

# First Nations' Language Rights in Education

Chiefs of Ontario

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# Language Rights in Education in Canada

## Indigenous Languages Act

**5** The **purposes** of this Act are to

- (a)** support and promote the use of Indigenous languages, including Indigenous sign languages;
- (b)** support the efforts of Indigenous peoples to reclaim, revitalize, maintain and strengthen Indigenous languages

**6** The Government of Canada recognizes that **the rights** of Indigenous peoples **recognized and affirmed by section 35** of the *Constitution Act, 1982* **include rights related to Indigenous languages**

**8** The **Minister (Heritage)** may cooperate with provincial or territorial governments, Indigenous governments or other Indigenous governing bodies, Indigenous organizations or other entities — including **by entering into agreements** or arrangements ...

## Charter of Rights and Freedoms

**23.(1) Citizens** whose language is that of the English or French minority population of the province where they reside or, (b) who have received primary school instruction in Canada in English or French and now reside in a province where that language is a minority language,

***“have the right to have their children receive primary and secondary instruction in that language in that province”***

**3 (a)** applies wherever in the province **the number** of children of citizens who have such a right is **sufficient to warrant** the provision to them ***out of public funds*** of minority language instruction

# Language Rights to Education

## Two Laws

### Section 23 Charter of Rights and Freedoms

- Where the numbers warrant (community choice)
- Parental Rights to have children educated in French or English
- Government Duty to Fund \*

### Indigenous Languages Act – Section 35 (1) Constitution Act, 1982

#### “Aboriginal and Treaty Rights”

- No Right to be Educated in First Nations Languages
- No right to funding for language education\* (Indigenous Languages Component)
- Minister of Heritage *may* enter into agreements (Language Education)

# Resources for Languages

## Aboriginal Languages

- 11.1 million over 2 years
- Application to Heritage Canada – Indigenous Languages Component for program dollars
- Community Based Activities
- Up to 2 years should not exceed 300,000

## French & English

2.7 billion over five years

- Community Organizations (Increase Core Funding and Support New Initiatives)
- Media
- Funding For English speakers in Quebec
- Early Childhood
- Cultural Activities in School and Arts
- Government Services
- Support recruitment of Teachers
- Post Secondary Minority Language Education

**Émile Gallant, President, French Language School Board, Prince Edward Island, Investing in Our Future, 2018–2023, Action Plan for Official Languages**

Education [...] is the cornerstone of our community's development. Without French schools, there is zero chance that our community would survive.

We have six schools attached to community centres and early childhood centres. As a result, we have excellent partners and the community has great potential for development.”



# Canadian Constitutional Law

## Language Rights

# Language Rights in Canada

Beaulac (SCC 1999)

- Language rights exist to protect and promote linguistic communities
- but are enjoyed and enforceable by individuals
- they also generate positive duties, owned by government.

# Language Rights in Canada

Beaulac (SCC 1999)

... can only be enjoyed **if the means** are provided.

This is consistent with the notion favoured in the area of international law that the **freedom to choose is meaningless in the absence of a duty of the State to take positive steps** to implement language guarantees



# Purpose of Section 23

## Minority Language Rights to Education

*Mahe v Alberta* (SCC 1990)

is to preserve and promote the 2 official languages of Canada and their respective cultures, by ensuring each language flourishes, as far as possible, in provinces where it is not spoken by the majority population ...

(It) aims at achieving this goal by granting minority language educational rights to minority language parents throughout Canada.

# Purpose of Section 23

## Minority Language Rights to Education

*Mahe v Alberta* (SCC 1999)

- is to address the adverse impacts of provincial efforts to **suppress French-language schools** in minority French-language communities
- history reveals that section 23 was designed to correct, on a national scale, the progressive **erosion of minority official languages.**

# Purpose of Section 23

## Minority Language Rights to Education

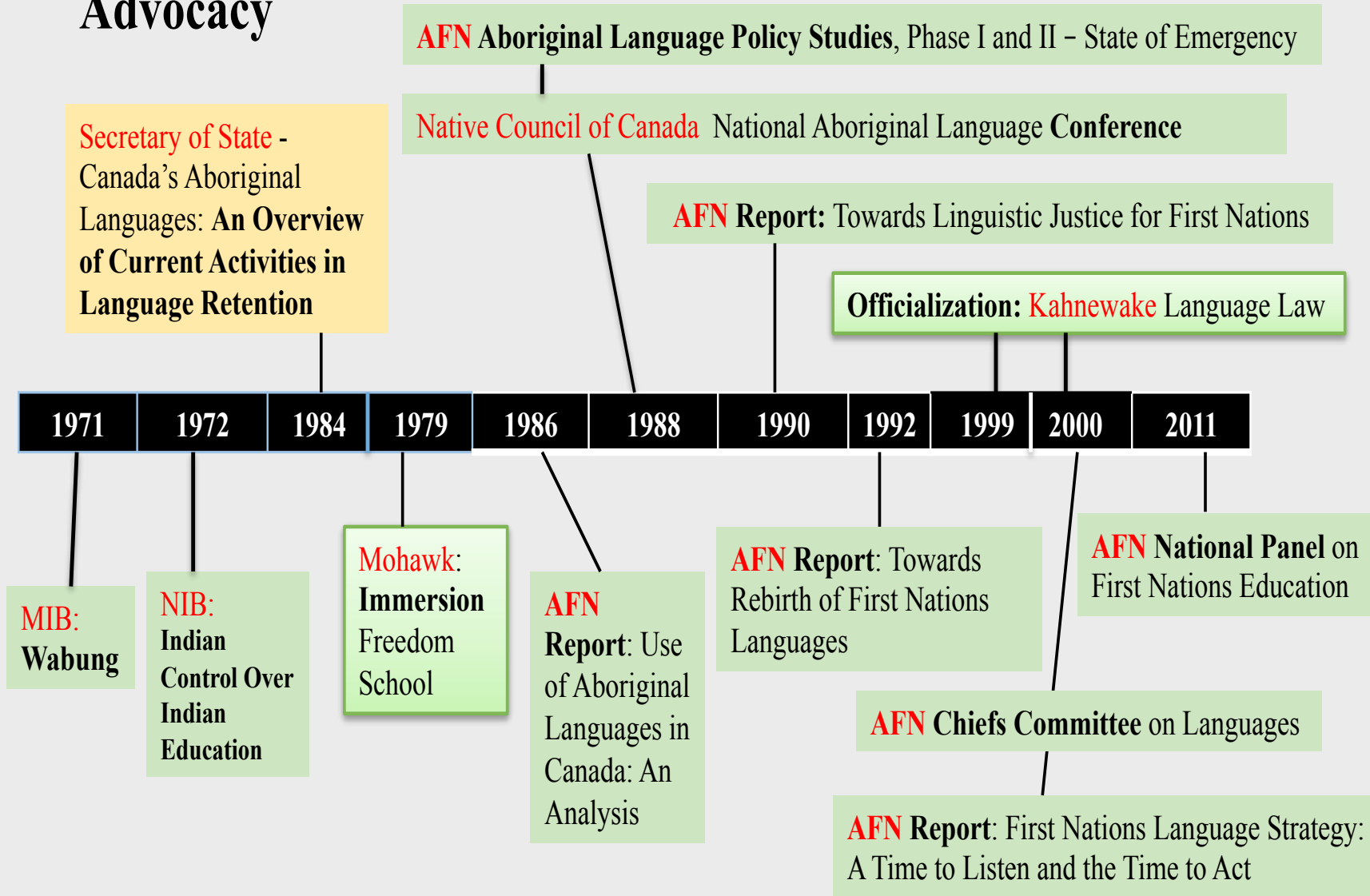
*Mahe v Alberta* (SCC 1990)

- **representation** on the school board
- **exclusive control** over the children's **education** with respect to **culture**, or
- it **can** guarantee a **separate school board**

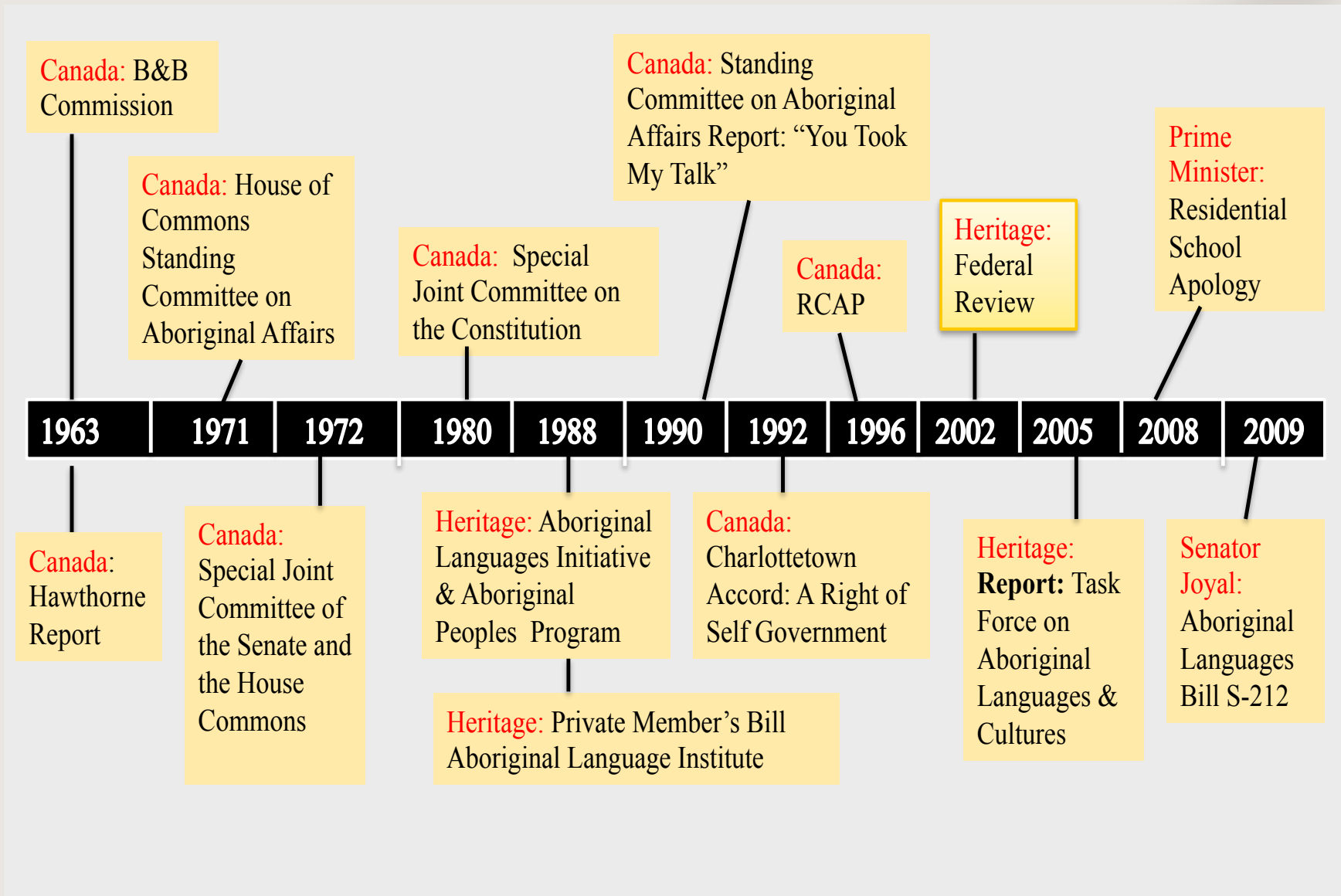


**First Nations  
Language Rights  
Advocacy**

# Advocacy



# Federal Reports: Aboriginal Languages

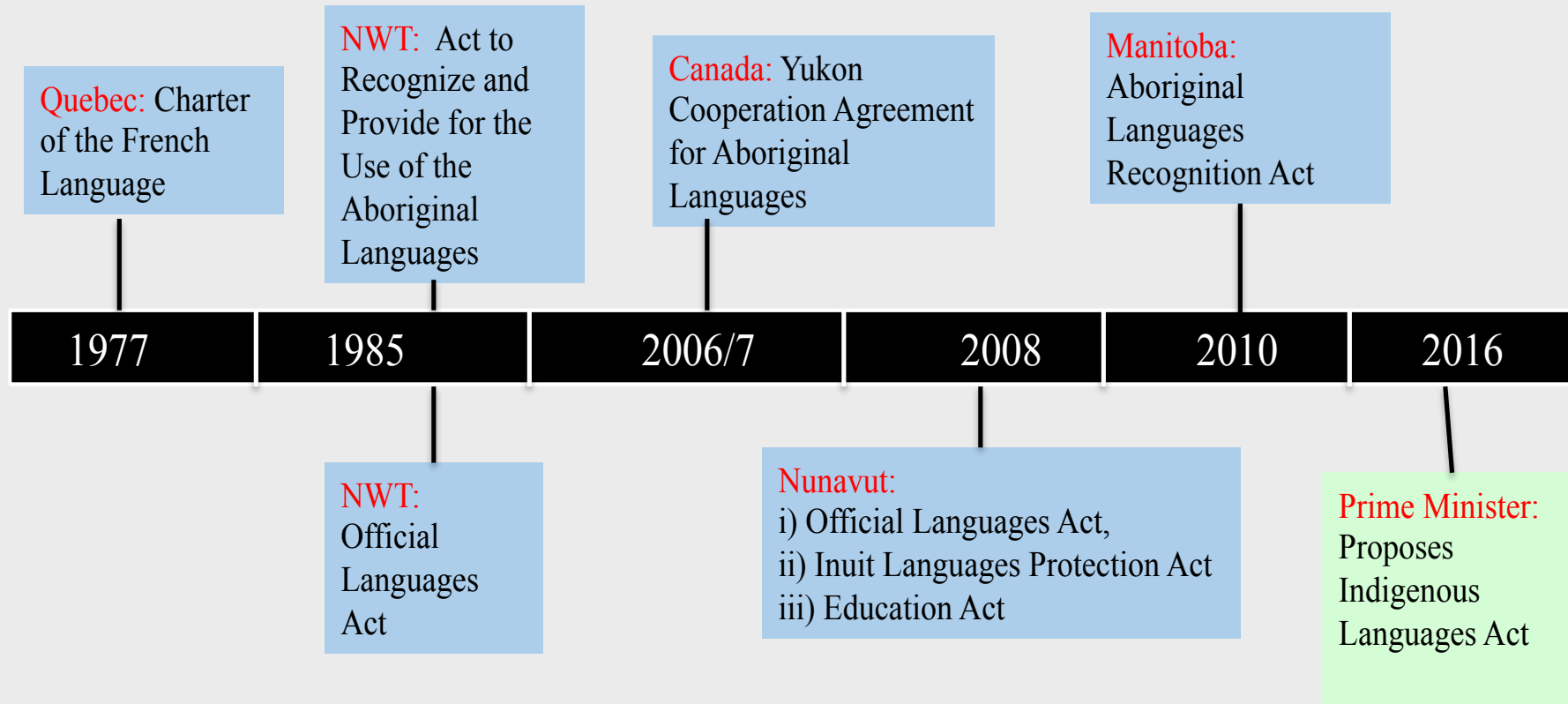


# Regional Legislation





## Aboriginal Language Rights: Regional Legislation



# **First Nations' Language Rights in Education**

# Indigenous Languages Act, 2019

## 5. Purpose:

- (a) support and **promote the use** of Indigenous languages, including Indigenous **sign languages** ...
  - (i) **assess the status** of distinct Indigenous languages,
  - (ii) **plan initiatives and activities** for restoring and maintaining fluency in Indigenous languages,
  - (iii) **create technological tools, educational materials and permanent records** of Indigenous languages, including **audio and video recordings of fluent speakers** of the languages and written materials such as dictionaries, lexicons and grammars of the languages, for the purposes of, among other things, **the maintenance and transmission of the languages,**

# Indigenous languages Act, 2019

## 5. Purpose:

- (iv) support Indigenous language learning ... including **language nest, mentor-ship** and **immersion programs** — to increase the number of new speakers of Indigenous languages,
- (v) **support entities** specialized in Indigenous languages, and
- (vi) undertake **research or studies** in respect of Indigenous languages;
- (d) establish measures to facilitate the **provision of adequate, sustainable and long-term funding** for the reclamation, revitalization, maintenance and strengthening of Indigenous languages;

# Indigenous languages Act, 2019

## S. 5 Purpose:

(e) facilitate cooperation with provincial and territorial governments, Indigenous governments and other Indigenous governing bodies, Indigenous organizations and other entities ...

(e.1) facilitate meaningful opportunities for Indigenous governments and other Indigenous governing bodies and Indigenous organizations to collaborate in policy development related to the implementation of this Act;

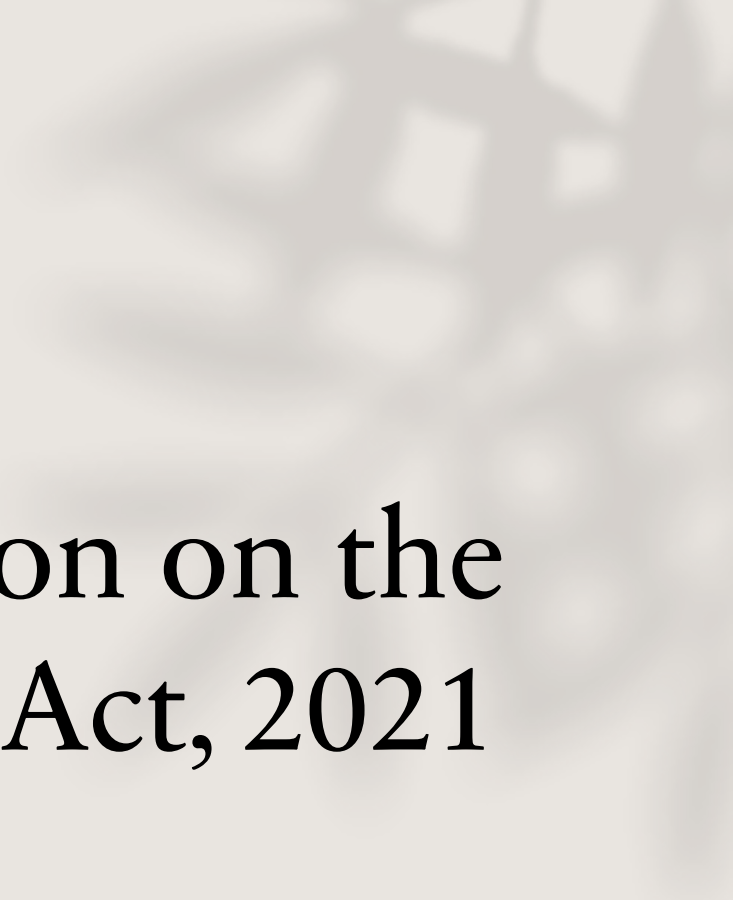
(g) contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples as it relates to Indigenous languages.



United Nations Declaration on the  
Rights of Right of Indigenous Peoples

# Article 14 *UNDRIP*

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.
2. Indigenous **individuals, particularly children**, have the right to all levels and forms of education of the State without discrimination.
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.



# The United Nations Declaration on the Rights of Indigenous Peoples Act, 2021



# The United Nations Declaration on the Right of Indigenous Peoples Act, 2021

5. The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.

6 (1) The Minister must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.

# Language Rights to Education in Canada

## Indigenous Languages Act

**5** The **purposes** of this Act are to

**(a)** support and promote the **use** of Indigenous languages, including Indigenous sign languages;

**(b)** support the efforts of Indigenous peoples to **reclaim, revitalize, maintain and strengthen** Indigenous languages

**6** The Government of Canada recognizes that **the rights** of Indigenous peoples **recognized and affirmed by section 35** of the *Constitution Act, 1982* include rights related to **Indigenous languages**

**8** The ***Minister (Heritage) may*** cooperate with provincial or territorial governments, Indigenous governments or other Indigenous governing bodies, Indigenous organizations or other entities — including ***by entering into agreements*** or arrangements with them for purposes such as providing Indigenous language programs and services in relation to education, health and the administration of justice

## UNDRIP 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.
2. Indigenous **individuals, particularly children**, have **the right to all levels and forms of education** of the State **without discrimination**.
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**.

# What the *Indigenous Languages Act* Should Say:

6 The Government of Canada recognizes that **the rights** of Indigenous peoples **recognized and affirmed by section 35** of the *Constitution Act, 1982* included rights:

- a) Parents the right to educate their children in the language in a manner appropriate to their **cultural methods** of teaching and learning
- b) through **language courses or immersion programs** made available in both **on reserve and off reserve** schools
- C) at the **expense of the federal government**

Miigwech

