations, Inuit and Métis language rights and jurisdictions, and that recognizes that Indigenous languages are fundamental to Indigenous self-determination. Such legislation would, among other things, further affirm and address the right of Indigenous peoples to revitalize, use, develop and transmit their languages to future generations, including through the control of their educational systems and institutions.

Timeline for a *First Nations, Inuit, and Métis Languages Act*:

- Introduction of the Bill to Parliament in the Fall of 2018.
- Passage of the Bill before next federal general election in November, 2019.



# Background

- As a result of the AFN Indigenous Languages Initiative (ILI) Engagement Sessions in 2017, a report was produced summarizing the outcomes of the discussions. The underlying message was that legislation must support the rebuilding of all First Nations, Inuit, and Métis languages, from recovery, reclamation, revitalization, and maintenance, back to normalization.
- Resolution 77/2017, *Support for Co-development Work on Indigenous Languages Act*, was passed at the AFN Special Chiefs Assembly (SCA) in December 2017.
- The Resolution endorsed the ILI Engagement Report and the set of principles developed in connection to the contents of the report.



# AFN Principles Endorsed by SCA

1. Recognition of the importance of Indigenous language to land, culture, traditional knowledge, worldview, participation in the economy, and domestic and global relations.
2. Acknowledgement of the need and importance of redress of harm by colonization, destructive policies and laws.
3. Affirmation of commitment to Truth and Reconciliation Commission Calls to Action, UN Declaration of Rights of Indigenous Peoples, and other key human rights instruments and principles.
4. Affirmation of the various approaches to languages recovery, revitalization and maintenance, and the critical role of education/lifelong learning in the opportunities for language learning.
5. Articulation of objectives for the protection and support of Indigenous languages and related rights, including intellectual property rights, cultural appropriation, etc.



# AFN Principles Endorsed by SCA

6. Affirmation of First Nations jurisdiction over First Nations languages.
7. Articulation of enforceable individual and collective rights.
8. Articulation of specific federal obligations, duties and authorities to protect and support Indigenous languages including funding.
9. Acknowledge of the need for proficient First Nations controlled systems and capacities for the archiving of, and for the provision of access to, language data.
10. Authorities to establish suitable institutions to advance First Nations languages objectives and rights, that such institutions will not displace existing First Nations institutions.
11. Establishing annual reporting and a five year review requirements.



## Co-development Working Group Process

Work collaboratively, transparently and on a distinctions-basis to co-develop national First Nations, Inuit and Métis languages legislation whose content will reflect the distinct geographic, political, legislative and cultural contexts impacting language revitalization, recovery, preservation, protection, maintenance, and promotion .

The co-development process will include the following activities:

- Preparing and developing content for documents for the development and introduction of the First Nations, Inuit, and Métis languages legislation.
- Preparing draft legislative content for inclusion in languages legislation.
- Providing advice on policy, program, and services issues related to First Nations, Inuit, and Métis languages which would be addressed through legislation.
- Providing advice on funding requirements related to First Nations, Inuit, and Métis languages.





# Co-development Working Group Consensus

## KEY PRINCIPLES

1. The intent is to develop legislation that includes common and overarching legislative content as well as three distinct First Nations, Inuit and Métis sections to meet the distinct legislative and policy needs of each language group within diverse geographic, political, and cultural contexts.
2. A 'pan-Aboriginal' approach was not seen as appropriate given the significant differences in the state and readiness of languages depending on: distinction; geographic area; measures already in place (such as territorial Official Languages Acts); and the existence of Language Commissioners and Commissions. It is the intent that the legislation would need to support or be consistent with these measures that are already in place in some jurisdictions.
3. The intent of the legislation is to address Indigenous languages as core to Indigenous peoples identities, their spiritual beliefs, their relationships to lands, their worldviews and their cultures. The Act should acknowledge and advance these fundamental tenets.



## Co-development Working Group Consensus

4. The intent of the legislation is to acknowledge the harms against Indigenous languages and cultures through government laws, policies and actions. Cultural continuity, healing, reconciliation, and federal government support should be among the objectives of the legislation and implementation measures.
5. The intent of the legislation is to acknowledge the significance of Indigenous peoples as the first peoples with first languages, and that those languages evolve over time.
6. The intent of the legislation is to acknowledge that Indigenous language rights are inherent Aboriginal and Treaty rights, including Indigenous peoples' jurisdiction regarding their languages, pursuant to s. 35 of the Constitution Act, 1982 and decisions of the Supreme Court of Canada.
7. The intent of the legislation is to be a framework that can evolve and be amended to strengthen and address weaknesses, with a periodic parliamentary review, every five years.



## Co-development Working Group Consensus

8. The intent of the legislation is to articulate a framework for implementation of Indigenous people's rights regarding their language, and to accommodate the ability of Indigenous peoples to establish and maintain proficient Indigenous-controlled systems, as well as the archiving of and access to language data.
9. Lifelong learning and the education system for Indigenous peoples, no matter where they may reside, should be acknowledged as a critical tool for Indigenous peoples to restore fluency among Indigenous peoples of all ages.
10. Each situation will be different in terms of what is required on the ground regarding methodologies for the most appropriate means to promote, preserve and revitalize languages. Consequently, policies and funding approaches will need to support various approaches and adequate regional institutional infrastructure will be required to support local efforts as well as at the national level. Such a mechanism could potentially include a national institution as well as regional institutions. In some cases, this will mean enhancement of existing institutions while in others it may mean the creation of Indigenous mandated, and led, institutions over time.



## Co-development Working Group Consensus

11. A single entity may not meet the needs given the diversity of peoples, languages, geographic and jurisdictional considerations as well as the fact that in some jurisdictions legislation, commissioners and other oversight entities already exist. The role of the entity(s) would be contingent upon the rights affirmed by legislation.
12. Funding associated with the implementation of the legislation must be adequate, predictable, sustainable, long-term, and reach the appropriate recipients. Further, funding to recipients for on-going support purposes must be on a core basis (not annual project-based) and funding mechanisms should facilitate that intent.



# Ongoing work

## Elements of the Proposed Legislation:

- Transforming and defining the Principles into potential legislative content through Canada's Intensive Engagement process and the Co-development Working Group Table.

## Co-development sub-working groups:

- Institutions.
- Costing.
- Education (Lifelong Learning).
- Communications.



## Next Steps: Co-development Working Group

The next step in the co-development process for First Nations, Inuit, and Métis languages legislation:

- Intensive engagement sessions, organized and led by the Department of Canadian Heritage, with First Nations, Inuit and Métis Peoples.
- Pre-Engagement Preparatory Sessions.
- “Creating First Nations, Inuit, and Métis Languages Legislation: 2018 Discussion Guide”.



## About the Intensive Engagement Sessions

- In-person engagement sessions with breakout groups.
- Indirect engagement through online questions, written comments/submissions, electronic comments/submissions.
- The inclusion of First Nations rights holders that have signed modern treaties, comprehensive land claims and/or self-government agreements.



## Department of Canadian Heritage Discussion Guide: Elements of Legislation

1. In the early engagement, we heard that a ‘pan-Indigenous’ approach was not seen as appropriate given the significant differences in First Nations, Inuit, and Métis language status and the corresponding divergence in approaches and priorities. Consequently, the structure of the legislation could include common elements that would affect First Nations, Inuit and Métis in the same way as well as distinct First Nations, Inuit, and Métis languages sections designed to address the distinct legislative needs and priorities of each language group.

Other considerations may include:

- discussing whether the terms “preservation”, “promotion” and “revitalization” should be further defined to ensure common understandings; and
- whether the distinct parts of the legislation should be flexible enough to support provincial, territorial, regional, community-based legislative, policy and program regimes that are intended to increase Indigenous language vitality.





## Department of Canadian Heritage Discussion Guide: Elements of Legislation

2. The legislation should be consistent with and support the *Truth and Reconciliation Commission's Calls to Action* as well as the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*. As such, the legislation should recognize Indigenous languages as a right and acknowledge:

- Indigenous languages as core to Indigenous peoples' identities, spiritual beliefs, relationships to lands, worldviews and culture,
- that Indigenous languages are fundamental to self-determination,
- the importance of Indigenous languages relative to healing and reconciliation,
- harms against Indigenous languages and cultures through government laws, policies and actions, and
- the significance of Indigenous peoples as the first peoples with first languages and that those languages have and will to continue to evolve over time.

Provisions that reflect the recognition of Indigenous linguistic rights as those rights held by Indigenous peoples associated with development, use and transmission of their languages could be considered.



## Department of Canadian Heritage Discussion Guide: Elements of Legislation

### 2. (con't) Other considerations may include:

- means to align federal legislation with provincial and territorial legislation relating to Indigenous language rights, such as laws declaring Indigenous languages as official languages in certain provinces or territories, while respecting provincial and territorial jurisdiction,
- whether provincial and territorial programs and policies (including education) that promote the provision of services in Indigenous languages could be reflected and supported in the legislation, including being applied more broadly within other jurisdictions,
- recognition that modern Treaty, land claim and self-government agreements describe unique rights and, in some cases, law-making jurisdiction in the areas of language and culture and that any legislation would have to be compatible with, and respectful, of those agreements, and
- a whole-of-government (federal) approach to language preservation, promotion and revitalization which includes early childhood education, immersion education for all groups and other approaches working hand in hand for all age groups and languages in various stages of vitality, and in consideration of other entities that may have jurisdiction and authority in these areas.



## Department of Canadian Heritage Discussion Guide: Elements of Legislation

3. The Act should provide a legal framework that can evolve and be amended to strengthen and address weaknesses and include provisions to initiate periodic reviews.

This could take the form of appropriate provisions such as those related to specific periodic reviews, monitoring and reporting reflective of the desire to ensure that the legislation may be kept up to date with the evolving work of preserving, promoting and revitalizing Indigenous languages.

Other considerations may include:

- thinking about how and when reviews should be conducted, including who would be responsible for carrying out reviews and who would receive any reports and associated recommendations,
- ensuring full and meaningful involvement of Indigenous peoples would have to be discussed, and
- the scope and purpose of any review e.g., a focus on the implementation of the legislation, including the effectiveness and efficiency of the act as well as any associated regulations, policies, programs and/or other matters.



## Department of Canadian Heritage Discussion Guide: Elements of Legislation

4. The intent of the legislation should be to articulate specific language rights and provide the appropriate means and remedies for implementing them. Other institutional supports may be needed for a variety of functions at local, regional and national levels.

Would a single entity meet the needs given the diversity of peoples, languages, geographic and jurisdictional considerations as well as the fact that in some jurisdictions legislation, commissioners and other oversight entities already exist?



## Department of Canadian Heritage Discussion Guide: Elements of Legislation

4. (con't) Multifaceted approaches for all age groups including, but not limited to, the education system, regardless of their place of residence (lifelong learning) are essential for Indigenous peoples to restore fluency among Indigenous peoples of all ages. Each situation will be different in terms of what is required on the ground regarding methodologies for the most appropriate means to preserve, promote and revitalize languages. With this in mind, the legislation should have the flexibility to support a variety of approaches.

Other considerations may include:

- the challenge in achieving an ideal balance between appropriate oversight and maximizing funding to communities to address their priority interests,
- recognizing and leveraging the knowledge and capacity of existing organizations and mechanisms, and
- the role and function of any new entity or entities created for the purposes of support or oversight.



## Department of Canadian Heritage Discussion Guide: Elements of Legislation

5. The Act should facilitate the creation of adequate, predictable, sustainable and long-term support.

Provisions could create mechanisms and policies that can be linked to adequate, predictable and sustained support to preserve, promote and revitalize Indigenous languages consistent with new fiscal relation approaches and that may be achieved through regulations and/or policies.

Other considerations may include:

- since “adequate, predictable, sustainable” funding will mean different things to different people, the engagement should include a discussion on methodologies for achieving this in a way that is perceived as both appropriate and equitable,
- other mechanisms such as regulations and policies that would support this objective,
- the potential for transitional measures, and
- how to involve modern treaty, land claim and self-government signatories in this discussion.



## Commentary on the Discussion Guide: Questions

- 1. What should the practical implications of legislatively recognizing Indigenous languages as a right be (what does recognizing Indigenous languages as a right mean to you and how would it support you in your day to day life)?**
  - The recognition of collective rights that are indispensable for their existence, well-being, and integral development as peoples. In that regard, the legislation needs to recognize First Nation jurisdiction for language law-making.
  - The right for indigenous peoples to understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.
  - The right to be served in one's language in government service institutions.
  - 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
  - The right to maintain, express, and freely develop their cultural identity in all respects including their languages.



# ASSEMBLY OF FIRST NATIONS

## *Indigenous Languages Initiative*

Considerations for the recognition of First Nations language rights  
(as inspired by the UN Declaration):

- The right not to be subjected to forced assimilation or destruction of their languages.
- The right to manifest, practice, develop and teach their spiritual and religious traditions in their own languages.
- 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.
- The right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
- The right to learn one's Indigenous language regardless of age and residence.
- The protection of traditional knowledge as it may be applicable to languages.





## Commentary on the Discussion Guide: Questions

Questions related to the creation of (an) Indigenous language institution(s):

- 2. Would the creation or enhancement of Indigenous local or regional institutions be helpful and how?**
- 3. How could a national Indigenous languages institution (managed by Indigenous people) be helpful in supporting the implementation of specific rights and what role should it play, particularly in supporting local and regional entities? Is a national institution needed?**
- 4. What role would you see being important for an Indigenous Languages Commissioner(s)?**



Considerations for the creation of a *First Nations, Inuit, and Métis Languages Act*:

- Distinguishing between the functions, roles and services for “national” and “regional entities”.
- Potential role for a national entity: National oversight, complaints investigation and troubleshooting, awareness and goodwill.
  - Language Commission or Commissioner(s): Language Commissioners around the world and within Canada generally work to promote, preserve, and implement language rights. They serve to protect language rights through monitoring and investigating government compliance.
- Potential role of regional entities: relationships with federal government departments and agencies; provincial and territorial ministries; post-secondary institutions; First Nations cultural centers and languages organizations and associations; capacity building, guidance and support for local initiatives; standards and professional accreditation; advisory services.
- Existing organizations engaged in language revitalization work must not be hindered in continuing their work due to the creation of a governing body.



## Commentary on the Discussion Guide: Questions

### 5. How do you think we can better preserve, promote and revitalize Indigenous languages?

Considerations in relation to the multifaceted nature of language legislation:

- Jurisdictional rights:
  - First Nations government rights to make language laws for their own First Nations.
  - The right to establish and control educational systems and institutions providing education in First Nations languages, in a manner appropriate to their cultural methods of teaching and learning.
  - Intergovernmental agreements with the federal government, provinces/territories.
- Reconciliation:
  - Tangible reconciliation efforts due to the harms done through the Residential School system as related to language need to be addressed.
  - Addressing - on a government-wide basis - issues that impact housing, employment, education, child welfare, and health.
- Lifelong learning and education overlap:
  - Ensuring continuous access to language instruction regardless of age and place of residence (on- and off-reserve).
  - Support First Nations-controlled language teacher training, learning materials, capacity building, infrastructure, and curriculum development.
  - The role of technology-based language learning practices.



## Commentary on the Discussion Guide: Questions

### **6. What are your views on an approach to funding? How can Indigenous communities best access funding?**

Considerations related to costing and funding:

- How should funding be rolled out (policy and implementation)?
- What does adequate, predictable and sustainable funding look like?

Some options advanced at previous engagement sessions:

- All languages are in need, and the multi-faceted approach will have to inform funding targets and investments.
- Distribute funding to entities which will or already have undertaken language planning.
- Distribute funding directly to First Nations governments through fiscal transfers.



## Next Steps

- Identifying and developing key messages for the Intensive Engagement Session.