

ASSEMBLY OF
FIRST NATIONS

SPECIAL CHIEFS
ASSEMBLY



ASSEMBLÉE DES
PREMIÈRES NATIONS

ASSEMBLÉE
EXTRAORDINAIRE
DES CHEFS

Co-developing an Indigenous *Languages Act*

DECEMBER 4-6, 2018



DU 4 AU 6 DÉCEMBRE 2018



Co-development Working Group (CDWG)

Work collaboratively, transparently and on a distinctions-basis to co-develop and implement a 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 includes 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-developed Principles Reflected in Technical Discussion Paper (TDP)

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.

Included are:

- acknowledgement of the unique and distinctive cultures, histories and identities of First Nation, Inuit and Métis;
- that the Government of Canada must allow for a distinctions-based approach in revitalization, preservation, normalization, and reclamation approaches for First Nations, Inuit, and Métis;
- the reinforcement of distinctions-based approaches, including enabling the Commissioner's office to do so where appropriate; and
- the establishment of three Directors to represent First Nations, Inuit and Métis, respectively.



Co-developed Principles Reflected in TDP #2

2. A 'pan-Aboriginal' approach was not seen as appropriate given the significant differences in the state of 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.

Included are:

- the statement that Indigenous languages are in various states of vitality and there is an urgent need to reclaim, revitalize, maintain and strengthen them;
- recognition of the variety of institutions in different regions that currently exist across the country with mandates for Indigenous languages that require continued support;
- respect for Indigenous jurisdiction and powers over languages (law-making in relation to languages);
- Treaties, land claims agreements, and self-government agreements should prevail in the event of a conflict with the Act; and
- the desire to move towards the cooperation and coordination across federal, provincial, territorial, and Indigenous governments and organizations to enter into agreements to ensure the effective implementation of Indigenous language rights and associated initiatives and programs.



Co-developed Principles Reflected in TDP #3

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.

Included are:

- acknowledgement that Indigenous languages are fundamental to the identify, spiritual beliefs, relationships to lands, worldview, culture and self-determination of Indigenous peoples;
- that Indigenous peoples have the right, as per the United Nations Declaration of Rights of Indigenous Peoples (UN Declaration), to reclaim, revitalize, use, develop and transmit their languages, oral traditions, philosophies, writing systems and literatures to future generations; and
- that Indigenous Peoples have rights and agreements that are protected by section 35 of Canada's Constitution Act 1982 as Aboriginal and Treaty rights, including language rights.



Co-developed Principles Reflected in TDP #4

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.

Included is:

- the history of discriminatory policies and practices have had a significant detrimental impact on Indigenous languages, and that these policies and practices have included discrimination, forced relocation and residential schools.

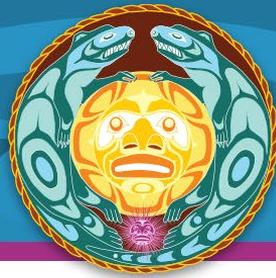


Co-developed Principles Reflected in TDP #5

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.

The TDP includes recognition:

- that Indigenous peoples lived on land that now forms Canada prior to any European presence and these first peoples had their own cultures, societies and languages.



Co-developed Principles Reflected in TDP #6

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.

The TDP includes acknowledgement:

- by the Government of Canada that Aboriginal Treaty rights protected by section 35 of the *Constitution Act, 1982* includes Indigenous language rights; and
- the Truth and Reconciliation Commission Calls to Action 13, 14, 15, 43, 44 and 84, and is committed to the implementation of the UN Declaration especially regarding the language related articles.

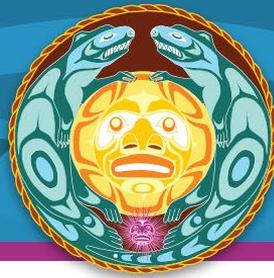


Co-developed Principles Reflected in TDP #7

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.

The TDP Provides for:

- a review every five years, which will be completed with a report submitted to each House of Parliament that includes any recommended changes related to the evolution of the mandate and the operation of the Office or the scope of the legislation.

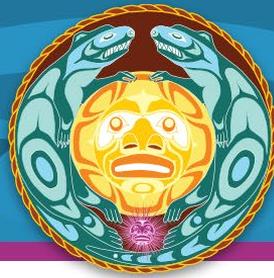


Co-developed Principles Reflected in TDP #8

8. The intent of the legislation is to articulate a framework for implementation of Indigenous Peoples' 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.

The TDP establishes:

- that the Office of the Indigenous Languages Commissioner will provide support, upon request, to Indigenous communities for the creation of permanent records of Indigenous languages; and
- that Indigenous languages entities shall not be displaced.

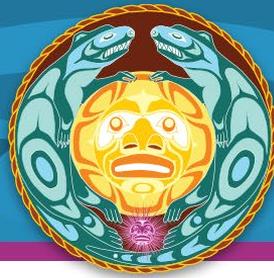


Co-developed Principles Reflected in TDP #9

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.

The TDP provides for:

- the acknowledgement that there are multifaceted approaches to languages normalization including education; and
- that article 14 of the UN Declaration is an important component of the overall framework to achieve revitalization and maintenance of indigenous languages.



Co-developed Principles Reflected in TDP #10

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.

The TDP notes that:

- a variety of entities and institutions in different regions across the country have mandates for Indigenous languages and require continued support;
- there are multifaceted approaches to languages normalization including education; and
- that the Office of the Commissioner's purpose must include studies to support the funding of Indigenous peoples' priorities and institutions.



Co-developed Principles Reflected in TDP #11

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.

The TDP notes that:

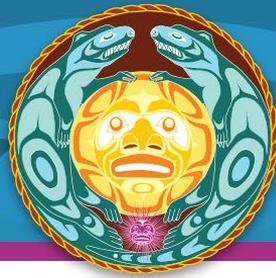
- Indigenous languages are in various states of vitality and there is an urgent need to reclaim, revitalize, maintain and strengthen them;
- a variety of institutions in different regions currently exist across the country with mandates for Indigenous languages that require continued support; and
- Indigenous languages are best reclaimed, revitalized, maintained and strengthened by Indigenous peoples;



Co-developed Principles Reflected in TDP #11

11. Cont'd.

- allowances for the Government of Canada to coordinate efforts across jurisdictions with a view to creating effective and efficient multi-government support for Indigenous languages in Canada, while respecting jurisdictions of provinces, territories, Indigenous peoples, organizations and governments must be included;
- provisions for studies to support the funding of Indigenous peoples' priorities and institutions must be made by the Commissioner's Office;
- the Commissioner's Office must also provide support at the request of Indigenous communities for their efforts to reclaim, revitalize, maintain and strengthen their languages; and
- the inclusion of a non-derogation clause, dedicated to Conflict with Treaties, Self-Government Agreements or Land Claim Agreements noting that in the event of conflict with this legislation, the treaty, land claims agreement or self-government agreement is to prevail.



Co-developed Principles Reflected in TDP #12

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.

The TDP includes:

- the Government of Canada's commitment to providing adequate and long-term funding for the reclamation, revitalization, maintenance and strengthening of Indigenous languages;
- and that the Government of Canada will seek input from Indigenous peoples and language organizations in fulfilling this objective; and
- the Commissioner's role is to include an ombudsman-like function to review any complaints concerning administration of funding, and annual reports to Parliament on the amount of funding provided by Canada for Indigenous languages, and uses made of that funding.

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Implementation Agreement

The Co-Development Working Group (CDWG) process will continue as outlined in the Implementation Agreement.

This agreement seeks to secure a commitment from the federal government to continue the co-development process to implement the Languages legislation.



What is Included in the Implementation Agreement?

The Implementation Agreement includes the following:

Shaping the Co-Development Process on a Continued Basis

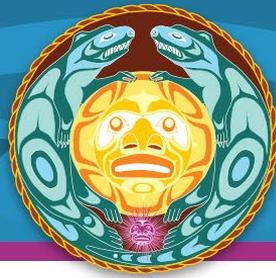
- Continued application of the 12 Co-Development Principles.

Funding Mechanisms

- Continue costing research, analysis and development of potential models and mechanisms.
- Treasury Board submission and related documents.

Establishment of Commissioner's Office

- Establish timelines and processes.
- Develop mandate, define guidelines and reporting requirements.
- Establish process for submission of complaints, review and communications.



Included in the Implementation Agreement pg.2

Appointment of Commissioner (and Directors)

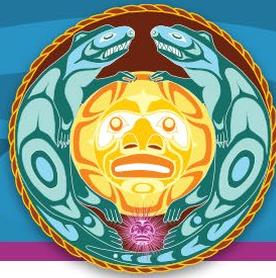
- Define criteria and qualifications for Commissioner and 3 Directors.
- Identify candidates.

Education

- Work with Indigenous Services Canada (ISC) to implement language education, immersion, education services and funding.

Regional Entities

- Continued and enhanced support of existing Indigenous language entities and institutions.
- Identify needs for the creation of Indigenous created and controlled language entities where none may currently exist.



Included in the Implementation Agreement pg.3

Translation and Interpretation

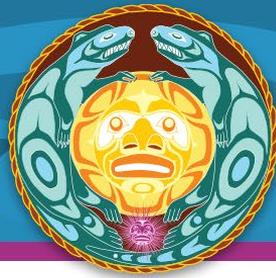
- Comprehensive approach to translation and interpretive services requirements of Government of Canada, including determining warranted numbers and where such services would be appropriate.
- Indigenous language competence for career advancement in the public service.

5-year Review

- Indigenous peoples take part through representative organizations.

Communications

- Produce and communicate information/materials to explain proposed legislation and co-development process.
- Indigenous Peoples, stakeholders and the Public.



Included in the Implementation Agreement pg.4

Whole of Federal Government Conformance with Legislative Intent

- Identify existing legislation, policies, programs and services impacting on Indigenous languages.
- Identify adjustments for supportive and enhanced approach in policy, service, and program delivery.

Federal/Provincial/Territorial Intergovernmental Cooperation

- Effective and efficient multi-government support for Indigenous languages in Canada.
- Enable Canada to enter into intergovernmental language cooperation agreements.
- Respect jurisdictions of provinces, territories, Indigenous Peoples, organizations and governments.

Regulations

- Work together on any proposed regulations.



Included in the Implementation Agreement pg.5

Consequential Amendments

- Identify and adjust, as needed, federal legislation and regulations that impact on Indigenous language rights, including:
 - Intellectual property
 - Broadcasting
 - Archives

International Year of Indigenous Languages (IYIL)

- Plan, coordinate and convene events, activities, and legacy projects to celebrate IYIL.

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Legislative Steps

- December 2018 - Bill introduced in the House of Commons (Followed by Senate if passed in the House).
- 2019 (June target): Bill is passed/receives Royal Assent.