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Linguistic Rights of Indigenous Peoples in Canada

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Abstract

The purpose of this paper is to provide an overall picture of the current situation of Canada's Indigenous languages by analyzing the historical and political context in which they have evolved, the history of the precariousness of the languages, and the legal instruments, solutions and measures already taken for the revitalization and protection of these languages. On the one hand, our aim is to provide a global picture of the situation in Canada by not going into too many details, for example, in case of legislations that are different in each province. On the other hand, to put some emphasis on the current situation in the province of Quebec. While working on this paper, we tried to be critical, for example, by analyzing the laws and their shortcomings. However, we also tended to remain objective, even though the subject of language policy and the defense and promotion of minority languages is close to our concern, because of the death of several languages in the world, predicted also by many thinkers.

Keywords: Language Reclamation, Indigenous People, Linguistic Heritage, Linguistic Rights

Historical Context

Today, almost every anthropologist and archaeologist shares the idea that the history of settlement in Canada is intertwined with natural phenomena such as the ice age and ice melt. Physical and linguistic scientific evidence exists to show that by about 30,000 years ago, or probably even earlier, humans were already present on the American continent and took advantage of favorable changes in environmental conditions. Historians such as Nelles and Dickason¹ believe that the first peoples of the continent came from Asia across the continental bridge, also known as the Behring Strait, which linked Alaska and Siberia, thanks to the retreat of waters trapped in ice and low ocean levels that made crossing possible on foot. Although this theory of the settlement of Canada is the most documented and widespread, there is no reason to conclude that other feasible routes, for example with boats, were not also used for the crossing. The reason for the settlement of the continent may lie in the hunter-gatherer lifestyle of the early peoples, who, according to some speculation, followed herds of mammoths, bison, and other animals for which the Strait provided ample forage.²

In this way, the first peoples of Canada, the indigenous peoples, arrived and inhabited the continent. It is important to clarify that Indigenous peoples include First Nations (status and non-status Indians), Métis (who have mixed ancestry, both Indigenous and

¹ Henry Vivian Nelles, *A Brief History of Canada* (Montreal: Fides, 2005), 18.

² Dickason Olive, *The First Nations of Canada* (St. Laurent: Les éditions du Septentrion, 1996), 23–25.

European), and Inuit (in common parlance, also known as Eskimos, peoples of North America).³ The societies of these early peoples were characterized by displacement and continuous adaptation to a changing environment and depended primarily on agricultural activity, fishing, and hunting. These societies were exemplary for several reasons: on the one hand, the first peoples had a close relationship with the land and lived in harmony with it, thanks to which peoples had a vast knowledge of natural resources and the ways of using them (food, medicine, tools for survival, etc.). Furthermore, they considered it their responsibility to preserve the land so that it could produce enough for their community to feed, and for this reason they also had a deep respect towards their own gods such as the gods of rain. Likewise, in their view, they all came from the land, and it gave them their identity,⁴ an essential part of which was language and community membership. On the other hand, their relationship with each other, the balance and harmony between individuals, and lack of conflict in Native communities was also surprising and admirable to early Europeans.⁵

Throughout the 15th-16th centuries, the number of European explorations took a leap forward, the reason being the hope of European states to seek out lands to claim in the name of Christianity and to find a direct route to the East, which attracted them with its exotic goods, especially spices and silk. Thus, following the Spanish and Portuguese explorers, other countries, including Italy, France and England, also joined the expeditions. First, in 1497, an Italian immigrant to England, Giovanni Caboto, set foot on Newfoundland and claimed it in the name of England, while the first Frenchman to arrive to Canada was Jacques Cartier, who erected a cross in the name of the king of France (manifestation of the notion of contact).⁶

This was the first attempt by the French people to claim territories on the continent. Cartier made three trips to Canada, the first in 1534, when while discovering the Gulf of St. Lawrence, he met a group of people from Stadacona (current Quebec City), and returned to France with the two sons of Donnacona (the local chief). His goal was to have them learn the French language and train them as interpreters to help him in the fur trade, but on his second voyage (1535–1536) he realized that they remained loyal to their people, so he kidnapped them together with Donnacona himself to France and he never allowed

³ Jacinthe Dion, Hains Jennifer, Ross Amélie, and Delphine Collin-Vézina, “Residential Schools: Inter-generational Impacts,” *Enfances Familles Générations*, vol. 25 (2016): 2.

⁴ Task Force on Aboriginal Languages and Cultures (TFALC), *The Beginning of a New Time: First Report Towards a Strategy for Revitalizing First Nations, Inuit and Métis Languages and Cultures* (Gatineau: Canadian Heritage, 2005), 24.

⁵ Dickanson, *The First Nations*, 45.

⁶ Nelles, *A Brief History of Canada*, 39.

them to return to their homeland. Once Cartier arrived back in Canada, his appropriation of indigenous territories, insistence on the importance of the Christian religion and the cross, not to mention the kidnapping of people, unsurprisingly alienated the indigenous people (a manifestation of the notion of conflict).⁷ Eventually, after constant conflict, harassment and slaughter of settlers, Cartier gave up the attempt to colonize the territory.

This was just the beginning of the wave of European explorations in Canada. During the 16th century, the period of religious wars, the French and the English had to concentrate their military troops on other territories, which explains why it took until the year 1600 for the French to decide to try again to establish a colony. Therefore, a new impetus was given by the fishing and fur trade with the Amerindians (manifestation of the concept of relationship). After being granted a royal monopoly by the King of France in 1608, Samuel de Champlain, a cartographer and sailor, established a permanent “habitation” at Quebec City that served as a fortified trading post.⁸ However, France’s dominance did not last long, and its position was soon undermined, as in the meantime the Dutch also established a trading post in 1614 (plus an alliance with the Iroquois), as did the English with the founding of the Hudson’s Bay Company in 1670 and the founding of Halifax in Nova Scotia.

The mutual influence of languages

Indigenous languages in Canada and in Quebec particularly are part of 3 large language families which themselves are divided into several branches and sub-branches creating region-specific dialects: Eskimo/Aleut family (in the North American Arctic, e.g., Inuktitun or Inuktitut), Iroquoian family (in central and eastern North America, e.g., Huron or Mohawk), and Algonquian family (in northern America, e.g., Micmac or Cree).⁹ Although it can be assumed that the first peoples all came to Canada from the same continent, the languages they spoke evolved in different ways due to various influences and continuous displacement. However, they do have certain linguistic characteristics in common, such as their polysynthetic nature which makes them enormously efficient in the number of words used. Therefore, as Drapeau points out, while Indo-European languages require a sentence to convey a message, indigenous languages (e.g., Inuktitut) can achieve this from a single verb base. This is because these languages have the

⁷ Nelles, *A Brief History of Canada*, 39–44.

⁸ Dickason, *The First Nations of Canada*, 90–94.

⁹ Dorais, Louis-Jacques, “Les langues autochtones d’hier à aujourd’hui,” In *Les langues autochtones du Québec*, ed. Jacques Maurais (Quebec: Les Publications du Québec, 1992), 67–72.

markings that verbs can carry to express both person and number, which allows a lot of grammatical information (subject, verb, object) to be put together in one word.¹⁰ In addition, almost all indigenous languages are also languages of oral tradition, which explains why even today there are very few written resources (such as grammars, dictionaries, recordings, etc.) thereby preventing the intergenerational transmission of languages and ancestral knowledge.

In this context, it is easy to understand the uniqueness of these languages that have paid a high price for encountering European languages. According to Vézina, “the traces of the influence of one language on another always inform us about the relationship between the communities involved.”¹¹ This statement is relevant to the Canadian history, even though at the beginning, the negative linguistic influence on indigenous languages was not so palpable since there was a certain curiosity on the part of both peoples to learn more about each other’s cultures and languages. In retrospect, it’s obvious that there was a political interest behind this curiosity, especially the colonization of the territory and the evangelization of early peoples, which also pushed missionaries to practice translation and to know better the native languages. Nevertheless, these languages, the internal dynamics and mutual contacts of which had until then been the only factors of change, gradually became oppressed and marginalized and consequently, the ethnolinguistic situation of Canada was completely disrupted.¹²

The linguistic influence between the 17th and 19th centuries is documented in written sources that testify to borrowings from Amerindian culture, also called *amérindianisms* by Vézina, which gradually entered the French language even if their number was not very high. Some of these words were related to indigenous culture (kayak, moccasin, totem, igloo), fauna (names of fish, land animals and birds such as cacaoui “duck of the arctic regions”) and flora (names of fruits and plants) and were certainly adopted because of the close relationship of the indigenous people with nature as well as the adaptation of Europeans to a sometimes-extreme environment. These traces of language influence also show that indigenous people were willing to help European settlers to tame the environment and survive (building canoes and making snowshoes) by transmitting their knowledge of nature.¹³ However, if this is indeed the case, it can be seen that the impact of these encounters goes beyond the linguistic domain to manifest itself at the societal

¹⁰ Drapeau Lynn, *Les langues autochtones du Québec: un patrimoine en danger* (Québec: Presses de l’Université du Québec, 2011), 8.

¹¹ Vézina Robert, “Amerindiens and Franco-Canadiens: Une rencontre inscrite dans la langue,” *Cap-aux-Diamants*, no. 96 (2009): 21.

¹² Dorais, “Les langues autochtones,” 64–67.

¹³ Vézina “Amerindiens,” 21–24.

level. On the other hand, it can also be noted that Indo-European languages have had an influence, although not a very positive one, on native languages as well, especially on the syntactic level. For example, as Mackenzie and Brittain point out,¹⁴ it can be observed that there is a shift in Indigenous languages towards a more English or French sentence structure as in the example “âhkushtikuanâu” (he/she has a headache) which some young people render as two words “âhkushû ushtikuân” instead of integrating the noun with the verb. This is only one example that shows the devastating effect of the Indigenous-European encounter.

From the 19th century on, the adoption of the assimilation policy changed everything at a linguistic and social level. In fact, linguistic and cultural diversity was no longer viewed favorably by the European powers, whose goal was to integrate the Indigenous people into the dominant culture, which undoubtedly also had a negative effect on indigenous languages. The gradual *minorisation* of languages was because speaking an indigenous language was seen as an obstacle to the advance of European civilisation and Christianity. This policy, which separated families from each other and prevented the transmission of knowledge, led to the disappearance of languages, and caused trauma for millions of people.

The “language dynamic”, victim of the assimilation policy

Today, there are approximately 61 Indigenous languages spoken in Canada that, from the period of colonization, have been weakened to varying degrees and are threatened with extinction.¹⁵ Their vitality, power, and attraction, that is, their dynamics, have changed considerably over time because the balance of power has influenced both the code and the behavior of these languages. The imposition of French and later English, as well as the prohibition of the use of Native languages, significantly changed the conceptual system of representation adapted by the Native culture and the use of language in social and individual life.¹⁶ Until the arrival of the first Europeans, the dynamics of Native languages

¹⁴ Mackenzie Marguerite, and Julie Brittain, *Translation as a way to save Indigenous languages* (Circuit, no. 139, 2019). <https://www.circuitmagazine.org/dossiers-139/translation-as-a-way-to-save-indigenous-languages>, accessed July 29, 2022.

¹⁵ Task Force on Aboriginal Languages and Cultures (TFALC), *Towards a new beginning: a foundational report for a strategy to revitalize First Nation, Inuit and Métis languages and cultures* (Gatineau: Canadian Heritage, 2005), 33.

¹⁶ Mackey William Francis, *Prolégomènes à l'analyse de la dynamique des langues* (DiversCité Langues, 2000). <https://www.teluq.quebec.ca/diverscite/SecArtic/Arts/2000/mackey/ftxt.htm>, accessed September 8, 2021.

depended primarily on contact between indigenous communities and the use and transmission of languages that held social and spiritual values for Native Americans.

Even today, language plays a central role in the lives of the indigenous people and is considered “the cornerstone of indigenous philosophy,” which besides serving as a means of communication, also reflects the relationship of peoples to their Creator, their attitude towards others, their beliefs, and values. Its importance is well manifested in the fact that it has the power to form and hold together the community that is bound by the same culture, the same ethnic origin, and the collective desire to preserve its distinctive character and political autonomy. It should not be forgotten either that the language testifies the relation of the people with the earth, their inseparable connection with nature where the spiritual ceremonies take place, and it is also the means to perpetuate the past in the present. In this way, it tells us that the passage of time does not have to mark the end of an event, because according to the conception of Indigenous peoples, the past always surrounds us through language and oral narratives that contribute to the transmission and vivification of history and ancestral knowledge.¹⁷

In this context, it is easy to understand why the cultural and linguistic upheaval brought about by European dominance and the adoption of the policy of assimilation had irreversible consequences for the Indigenous people and their languages from the 16th century onwards, including the weakening and loss of some Indigenous languages and cultures. The death of languages such as Abenaki or Huron, and the likelihood of the disappearance of other languages in the near future such as Mohawk or Mandan highlight the magnitude of the current linguistic situation.¹⁸ The reasons for this linguistic instability are varied, but most lie in the historical context of Canada: encounters, population movement, epidemics, wars, and the desire of Europeans to conquer and control have all greatly reduced the native population and weakened the languages spoken, to which the policy of assimilation has also contributed.

¹⁷ TFALC, *Towards a new beginning*, 20–30.

¹⁸ Maurais Jacques, *Les langues autochtones du Québec* (Québec: Les Publications du Québec, 1992), 13–14.

The impact of assimilation policy practices

The effects of the assimilation policy in Canada are numerous and often influence the life of the entire family or the Indigenous community, although there are among them people who have not personally experienced the tragedy of these systems. This is because of the unimaginable hardships that people who were taken from their families at a young age have undergone: they are unable to overcome the trauma experienced in the residential schools or in the protection system and they start a family while being unable to meet the emotional needs of their own children. This is known as “the intergenerational cycle of childhood victimization.”¹⁹

Some of the most common symptoms of this trauma include mental, i.e., psychological problems, such as post-traumatic stress disorder, substance abuse disorders, major depression, or dysthymic disorder (affective disorder), but residential school attendance “is also associated with a higher likelihood of chronic health problems or poor general health” that can lead to premature death.²⁰ It should not be forgotten either that there were people who being unable to cope with the mental pressure committed suicide either in the residential schools or after their time there.

However, there are still other impacts, the rather physical impacts due to excessive corporal punishment, physical violence, and sexual abuse. The Truth and Reconciliation Commission of Canada points out that families and individuals who attended residential schools are becoming “increasingly dysfunctional, which results in unemployment, poverty, family violence, drug and alcohol abuse, family breakdown, sexual violence, prostitution, etc.: the legacy of residential schools.”²¹ For these reasons, the physical violence and humiliation experienced in the residential schools influenced the relationship of these individuals with each other (resulting in relationships without affection) and, in one way or another, provided a poor role model for the exresidents.

Nevertheless, the passage through the residential school and child welfare systems has also had a serious impact on the identity of Indigenous peoples. The systems have been successful in achieving their goal, which is also palpable in the statement of John Tootoosis, one of the former residents of Delmas School in Saskatchewan: “When an Indian came out of one of these institutions, it was like putting him between two walls of a room and leaving him hanging in the middle. On the one side, the things he had learned

¹⁹ Jacinthe, Hains, Ross, and Collin-Vézina, “Residential Schools: Intergenerational Impacts,” 5.

²⁰ Jacinthe, Hains, Ross, and Collin-Vézina, “Residential Schools: Intergenerational Impacts,” 5.

²¹ Truth and Reconciliation Commission of Canada (TRCC), *They Came for the Children: Canada, Aboriginal Peoples and Residential Schools* (2012), 77–78. <http://publications.gc.ca/site/fra/9.639663/publication.html>, accessed August 12, 2022.

from his original community and their way of life were being erased; and on the other side, the ways of doing and being of the White People, he would never be able to understand for lack of proper instruction, and he would not be able to make them his own.”²²

This quote shows us that the systems left disorder and doubts behind about the identity of individuals who had no idea to which world they belonged. Upon returning to their communities, the ex-residents were unable to speak their native language and for this reason they found themselves isolated even from their own families. They were unable to speak their language because Indigenous languages were suppressed in the residential schools and because the children taken from their families were not adopted by Indigenous families on purpose. Based on this fact, the systems have been successful in devaluing and repressing Indigenous cultures and languages while instilling shame in students about their origins and undermining their self-esteem. Some residential school survivors even refused to teach their children their native language and culture because of the contempt and prejudice they saw being associated with their origins, which undoubtedly contributed to the current state of Indigenous languages.²³

Considering this, one can reinforce the idea that language is an essential part of Indigenous identity and the preservation of it ensures the survival of Indigenous people not only as individuals, but also as members of a community.²⁴ Thus, the prohibition of speaking their own language made it difficult for the community to survive, which some would argue counts as “cultural genocide.” The practice of assimilation policy and its impact on Indigenous peoples have long been recognized, but we are just beginning to recognize their basic rights with which they could more effectively fight against the disappearance of their language.

Obstacles to legal guarantees of indigenous peoples’ linguistic rights

For the first Europeans, the policy of assimilation aimed at creating a common language and eliminating linguistic diversity served to ensure freedom, national unity, and equality of citizens. The prevailing idea behind the policy was to foster democracy by introducing a common language and assimilating linguistic minorities into the dominant population. Bastarache points out that this theory is much contested, for example, by linguistic mi-

²² TRCC, *They Came for the Children*, 78 (Translated from French by Saber Qechai).

²³ TRCC, *They Came for the Children*, 160.

²⁴ Truth and Reconciliation Commission of Canada (TRCC), *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Montreal: McGill-Queen’s University Press, 2015), 158.

norities who consider their language a value and an essential part of their identity. In addition, he also raises the thorny question of whether all these measures were done to foster democracy and “whether it is really necessary to sacrifice the linguistic and cultural heritage of humanity in the name of a false conception of freedom, equality and democracy.”²⁵

In an ideal society, one should not necessarily choose between one’s mother tongue and democracy; both should coexist, and linguistic rights should be the pillar of a democratic society. To take an example that illustrates the coexistence of these two values, we can mention the European Union (EU), which has a legal personality and is renowned for its democratic role. In the EU, 24 languages are recognized as official languages (even small ones like Irish, Hungarian, or Slovak) and thus have a legal status. In addition, the European Union also declares multilingualism among its founding principles and takes positive measures towards linguistic minorities.²⁶ However, in order to guarantee these rights to citizens, their principles had to be set in treaties and charters such as one of the overarching documents of the Union: the Charter of Fundamental Rights of the European Union.²⁷ So, following the example of the EU, if we would like to ensure the survival of Indigenous languages in Canada, rights and legal recognition would certainly be the first step. However, there are several reasons why legal recognition is difficult. Firstly, the legal process itself is slow and laborious, and even today, some believe that there are only two types of interests in the state that should be represented: that of the individuals and that of the collectivity, which is represented by the sovereign state, including the government and its institutions.²⁸

Secondly, another difficulty arises from the question of who is responsible for languages – the federal state or the provinces? In other words, who has the constitutional right and jurisdiction to promote ancestral languages and guarantee linguistic rights to minority communities? In reality, the federal government is responsible for areas such as defense, currency, navigation, airports, reserves, but also for everything related to Native American culture, while among the powers attributed to the provinces, we can mention natural resources, property rights or even education. It is evident from this list that there are overlaps in some areas between the two levels of government (Native American culture and education) depending on the legislative powers assigned to them by the Consti-

²⁵ Bastarache Michel et al., *Les droits linguistiques* (Cowansville : Editions Yvon Blais, 2013), 7.

²⁶ Ravon Perri, and Dubois Justin, “Les droits linguistiques en droit international,” In *Les droits linguistiques au Canada*, eds. Michel Bastarache and Michel Doucet (Cowansville : Editions Yvon Blais, 2013), 175.

²⁷ Ravon, and Dubois, “Les droits linguistiques,” 161–163.

²⁸ Bastarache, *Les droits linguistiques*, 19–20.

tution. It is for this reason that “the area of language use is [also] a joint federalprovincial jurisdiction,” which explains the difficulty of taking effective actions and drafting legislation regarding the linguistic rights of Indigenous peoples.²⁹

Furthermore, another factor related to Indigenous rights concerns their fundamental nature, which is the subject of many debates. Bastarache draws attention to the fact that for some, linguistic rights are not among the fundamental rights inherent to every individual such as freedom of conscience, religion, freedom of thought or opinion that naturally exist without making them into laws.³⁰ However, this is not the case regarding indigenous languages. Given that monolingualism (the dominance of English or French) was in effect for several decades, Canadian provincial governments began to address the issue of language rights of Indigenous peoples later³¹ and it was not until 1985 that in the *Reference Re Manitoba Language Rights*, that the Supreme Court considered language rights as fundamental rights.³²

Finally, it should also be noted that language is maintained and invigorated by usage, without which legislation is useless. For indigenous languages in Canada, their use is guaranteed not only by the legal framework established by the state or province, but also by the legal knowledge of the citizens and their conscious attitude to emphasize their rights. The implication is that language rights are threatened not by learning the state language, English or French used by the majority, but by not exercising the guaranteed rights and passing on ancestral languages to future generations.

The legal path ahead is long and full of difficulties, and unfortunately, it is still far from being completed in a short time. Even though there are countless laws and conventions in existence relating to language rights, they are often contradictory and not very explicit when it comes to the rights of Indigenous peoples. This may explain why it is possible that among all Canadian provinces, Quebec is almost the only one where today the language rights granted to Indigenous people are explicitly set out in the Charter of the French Language: “The National Assembly recognises the right of the Indigenous and Inuit peoples of Quebec, descendants of the country’s first inhabitants, to maintain and develop their original language and culture.”³³

²⁹ Leclerc Jacques, *La politique des langues officielles du gouvernement fédéral* (Québec : L’aménagement linguistique dans le monde, 2019). <https://www.axl.cefan.ulaval.ca/monde/>, accessed September 03, 2022.

³⁰ Bastarache, *Les droits linguistiques*, 23–24.

³¹ Leclerc Jacques. *Les droits linguistiques des autochtones* (Québec : L’aménagement linguistique dans le monde, 2015). http://www.axl.cefan.ulaval.ca/amnord/Quebec-8Autochtones-droits_Lng.htm, accessed September 04, 2022.

³² Bastarache, *Les droits linguistiques*, 26.

³³ Leclerc. *Les droits linguistiques*. Translated from French by Saber Qechai.

Constitutional and federal legislation relating to Indigenous linguistic rights

Since the 1970s, there were strong efforts to address the issue of declining indigenous languages on the national level and to amend existing laws, for example, the Constitution, incorporating recognition of ancestral languages.³⁴ First and foremost, it is important to mention that Native American languages do not have any specific official recognition even in the Canadian Constitution, both in the 1867 and 1982 constitutions. The 1867 Constitution makes no mention of indigenous peoples and their rights except in paragraph 91 in an implicit way in which it guarantees the power of the federal government to make laws in relation to “Indians and Lands reserved for the Indians,”³⁵ but the question of language is covered with a thick veil because it remains unclear whether this jurisdiction of the federal government also extends to language or not.

Moreover, a similar uncertainty combined with legal confusion also comes from the Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, which recognizes linguistic rights for official language communities (English, French), but does not mention indigenous linguistic rights. Meanwhile, it is interesting to look at section 15(1) in which linguistic rights could be implied even though this is not the case: “Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability.”³⁶

While language may be a ground for discrimination that the law addresses in the section 15(1), as Metallic points out, the courts have repeatedly emphasised that language rights are not implied in this same section.³⁷ However, this is not the only part of the 1982 Constitution that is not explicit about language rights. Its second part, *The Rights of the Indigenous Peoples of Canada*, is another piece of legislation in which the term “right” is covered with a thick veil. Section 35(1) states: “The existing Indigenous and treaty rights of the Indigenous peoples of Canada are hereby recognized and affirmed.”³⁸

In this regard, the trap of obscure rights is once again being played out, exacerbated by the fact that to date, no decision has been issued that would clarify whether indigenous rights also include a language aspect. The fact that since 1982 nothing has been specified

³⁴ Metallic Naomi, “Language Rights of Aboriginal Peoples”. In *Les droits linguistiques au Canada*, eds. Michel Bastarache and Michel Doucet (Cowansville : Editions Yvon Blais, 2013. Metallic, 2013), 897.

³⁵ Metallic, “Language Rights,” 902.

³⁶ Metallic, “Language Rights,” 908–910.

³⁷ Metallic, “Language Rights,” 911.

³⁸ Metallic, “Language Rights,” 914.

in the law shows the seriousness of the language issue and the current situation of indigenous languages in Canada. However, there was hope for Indigenous people when a federal law, the Canadian Multiculturalism Maintenance and Enhancement Act, was passed in 1988. Although it offered no guarantees for the promotion and revitalization of Indigenous languages, which it equated with Canada's linguistic heritage as non-official languages, it did affirm a desire to enhance the status of other languages and to facilitate their acquisition, given that they also constitute the multicultural heritage of Canada.³⁹ Shortly thereafter, in 1990, Parliament passed another multiculturalism act, the Act to Establish the Canadian Heritage Languages Institute, which committed to facilitate, throughout the country, the acquisition and retention of language skills in each of the heritage languages, as well as the use of those languages.

Together, these two laws mark the beginning of legal recognition even though it is still in its early stages and these laws have little judicial power to protect indigenous languages from extinction.

Nevertheless, there are other steps that give hope for the future; among the most recent ones taken in support of Indigenous languages are the proclamation of 2019 as the "International Year of Indigenous Languages" and the passage of the Indigenous Languages Act, which provides language rights to Indigenous peoples and aims to reclaim, revitalize, maintain, and strengthen Indigenous languages in Canada.⁴⁰ This legislation also marks a major step in reconciliation with the original inhabitants and emphasizes that Indigenous languages are part of Canada's diversity and contribute to the richness of Canada's linguistic and cultural heritages. At the same time, it does not provide the means to defend these rights, nor does it bring Indigenous languages up to the level of official languages of Canada. It should be noted parenthetically that while the proclamation of all indigenous languages as official languages would seem to be an ideal solution, it would not solve the language problem, but rather aggravate it. Therefore, it is not the proclamation of indigenous languages as official languages that should be pressed, but the recognition of the linguistic rights of each indigenous community.

In addition, to study the current linguistic situation of the Canadian provinces from a legal point of view, it is important to note that, apart from Inuit of Nunavut and the indigenous languages with official status in the Northwest Territories (Chippewyan, Cree, Kutchin, Inuinnaqtun, Inuktitut, Inuvialuktun, North Slavey Language, South Slavey Language and Tlicho), the other Indigenous languages have minimal legislative rights. However, Quebec's situation is exemplary among other Canadian provinces in that it was

³⁹ Leclerc, *La politique des langues*.

⁴⁰ Leclerc, *La politique des langues*.

the first province to negotiate with the federal government on the claims of indigenous peoples and already in 1989, in the Maintenance and Development of Indigenous Languages in Quebec, it confirmed the recognition of indigenous languages and provided for measures to safeguard them.⁴¹

Furthermore, the Cree, Inuit and Naskapi living in the province of Quebec are also granted the rights in terms of education which is under indigenous control set out in section 88 of the Charter of the French Language, but also in the Education Act for the Cree, Inuit and Naskapi indigenous people and in the James Bay Agreement.⁴² It is thus evident that not necessarily all Canadian provinces realize the extent of the current language situation and provinces, such as Prince Edward Island and New Brunswick, have done very little to date for the preservation of Indigenous languages.⁴³

International laws expanding the linguistic rights of indigenous peoples

Two ideas most often emerge when it comes to international laws: first, the idea that international laws bring the weight of global issues to bear (for example, the survival of indigenous languages); second, that they challenge the severity of nationally adapted laws to deal with the problem and highlight their limitations in protecting indigenous languages. In fact, the second assumption should not necessarily reflect reality, but it is true that international agreements, covenants, and laws do exert pressure on states and governments, as they have a specific scope, and their implementation receives much attention worldwide. In this section, without providing an exhaustive list of international laws related to linguistic rights, and without mentioning other legislation dedicated to Europe (e.g., the European Charter for Regional or Minority Languages), three international laws shall be highlighted, as they seem most significant for Canada.

First, the International Covenant on Civil and Political Rights (ICCPR) which was adopted by the United Nations General Assembly on December 16, 1966. Canada acceded to the Covenant on May 19, 1976, the same year that the legislation came into force. The Covenant focuses on areas where positive measures should be taken to protect the existence of minorities, to guarantee them equal rights and political participation and to protect them from torture and other forms of discrimination. However, the law only mentions linguistic rights in Article 27: “In states where, there are ethnic, religious or linguistic minorities, persons belonging to these minorities may not be deprived of the

⁴¹ Metallic, “Language Rights,” 976–977.

⁴² Metallic, “Language Rights,” 981–987.

⁴³ Metallic, “Language Rights,” 991.

right to have, in common with other members of their group, their own cultural life, to profess and practice their own religion, or to use their own language.”⁴⁴ This section of the law was born out of the reluctance of some states to guarantee minority rights, but only recognizes the rights of persons belonging to minority groups, not the minorities themselves. Moreover, it has not led to concrete action by Canadian governments. This is evident in one of the reports prepared by Canada in 2013 covering the period from 2005 to 2013 to inform the United Nations Convention on the measures it has taken, and the progress made during the period under review. Indeed, the fact that only three paragraphs in the report were devoted to the issue of preservation and promotion of Indigenous languages and cultures is a clear indication. The report points out that Canada spends \$16 million on Indigenous languages (for project implementation and reconnecting communities to their cultural heritage), but at the same time mentions shortcomings, for example, those related to the implementation of recommendations of the Working Group on Indigenous Languages and Cultures.⁴⁵ This example illustrates that without governmental and federal assistance, international laws themselves may not guarantee the protection of minority languages.

Second, the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities can be seen in a certain sense as complementing article 27 of the ICCPR: on the one hand, because it refers to minorities themselves rather than to persons belonging to minority groups; on the other hand, because it creates in Article 2 the obligation for States to protect the existence and identity of minorities and to take concrete measures to promote this identity and to guarantee the possibility for indigenous people to learn their mother tongue or to receive instruction in their mother tongue: “Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion and to use their own language, in private and in public, freely and without interference or discrimination of any kind.”⁴⁶ Despite the Declaration being constructive legislation, it has its own limitations in the escape clauses in which it leaves to States “the discretion” to determine what is “appropriate” or “possible” in the development of minority rights.

⁴⁴ Ravon, and Dubois, “Les droits linguistiques,” 153.

⁴⁵ Human Rights Program. *International Covenant on Civil and Political Rights: Canada's Sixth Report covering the period January 2005 to December 2009* (2013): 15–16. https://www.canada.ca/content/dam/pch/documents/services/canada-United-nations-system/reports-united-nations-treaties/intnl_civil_politique-intnl_civil_politique-fra.pdf, accessed July 27, 2022.

⁴⁶ Ravon, and Dubois, “Les droits linguistiques,” 160.

Finally, the United Nations Declaration on the Rights of Indigenous People, adopted in 2007 by the United Nations Assembly, is one of the best-known international instruments. It is important to note that at that time, Canada refused to sign the declaration with 3 other countries, Australia, New Zealand, and the United States (the countries most concerned by the language issue). It was in 2010 that Canada finally approved it, but it was not until 2016 that the Minister of Indigenous and Northern Affairs Canada announced that the country fully supported the declaration. In particular, the General Assembly affirms in the Annex the equality of indigenous peoples with all other peoples and the diversity with which they enrich civilizations that constitute “the common heritage of humankind.”⁴⁷ Furthermore, the declaration contains numerous articles relating to the maintenance of indigenous culture (articles 5, 8), the revival of cultural traditions and customs (article 11) and the recognition and respect of intrinsic rights (articles 26, 37). Among them, two articles are particularly important from a linguistic point of view: Article 13 (establishing “the right to revive, use, develop and transmit to future generations their histories, languages, oral traditions, philosophy, writing systems and literature...”) and Article 31⁴⁸ (guaranteeing “the right to preserve, control, protect and develop their cultural heritage”).

However, even today, the role of this declaration is much contested by indigenous peoples who claim that the federal government does not have a clear plan to implement the provisions of the legislation. This criticism is not only directed at the UN Declaration, but in general at all legislation aimed at securing language rights for indigenous peoples. In essence, it is difficult to make laws that take into consideration the interests of all people and sometimes even the notion of “right” raises many issues. In fact, one must realize that the solution is not necessarily to be found in the use of international laws, because although they often seem promising, their enforcement is as difficult as that of constitutional or federal laws.

Attempts to revitalize Canada’s Indigenous languages

Today, there is still a long way to go to ensure the language rights of Indigenous peoples and the vitality of their languages in a legal manner. Since laws do not provide reasonable assurance against language extinction, it is essential to act in other ways to protect endan-

⁴⁷ United Nations, *Declaration on the Rights of Indigenous Peoples* (2007), 2. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_F_web.pdf, accessed August 30, 2022.

⁴⁸ United Nations, *Declaration on the Rights*, 12–13, 22–23.

gered indigenous languages, revitalize them and thus maintain the linguistic plurality of the world.

There are broad revitalization methods such as the establishment of cultural institutes that can achieve the goals defined by the Indigenous community. For example, the Avataq Cultural Institute in Nunavik is dedicated to the promotion of the Inuit language and among other things, engages in the collection and formalization of Inuit place names that have long been replaced by English words.⁴⁹ The other method often used is the “*Amerindianisation*” of education in which the learning of Indigenous languages is incorporated into the primary school curriculum by devoting one or two hours per week to ancestral languages. Introducing writing to traditionally oral languages is another possibility, although it is much debated, as it is questioned whether writing is a useful means against language extinction and whether the survival of languages really depends on the existence of the writing system.

Other methods of revitalization include linguistic documentation, a useful tool for the preservation and conservation of indigenous languages. It involves the description of the grammatical system and the study of the language practices of a community to establish a linguistic corpus. Documentation is enormously laborious, because it involves recording, digitalizing, and analyzing data and disseminating them in the form of linguistic reference tools such as dictionaries, grammars, and specialized vocabularies. One evidence of this documentation is the archive of the Mohawk language available on the Berkeley Linguistic Archives website or the archive of Innu audio stories and their transcriptions on the Innu-Aimun website.⁵⁰ Other example of linguistic documentation is the *Dictionnaire montagnais-français* (1991) by Lynn Drapeau, a pioneer in the field of morphological and lexicological study of the Innu language that led to the standardization of the writing or *The Metallic Mìgmaq-English Reference Dictionary* (2005), the result of a collaboration between Emmanuel Metallic, Danielle Cyr and Alexandre Sévigny. The particularity of this reference dictionary is that it presents the keywords in mìgmaq, with the definition in English, but from a mìgmaq perspective.⁵¹

It is also important to acknowledge that the media, including radio, television, print and multimedia, can also contribute to the promotion of Indigenous languages and the preservation of Indigenous identity. Programs on APTN,⁵² the world’s first national

⁴⁹ Drapeau, *Les langues autochtones*, 21–37.

⁵⁰ Drapeau, *Les langues autochtones*, 197–215.

⁵¹ Metallic Emmanuel, Danielle E. Cyr et Alexandre Sévigny, *The Metallic Mìgmaq-English Reference Dictionary* (Québec: Les Presses de l’Université Laval, 2005), 7.

⁵² APTN: Aboriginal Peoples Television Network.

Indigenous television network, “are made by, for, and about Indigenous people” to show ancient rituals, culture, and way of life.⁵³ In addition, some of the channel’s educational programs such as *Tansi! Nehiyawetan: Let’s Speak Cree!* are specifically geared towards children learning languages,⁵⁴ which thus contribute to the preservation of ancestral languages.

Finally, two concrete revitalization attempts carried out in collaboration with the Native American community are also worth mentioning. One of the revitalized languages is the *Migmaq* language in *Listuguj*, which has been in a critical state since 1970 when it became more common that the inhabitants did not pass on the language to future generations. However, the problem is largely due to the borrowed curricula of the French language that were not adopted to the linguistic reality of the *Migmaq* language and even adapted the sentence structures of Indo-European languages (subject + verb + object complement) to create *Migmaq* sentences.⁵⁵ The approach developed by Mary Ann Metallic and Janice Vicaire, teachers of the *Migmaq* language, involves a series of engaging images and is based on the same principle as learning the mother tongue. Following birth, no one knows how to speak, but we learn the names of things around us after repetition. Therefore, teachers realized that the same method involving series of pictures (representing nouns, animals, clothes, nature, etc.) can be effectively used, stimulating visual learning quickly in learners.⁵⁶ The method has been a huge success and an unprecedented number of local people who previously had no knowledge of the language has begun to use it successfully.

The other language, Huron-Wendat, which had not been spoken for decades, is also reconstructed from archival data from the 17th and 18th centuries and is a living proof that the lack of speakers is not an obstacle to revitalization. Today, about 3,000 Wendat live in the village of Wendake on the northern outskirts of Quebec City, while the rest live dispersed in other cities in Canada and the United States. Prior to the 2000s, most of the population did not speak their ancestral language but spoke French as their mother tongue⁵⁷ and because of their long history of cohabitation and interbreeding with the

⁵³ Takam Alain Flaubert, “Revitalisation des langues minoritaires par les médias : Étude de quelques stratégies de promotion des langues autochtones au Canada,” *Linguistica Atlantica*, no. 36(2), (2017): 117.

⁵⁴ Takam, “Revitalisation des langues,” 118.

⁵⁵ Drapeau, *Les langues autochtones*, 92–94.

⁵⁶ Sarkar Mela, Janine Metallic, Mary Ann Metallic and Janice Vicaire, “Listuguj nemitueg tli’suti napui’gnigtug: Learning Mi’gmaq as an adult in Listuguj,” In *Les langues autochtones du Québec: Un patrimoine en danger*, ed. Lynn Drapeau (Montreal: Presses de l’Université du Québec, 2011), 94–101.

⁵⁷ Sarkar, Janine, Mary Ann and Janice, “Listuguj nemitueg tli’suti,” 48–49.

dominant population, their physical appearance was also indistinguishable from that of the White People. Despite their biological miscegenation and gradual (socio-economic) integration into the dominant society, which also threatened their own language, they preserved part of their unique identity, which they tried to emphasize from the 2000s onwards, for example, with the Yawenda (“The Voice”) project, which began in 2007. The goal of this project was to reconstruct the Huron-Wendat language (rebuilding nominal roots, verbal morphology, and grammar) from archival data of the 17th and 18th centuries, to which a great number of treatises and dictionaries date back thanks to the exhaustive study of the language by Recollect and Jesuit missionaries (Sagard’s *Dictionnaire de la langue huronne*, 1632; *Racines huronnes* by Étienne de Carheil, 1666; *Elementa grammaticae huronicae* by Pierre Potier, 1745).⁵⁸ However, it also shows us that the number of written sources could not protect the language from disappearing.

It is clear from what we have seen that the revitalization of a language is not an impossible mission. There are many ways to do it and neither the number of existing written resources nor the number of current speakers present an obstacle to the preservation of a language. Everyone is born into a culture independent of his/her choice. Thus, although no one can choose the mother tongue he/she would like to speak, we have the choice to protect and maintain it as well as to consider this inherent cultural heritage, as our own intangible heritage. Despite the history and tragedy survived by millions of indigenous people in residential schools or in welfare systems have had a big impact on the current situation of indigenous languages and cultures, and that it is difficult today for many people to face and overcome the identity crisis the effects of which they still suffer from, many people are unable to see their culture and mother tongue as their own, which is not helped either by the reluctance of governments to recognize the cultural heritage of indigenous people and consider their presence in society as enriching and part of Canadian multiculturalism.

⁵⁸ Sarkar, Janine, Mary Ann and Janice, “Listugujg nemitueg tli’suti,” 110–114.

References

- Alain Flaubert, Takam. « Revitalisation des langues minoritaires par les médias : Étude de quelques stratégies de promotion des langues autochtones au Canada, » *Linguistica Atlantica*, no. 36(2), (2017).
- Dion, Jacinthe, Hains Jennifer, Ross Amélie, and Delphine Collin-Vézina, “Residential Schools: Intergenerational Impacts,” *Enfances Familles Générations*, vol. 25 (2016): 2. <https://doi.org/10.7202/1039497ar>.
- Emmanuel, Metallic, Danielle E. Cyr et Alexandre Sévigny. *The Metallic Māq-English Reference Dictionary*. Québec: Les Presses de l'Université Laval, 2005.
- Henry Vivian, Nelles. *A Brief History of Canada*. Montreal: Fides, 2005.
- Human Rights Program. *International Covenant on Civil and Political Rights: Canada's Sixth Report covering the period January 2005 to December 2009*. 2013. https://www.canada.ca/content/dam/pch/documents/services/canada-united-nations-system/reports-united-nations-treaties/intnl_civil_politique-intnl_civil_political-fra.pdf, accessed July 27, 2022.
- Jacques, Leclerc. *La politique des langues officielles du gouvernement fédéral*. Québec : L'aménagement linguistique dans le monde, 2019. <https://www.axl.céfan.ulaval.ca/monde/>, accessed September 03, 2022.
- Jacques, Leclerc. *Les droits linguistiques des autochtones*. Québec : l'Aménagement linguistique dans le monde, 2015. http://www.axl.céfan.ulaval.ca/amnord/Quebec-8Autochtones-droits_lng.htm, accessed September 04, 2022.
- Jacques, Maurais, *Les langues autochtones du Québec* (Québec: Les Publications du Québec, 1992).
- Louis-Jacques, Dorais, « Les langues autochtones d'hier à aujourd'hui ». In *Les langues autochtones du Québec*, edited by Jacques Maurais. Québec: Les Publications du Québec, 1992.
- Lynn, Drapeau. *Les langues autochtones du Québec: un patrimoine en danger*. Québec: Presses de l'Université du Québec, 2011.
- Marguerite, Mackenzie, and Julie Brittain. *Translation as a way to save Indigenous languages*. Circuit, no. 139, 2019. <https://www.circuitmagazine.org/dossiers-139/translation-as-a-way-to-save-indigenous-languages>, accessed July 29, 2022.

Mela, Sarkar, Janine Metallic, Mary Ann Metallic and Janice Vicaire. “Listugujg nemitueg tli’suti napui’gnigtug: Learning Mi’gmaq as an adult in Listuguj”. In *Les langues autochtones du Québec : Un patrimoine en danger*, edited by Lynn Drapeau. Montreal: Presses de l’Université du Québec, 2011.

Michel, Bastarache et al. *Les droits linguistiques*. Cowansville : Editions Yvon Blais, 2013.

Naiomi, Metallic. “Language Rights of Aboriginal Peoples.” In *Les droits linguistiques au Canada*, edited by Michel Bastarache and Michel Doucet. Cowansville : Editions Yvon Blais, 2013.

Olive, Dickason. *The First Nations of Canada*. St. Laurent: Les éditions du Septentrion, 1996.

Perri, Ravon, and Dubois Justin. « Les droits linguistiques en droit international. » In *Les droits linguistiques au Canada*, edited by Michel Bastarache and Michel Doucet. Cowansville : Editions Yvon Blais, 2013.

Robert, Vézina. « Amerindians and Franco-Canadians: Une rencontre inscrite dans la langue ». *Cap-aux-Diamants*, no. 96 (2009).

Task Force on Aboriginal Languages and Cultures (TFALC), *Towards a new beginning: a foundational report for a strategy to revitalize First Nation, Inuit and Métis languages and cultures*. Gatineau: Canadian Heritage, 2005.

Task Force on Aboriginal Languages and Cultures (TFALC). *The Beginning of a New Time: First Report Towards a Strategy for Revitalizing First Nations, Inuit and Métis Languages and Cultures*. Gatineau: Canadian Heritage, 2005.

Truth and Reconciliation Commission of Canada (TRCC). *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*. Montreal: McGill-Queen’s University Press, 2015.

Truth and Reconciliation Commission of Canada (TRCC). *They Came for the Children: Canada, Aboriginal Peoples and Residential Schools*. 2012. <http://publications.gc.ca/site/fra/9.639663/publication.html>, accessed August 12, 2022.

United Nations. Declaration on the Rights of Indigenous Peoples. 2007. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_F_web.pdf, accessed August 30, 2022.

William Francis, Mackey. *Prolegomènes à l'analyse de la dynamique des langues*. DiversCité Langues, 2000. <https://www.teluq.quebec.ca/diverscite/SecArtic/Arts/2000/mackey/ftxt.htm>, accessed September 8, 2021.