Including Indigenous languages in education:
An analysis of Canadian policy documents

by

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Abstract

Language policy may promote or reduce the use and acquisition of languages. Indigenous languages in Canada are endangered and the number of speakers of these languages is declining. In this thesis, I examine a number of Canadian language policies in order to analyse whether provisions exist for including Indigenous languages within educational programmes. Previous studies of Canadian language policies have often only briefly addressed Indigenous languages. My analysis considers some of the policy documents discussed in earlier studies (e.g. the 1969 Official Languages Act), some recent policy documents (e.g. the 1991 Canadian Heritage Languages Institute Act), as well as proposed legislation that failed to be enacted (e.g. the 2005 Kelowna Accord). Two of the important themes that emerged from this analysis are the general exclusion of Indigenous languages from Canadian language policy and limited local, Indigenous consultation and control within those policies that do include Indigenous languages.

Keywords: Indigenous languages; Canada; language policy; language education

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Table of Contents

List of Tables

Chapter 1.

Introduction

A number of existing studies have addressed Indigenous language policy in Canada. Burnaby (1996), for example, examines Canadian language policy with an emphasis on the Official Languages Act and the effects of policy not only on English and French speakers in Canada, but also on immigrant and Indigenous languages. Burnaby (1997, 2002, 2008) has extended her analyses of this topic. For example, in addition to discussing the impact of Canadian language policy, Burnaby (2002) also includes a case study of James Bay Cree communities in Quebec. Mackey (2010a) provides a timeline of federal language policy, although this discussion only briefly mentions Indigenous languages. Ricento and Cervatiuc (2010) also discuss federal language policy as well as Indigenous language programmes. In contrast to earlier studies, De Korne (2010) focuses on Indigenous languages in particular. De Korne's study addresses community control of education and language immersion in policy in Canada and the United States, using statistical analyses to evaluate the extent of immersion programming and locally-controlled teacher certification.

In the present study, I examine a number of existing and proposed Canadian language policies and legislation in order to analyse provisions for the inclusion of Indigenous languages in educational contexts. In addition to considering some of the documents discussed in earlier studies, such as the Official Languages Act (1988) and the Constitution Act (1982), I also take into consideration a number of documents that were not mentioned in those studies. These documents include legislation that was proposed but failed to be enacted or funded. Furthermore, this study examines policy documents that have been produced more recently than these earlier studies, such as Bill C-33 (2014)

1

and Bill S-212 (2015). This study seeks to provide a broad overview of the extent to which current policy in Canada is inclusive of Indigenous languages as well as to address the progression of Indigenous language use in education over time. Although this study is not comprehensive of all relevant policy documents in Canadian history, it is intended to be sufficiently representative of the range of policy documents to provide a clear illustration of the extent of the inclusion of Indigenous languages. The analysis of Canadian language policy in this study involves extracting and discussing specific propositions addressing Indigenous languages and Indigenous language education. Furthermore, the absence of propositions addressing Indigenous languages is also relevant and the significance of this absence is also taken into consideration.

Language policy plays a role in language planning. For example, increasing a language's official status with regard to policy issues will influence attitudes toward this language. Positive language attitudes in turn increase the likelihood of successful language revitalisation efforts. Furthermore, language and education policy can directly affect language revitalisation through provisions for the inclusion of Indigenous language instruction, either as a subject of study or as a medium of instruction. Indigenous Nations and groups in Canada have long called for the inclusion of Indigenous languages in education (see e.g. AFN 2007, FNCFNE 2010, ICIE 1972). However, Canadian language policy has historically contained very little support for implementing this inclusion. The current position of Indigenous language education in Canadian policy is not always immediately evident. In this study, I intend to provide some clarity to a complicated issue

1.1. Organisation of this Thesis

In addition to providing an overview of this thesis, this chapter includes a discussion of limitations to this study. This chapter also clarifies a number of terms which are used throughout this thesis.

Chapter 2 presents a theoretical background of issues pertaining to language planning and policy, language policy in revitalisation, and language policy in education. Chapter 3 serves to provide background regarding Canadian Indigenous languages. Chapter 3 provides both a brief sociolinguistic profile of Indigenous language use in Canada in addition to discussing mechanisms of language loss. Both of these chapters serve to establish a context for the analysis of Canadian policy documents which follows in chapter 4.

Chapter 4 examines a selection of Canadian policy documents. The analysis provided in this chapter is done by extracting and discussing propositions dealing with Indigenous languages and Indigenous language education. This analysis considers a range of current, historical, and proposed policy documents to provide an overview of the extent to which current policy in Canada is inclusive of Indigenous languages.

Finally, chapter 5 discusses a number of key themes present in Canadian policy documents. Additionally, this chapter addresses possible directions for future research in this area.

1.2. Limitations of this Study

One notable limitation of the present study is that it is not a comprehensive analysis of all Canadian language policy. It is instead intended to be representative of a variety of policy documents in Canada. However, because it is not comprehensive, some relevant policy documents may not have been included.

Furthermore, this study focuses on federal policy documents. Some provincial policy documents have been included to illustrate possible approaches to the inclusion of Indigenous languages in education. However, because each province enacts educational legislation independently of other provinces and because local school boards may implement additional policy and language initiatives, policy documents produced at these levels are many and varied. While it was not possible to include many of these documents

in this study, these documents may nonetheless contain valuable information about provincial and local approaches to the inclusion of Indigenous language education.

Finally, language policy alone cannot revitalise endangered Indigenous languages. Substantial support is necessary for the success of language revitalisation programmes. However, enacting language policy that is inclusive of Indigenous languages in education enables further support and the development of Indigenous language programmes. Additionally, language policy and legislation that is inclusive of Indigenous languages in education may also serve to ensure that Indigenous language revitalisation programmes are not hindered by other pieces of policy or legislation.

1.3. Terminology

Some of the terms used throughout this thesis may cause some confusion. In order to avoid misunderstanding, several of the terms used are defined and clarified below.

Indigenous languages

A variety of terms exist to collectively refer to the languages traditionally spoken by Canada's Indigenous peoples. Some of the terms frequently used in Canada include *Aboriginal languages* and *First Nations languages*. The choice to use *Indigenous languages* over other terminology was deliberate and intended to be inclusive of all Indigenous groups in Canada. The term *First Nations languages* was not used because the term itself is not intrinsically inclusive of Inuit and Métis languages. Although *Aboriginal languages* is a term frequently used in government documents, Ball (2009:40) points out that this is a colonial term. As both Ball (2009) and Duff and Li (2009:1-2) comment, "*Indigenous* is now becoming the preferred term in Canada and internationally." The term *Indigenous languages* is used following researchers such as Smith (2012:6), who argues in favour of *Indigenous* as "a way of including many diverse communities, language groups and nations, each with their own identification within a single grouping." Smith (2012:7) further comments that the use of *Indigenous* has

"enabled the collective voices of colonized people to be expressed strategically in the international arena." However, although *Indigenous languages* is used throughout this thesis, alternative terms have been retained when they are part of the name of a policy document or are used in a direct citation.

Language programmes/language programming

Language programming is used to refer to formal language education. This may include, for example, second language classes, bilingual programmes, and immersion programmes.

Policy document

Policy document is used in this thesis to refer to a formal document discussing language-related matters. In addition to legislation, this may include documents such as policy papers and formal reports. Although the focus of this study is Indigenous languages and their role in education, some of the policy documents under analysis may not directly address Indigenous languages or education.

Heritage languages

Heritage languages are languages other than official languages, spoken by individuals who have an ancestral or cultural connection to that language. This term is typically used when referring to immigrant languages, and discussions of heritage languages often do not include Indigenous languages (Cummins 1994, Duff & Li 2009). However, the definition of *heritage languages* itself is not exclusive of Indigenous languages.

Legislative terminology

The Canadian legislative process involves many steps. Two of these steps are mentioned with relative frequency throughout this thesis: the *first reading* and the *second*

reading. The *first reading* serves to introduce, or *table*[1], a bill ("Legislative process", n.d.). The *second reading* serves to allow debate about the general scope of the bill ("Legislative process", n.d.). Following the second reading, a bill may be referred to committee for further review. The bill is further reviewed at the report stage, which allows Members of Parliament who do not belong to the committee to propose amendments. Finally, a third reading occurs and the bill is either adopted and sent to the Senate for consideration or defeated and withdrawn from consideration. The Senate, in turn, follows a similar process. A bill comes into force when it receives *royal assent*.

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[1] Note that the meaning of *tabled* in Canada should not be confused with the meaning of *tabled* in the United States, where it carries the opposite meaning "to put a bill on hold."

Chapter 2.

Theoretical Background

This chapter contains a brief introduction to language policy and planning theory, providing a theoretical context which informs the analysis of Canadian language policy that is to follow in chapter 4. In addition to the discussion of language policy and planning theory in section 2.1, this chapter contains several subsections which consider the interaction between language policy and planning theory and other areas related to endangered languages. Section 2.2 addresses the interaction between language policy and planning and language revitalisation. This section highlights a number of current issues in the field of language revitalisation and the role of linguistic human rights. Finally, section 2.3 addresses the interaction between language policy and planning and language education. This section also emphasises issues pertaining to bilingualism in education.

Throughout this chapter, a number of recurring themes emerge across the discussion of language policy and planning in the areas of language revitalization and language education. Further themes emerge in the discussion of mechanisms of language loss in chapter 3.2.1. For instance, the exclusion of endangered Indigenous languages from language policy arises at a number of instances throughout this chapter. Language is also frequently neglected in the formulation of educational policy. One effect of this exclusion is the implicit support of only the majority languages. A second recurring theme is the use of ad hoc declarations that are reactive rather than preplanned in order to obtain support for the inclusion of Indigenous languages in education. A third theme is the importance of local community involvement in language planning and in the implementation of endangered language programs. Consequently, although the sections on language revitalization and language education each address somewhat different

aspects of language policy, the ideas presented in this chapter nonetheless reveal important recurring themes which will be revisited in later chapters.

2.1. Language Policy and Planning

Language policy refers to the collection of practices and laws which govern the role that one or more language varieties play within a particular society. Language policy involves asserting some degree of control over a language's form, uses, and users. In this way, language policy may be summarised as "the influence of power over a language" (Mackey 2010a:72). As such, it is also important to consider who holds this power and makes decisions about language. However, language policy can play a role beyond simple legislation, and Battarbee (2007:48) argues that the formulation of any sort of policy is "always and necessarily an expression of an ideological vision: a statement about a wished-for state of affairs." Similarly, Tollefson (2008:3) describes language policy as "statements of goals and means for achieving them" and states that language policy therefore serves as a guideline for schools to influence language structure and language use. Alternatively, Appel and Muysken (1987) treat language policy as simply the realisation of language planning, and Herriman and Burnaby (1996:3) define policy quite broadly as "a principled approach or plan […] affecting public or individual interest."

The motivation behind a language policy may stem from a variety of political or cultural factors. Political factors include such concerns as national unity, regional autonomy, a reaction against insecurity or inequality, or the need to establish a separate identity (Mackey 2010a). Cultural factors include scientific concerns about the loss of linguistic knowledge or moral concerns about the loss of cultural experiences and diversity (Mackey 2010a). Language policies ultimately are capable of affecting language use in society, influencing a wide variety of domains including but not limited to schools, the courts, and government (Grenoble & Whaley 2006). Although Grenoble and Whaley (2006:26) acknowledge that language policy may consequently have a "direct impact on

8

the vitality of local languages," this impact may also be difficult to predict because the language policies in place at different levels of government may be in conflict. For example, in the United States, the 1990 Native American Languages Act (NALA) is in conflict with the 2001 No Child Left Behind (NCLB) Act[2] intended to improve academic achievement. Although NALA protects the use of Indigenous languages in classrooms, NCLB mandates that high-stakes testing be conducted only in English, a policy which has negatively impacted Indigenous language programmes (e.g. regarding Navajo: Balter & Grossman 2009, Winstead et al. 2008). Similarly, Ricento and Cervatiuc (2010) and Mackey (2010b) also comment on the social and societal impact of language policies: Ricento and Cervatiuc (2010) point out that patterns of language use cannot be predicted through the analysis of language policy alone, and Mackey (2010b:145) notes that the resulting "social consequences" may at times be unforeseen or unintended.

Language policy may take a variety of forms. A wide range of degrees of accommodation exist within language policy, ranging from what Mackey (2010a:67) calls "linguistic laissez-faire" and Fishman (2006:318) terms a "no-policy policy," to promoting exclusively a jurisdiction's official languages. It is important to note, however, that, in the absence of a formal policy, the linguistic status quo "becomes policy implicitly" (Herriman & Burnaby 1996:8). By contrast, the latter situation may involve selecting a single language variety as the language of power, "legalizing its use and rewarding its users," while at the same time excluding all other varieties, "restricting their use as penalizing their users" (Mackey 2010a:67). Furthermore, language policy and language planning may occur on many levels within a society. Language policy and planning is not restricted to national and governmental actions, but may also occur on a smaller, local scale, such as within a single community or even within a single family (Herriman & Burnaby 1996, Hinton 2001b). However, Hinton equally states that "most books on language planning are about planning at societal governmental levels" and

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[2] The full title of the NCLB Act is "an act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind."

emphasizes that federal language policy and planning actions do impact the actions and policies of local language groups (Hinton 2001c:51).

Consistent with the theme of the exclusion of Indigenous languages from policy, Herriman and Burnaby (1996:11) further warn that smaller scale initiatives may be threatened by "narrow or sectarian local interests" in the absence of an overarching policy protecting language rights. Within the context of Indigenous language revitalisation efforts, federal and provincial language policies are often established "without adequate consultation with the Indigenous communities whom these policies might affect" (Hinton 2001c:51). Inadequate consultation is not limited to federal and provincial policymaking, however, and Hinton (2001c) notes that this lack of consultation occurs in smaller-scale policymaking as well, such as within a school board. Concerns about inadequate consultation are particularly relevant for the discussion in chapter 4, as insufficient consultation was a key reason that Bill C-33, the proposed First Nations Control of First Nations Education Act, was poorly received in 2014 by Indigenous groups.

Language policy and language planning are frequently addressed collectively, as "LPP," and are in many ways inextricably linked. According to Mackey (2010:a72), language planning is "an instrument of language policy, since it can make a language fit for the uses of power: control, status, and prestige." A range of factors may influence language planning, including demographic factors, such as the number of languages or speakers; linguistic factors, such as language status; social and psychological factors, such as language attitudes; and political factors (Appel & Muysken 1987). Although Ricento (2006:10) argues that "there is no overarching theory of [language policy] and planning, in large part because of the complexity of the issues which involve language in society," in practice the approach to language planning typically comprises three elements: status planning, acquisition planning, and corpus planning. Alternate approaches that do not focus on these three elements are discussed by Appel and Muysken (1987) and Spolsky (2004, as referenced in Paulston & Heidemann (2006)). In brief, the three areas of language planning may be summarized as follows: status

planning is about the *uses* of language, acquisition planning is about the *users* of language, and corpus planning is about the language *itself* (Hinton 2001c, Hornberger 2006).

Status planning is, as the name suggests, primarily concerned with "efforts to affect the status of language varieties" (Tollefson 2008:3) and establishing the "societal functions that will be authoritatively recognized for a specific language" (Fishman 2006:315). This may involve goals such as officialisation, nationalisation, and language maintenance and spread (Hornberger 2006). The goal of status planning serves to affect perceptions of a language. Language policy is in and of itself a form of status planning, as the very act of including a language in a policy can positively impact the language's societal status. Equally, excluding a language from policy can negatively impact the language's status. Furthermore, gaining official status in a jurisdiction may result in improved access to resources, including financial resources, such as increased funding for schools and other institutions, as well as improved access to services in the language. As May (2006:266) points out, "in order to avoid language discrimination, it is important that where there is a sufficient number of other-language speakers, these speakers should be allowed to use that language as part of the exercise of their individual rights as citizens." However, what official status entails for a language must also be considered. In Canada, for example, obtaining official status for Indigenous languages may result in increased access to services in the local Indigenous language. This does not necessarily mean that a speaker of Haida, a language native to the northern coast of British Columbia, will be able to obtain Haida-language services in Quebec, although these services may be available in Haida in British Columbia. Furthermore, although Krauss (1992) identifies official state support as a factor contributing to a language being "safe," Burnaby (2008:339) indicates that state support in Canada, in the form of Indigenous language programs, often gives "only lip service to pluralism and [is] actually assimilationist in intent." May (2006:262) argues that it is "the concept of the nation-state coupled with its official standard language" that has in recent decades posed the greatest threat to minority language vitality.

Acquisition planning, by contrast, involves everything related to the act of learning a language. This includes, for example, curriculum development and teacher training for language programmes, as well as developing domains of use such as producing literature and other mass media (Hornberger 2006). Acquisition planning also includes creating environments for language use such as at school, work, or in religious contexts (Hornberger 2006). According to Hornberger, acquisition planning is "distinguished from status planning by being about the users rather than the uses of a language, but by the same token having more in common with status than with corpus planning" (2006:32). Herriman and Burnaby (1996:4) argue that acquisition planning exists as a direct result of language planning in education: "by planning a role for language in education, one is planning for its acquisition and its place and status in society." As a result, acquisition planning influences the formulation of education policy where it concerns language.

Finally, corpus planning concerns "the development and regulation of the language itself" and involves "efforts to affect the structure of language varieties" (Herriman & Burnaby 1996:4-5, Tollefson 2008:3). This includes such processes as standardisation, modernisation and terminology development, language reform, creating orthographies for previously unwritten languages, and formulating dictionaries, grammars, and style guides (Fettes 1997, Fishman 2006, Herriman & Burnaby 1996, Hornberger 2006, Tollefson 2008). Fishman (2006:315) states that status planning and corpus planning are closely related areas of language planning, arguing that "status planning […] is aided and abetted by corpus planning." Fishman further describes status planning and corpus planning as "two sides of the same [language planning] coin." However, Fishman (2006) also notes that while status planning and corpus planning are intrinsically linked in theory, this is rarely evident in actual practice. Fishman (2006:316) adds that it is common to observe slower progress with status planning "since status planning is the more difficult and contested of the two."

Although language planning is essential for language revitalisation programmes, Tollefson (2008:9) indicates that language policy and planning research rarely has much

12

impact on actual policy-making. Furthermore, when working with Indigenous languages, it is important to include Indigenous people in the process. McCarty (2008:137) argues in favour of a framework for language policy and planning which is not solely "official government action on texts," but instead involves "complex modes of human interaction, negotiation, and production, mediated by relations of power." When planning for language revitalisation, local community involvement in the planning process is essential. As Fettes (1998) comments, policies that are more concerned with the languages themselves than with the people who speak these languages are often unable to take into account relevant variation between communities. Cross (2009:23) reiterates this idea, indicating that it is important to move toward an approach to language planning that is more "acutely aware of […] the social, cultural, and political dimensions of the contexts within which [language policy and planning] takes place." Furthermore, the language policy and planning field has until recently been primarily the domain of sociolinguistics, applied linguistics and education. As a result, the field can at times be narrow in its approach. Peled (2011) argues that other fields of study that deal with matters of policy and which have until recently been largely uninterested in issues of language policy, such as political science or philosophy, are tools for the development of the field.

2.2. LPP and Language Revitalisation

Grenoble and Whaley (2006:29) argue that national policy, both deliberate language policy as well as policy dealing primarily with unrelated matters, can have "far-reaching" effects on language use. Language policies themselves may "range from supportive to neglectful to detrimental" (Grenoble & Whaley 2006:26). Furthermore, the same policy in different contexts may elicit very different outcomes. For example, a language with legal support but no financial support may, in some cases, find that this is indeed real support, while in others this situation can in reality be "a clandestine way to promote language shift and attrition" (Grenoble & Whaley 2006:27). Romaine (2002) in particular is critical of the role of language policy in language revitalisation movements, addressing the myriad ways in which language policy as a means of supporting language

revitalisation and language maintenance falls short. For example, many language policies are effectively recommendations "lacking means of enforcement," or they are "reactive ad hoc declarations lacking a planning element," a situation which arises in Canadian policy and will be discussed further in chapters 4 and 5 (Romaine 2002:3). However, in spite of often falling short of the goal of supporting endangered language revitalisation, Romaine (2002:22) nonetheless acknowledges that "legal provisions may allow speakers of endangered languages to claim some public space for their languages and cultures." In fact, Romaine (2002:21) encourages language activists to "redouble [their] efforts" to obtain legal support for endangered languages, albeit with the awareness that language policy alone will not ensure language revitalisation and maintenance.

2.2.1.   Issues in LPP and Language Revitalisation

Hinton (2001a:6, 2001c:51) argues that language planning is a necessary and essential first step in implementing a good language revitalisation programme. All three elements of language planning are necessary and relevant for language revitalisation. Status planning in particular is linked to policy issues, and both corpus planning and acquisition planning are relevant for education issues. One example of a current issue for acquisition planning is the certification of Indigenous language teachers. Many teachers of Indigenous languages do not have a degree in education; by contrast, most certified teachers do not speak an Indigenous language. Another issue occurs within the area of corpus planning, where standardisation is often viewed as a vital aspect of language planning when a language is to be used as the medium of instruction. However, the act of standardising language may be problematic when working with Indigenous languages, as there can be substantial variation within a single language from community to community. As Whaley (2011:343) points out, it is "rarely realistic that parallel projects for each dialect can be undertaken." Therefore, individuals working on an Indigenous language project must make decisions about what can be a very contentious issue. Questions such as what variety the standard should be based on, how many other varieties should be included in the standardisation process, and what the advantages and

disadvantages for each variety involved are must be taken into consideration. There is no single solution, and different languages and communities may adopt very different approaches. For example, one language community may choose to simply tolerate the existing variation while another may adopt the variety with the largest number of speakers.

A third current issue was discussed by Leibowitz (2015), who points out that treating groups of people as homogenous and tied to a particular geographical locale is a significant flaw of language policy and planning. Mackey (2010a:110) makes a similar point, noting that "policies based on assumptions that everyone wants to keep the ancestral tongue or that those living in the same place will speak the same language […] have often turned out to be ill-founded and untenable." Whaley (2011) further raises the issue of the concept of "the community," noting that while people may capitalise on the idea of the community to allow for local control over a language revitalization project, it is often unclear how "the community" is defined in the first place: "Is membership defined by geography? Or by linguistic behaviors? Or by language attitudes? Or by ethnic identification? Or by something else?" (Whaley 2011:340). Any one or several of these criteria may be used. In conjunction with addressing how "the community" is to be defined, Whaley (2011) also raises the issue of treating groups as homogenous. Whaley (2011) points out that although it is important for members of the community to have input on corpus planning, it is equally important to understand that members of the community will not always agree on how this language planning should progress.

Another current issue arises in the need to be clear about the goals of language revitalisation: it is not about "bringing the language 'back,' but moving it forward into new domains" (McCarty 2008:141). Enacting language policy protecting Indigenous languages is one means of ensuring that revitalisation is possible, although a language policy supporting Indigenous languages is by no means a guarantee of these languages' survival. According to Grenoble and Whaley (2006:28), for a language policy to have a positive impact on language vitality, the policy must be enforced and it must contain

provisions that "allow the policy to move beyond a purely symbolic role." Minority language policy in particular is prone to symbolic gestures lacking in concrete support.

A fifth issue was discussed by Mackey (2010a:95), who points out that language policies addressing Indigenous languages have been "faced with problems of acceptance, consensus, and compliance." Battarbee (2007:50) suggests that this may be due to the fact that issues of language choice and language use are highly complex and "depend on myriad decisions taken by language users in daily interaction, not on legislation nor even on the stated intentions of the persons affected." That is to say, there is a limit to the extent to which governmental policy may support language maintenance and language revitalisation. It is important that top-down measures such as policy work in conjunction with bottom-up factors to ensure the success of language revitalisation initiatives. A language revitalisation project cannot be successful through top-down measures alone.

A related issue arises from discrepancies between declared beliefs and actual practice. Assuming language policy that is favourable to Indigenous languages and assuming sufficient support for revitalisation projects, the survival of the language will nonetheless ultimately be decided by the patterns of use by individual speakers. Eggington (2010) uses the concept of the "tragedy of the commons" to describe how individual language choice can affect language vitality. Eggington (2010) notes that although people may be committed to the idea of language revitalisation in theory, this may not be realised in practice and the language may continue to decline even where there is widespread community support. This decline results from individual speakers choosing not to change their language habits under the assumption that enough others will do so and that their choice to continue using the majority language, instead of adopting the endangered Indigenous language, will not affect the end result. These choices may impede language revitalisation when a large number of people make this same choice under the same assumption, such that few people end up changing their language habits in a way that will impact language vitality. There are myriad reasons an individual may make this choice, and some of these are discussed in chapter 3.2. Situations such as this, however, indicate that individual language choices can

nonetheless have a profound effect on language shift, even where language policy exists to support language revitalisation and language maintenance.

2.2.2.   Language Revitalisation and Linguistic Human Rights

Issues pertaining to language rights and language maintenance often do not receive extensive attention and are often disregarded as unimportant when dealing with broader human rights issues. One such case was the proposed Article 3 of the United Nations Convention of the Prevention and Punishment of the Crime of Genocide, which dealt with linguistic genocide. This article was voted down and did not appear in the final Convention (Skutnabb-Kangas 1997). Skutnabb-Kangas (1997) further indicates that this omission is part of a larger pattern, wherein language is frequently excluded from legislation which might otherwise provide legal protection for the maintenance and revitalization of threatened languages:

> In many of the human rights instruments, language is mentioned in the preambles and in general clauses, as one of the characteristics on the basis of which individuals are not to be discriminated against in their enjoyment of human rights and fundamental freedoms. […] This shows that language has been seen as one of the most important characteristics of humans in terms of their human rights. When we move from the non-duty-inducing phrases in the preambles, to the binding clauses, and especially to the educational clauses, something very strange happens. Often *language disappears completely*. (Skutnabb-Kangas 1997:57, emphasis in original)

Even where language is included beyond the preambles, the Articles addressing language rights are frequently "so weak and unsatisfactory that [they are] virtually meaningless" (Skutnabb-Kangas 1997:57). As will be discussed in chapter 4, this is often the case for Indigenous languages in Canada, even in language-related legislation. The absence of protections for Indigenous languages in language policy can make revitalisation efforts more difficult, as there is no legal protection ensuring the inclusion of Indigenous languages, in schools or elsewhere. Furthermore, Skutnabb-Kangas and Phillipson (2008:7) point out that where human rights documents do address language, these are often "clauses designed to prevent discrimination on grounds of language, so-called

negative rights." Absent are positive rights, which require that "states *protect* individuals or groups from violations of their rights, and […] '*promote* or *fulfil* an individual's rights, that is take the required steps to create a necessary and conducive environment within which the relevant rights can be fully realized' " (Skutnabb-Kangas & Phillipson 2008:7, citing the UN Human Rights Fact Sheet No. 15 (Rev. 1), 2005:5). The consideration of Indigenous languages and language revitalisation in the context of linguistic human rights has been influential on the field of language policy, and language rights themselves are exhibiting "increasing urgency worldwide" given the present state of ongoing, widespread language loss (Hornberger 1998:450, Peled 2011, Ricento 2006).

2.2.3.   Supporting Language Revitalisation

Changes in general societal values, dubbed the "Great Values Shift" by Battarbee (2007), have also affected language policy. There is greater support for minority languages today than there was even a generation ago. While language policy has historically often been used as a means of discouraging the use of minority languages and treating such languages "as a problem rather than a resource" (Fettes 1997:17, Hinton 2001b), governmental policy in Canada has in recent decades been gradually shifting toward establishing and strengthening protections for Indigenous languages. This shift has increasingly aided in the survival of these languages rather than promoting their extinction (Ricento & Cervatiuc 2010:27). In Canada, organizations such as the Assembly of First Nations (AFN) and the First Nations Confederacy of Cultural Education Centre (FNCCEC) have taken the position that the government should "accept responsibility for the destruction of aboriginal languages, create federal and provincial policies, and provide resources to correct the situation" (Ricento & Cervatiuc 2010:28). Furthermore, Mackey (2010a) observes that the evolution of language policy in Canada with respect to French demonstrates a clear progression from a policy of language accommodation to one of language promotion. Given the current status of Indigenous languages in Canada, it is possible that a similar progression will emerge with respect to these languages in the future. Currently, however, Indigenous languages are frequently

ignored and overlooked in Canadian language policy. Although this does not explicitly discourage the use of Indigenous languages or encourage linguistic assimilation, Romaine (2002:6-7) points out that the absence of language policy is effectively "an anti-minority-languages policy, because it delegitimizes such languages by studiously ignoring them, and thereby, not allowing them to be placed on the agenda of supportable general values." Enacting policy supporting minority languages may therefore encourage a shift in societal values. In the same vein, as societal values shift, minority languages may find themselves in a position to obtain greater policy support.

Although it is common for policy to neglect Indigenous languages, some formal policies do address the use of Indigenous languages in countries around the world. However, McCarty (2008:142) indicates that the effects of such policies on language vitality "are not easy to gauge." The existence of these language policies is also frequently the result of "long-term, bottom-up struggles to assert Indigenous language rights" (McCarty 2008:143). In these instances, policies did not arise because those in power valued Indigenous languages and believed that they should be protected, but instead because Indigenous peoples fought for them and what little protection they may offer. Romaine (2002:4), however, comments that language policy may also be used against such movements as "change of status can be used as a political instrument to neutralise those pressing for recognition of their language by reducing the rallying power of their cause." The extent to which support for language revitalisation comes from a grassroots language movement can have a substantial impact on the success of a language revitalisation programme. As Leibowitz (2015) points out, one reason for the failure of language revitalisation projects is that language policy is often implemented as a top-down measure in lieu of efforts to change speaker attitudes and bottom-up revitalisation. Furthermore, Indigenous language struggles often occur "in tandem with those for cultural survival and self-determination" (McCarty 2008:137). Self-determination and local control over language education can have a significant impact on the success of language revitalisation (Burnaby 2002, Fettes 1998, Romaine 2002). Local control of education in particular is significant, as those engaged in grassroots language

revitalisation often view education as "a powerful agent of revitalization" (Huss 2008:76).

2.3. LPP and Education

Language policies in education are one possible result of governments and other authorities engaging in language planning (Tollefson 2008). Acquisition planning in particular plays a role in language education policy, as both address issues of language acquisition and the implementation of language programmes. Furthermore, the role of language policy and language rights in education is particularly important when addressing issues pertaining to language revitalisation and language maintenance, as this can affect the extent to which schools may engage in language revitalisation projects (Grenoble & Whaley 2006, Skutnabb-Kangas 1997). Schools are often regarded as a key aspect of many language revitalisation projects: researchers have argued that "while schools cannot in themselves 'save' threatened indigenous languages, they and their personnel must be prominent in efforts to maintain and revitalize those languages" (Hornberger 1998:453, citing McCarty 1996). Schools, for example, are a good means of reaching a large number of learners at the same time. This is especially important where the Indigenous language is rarely found as a home language, leaving the school as one of very few means of acquiring the language. Furthermore, although Fettes (1998) argues that schools themselves will not reverse language shift and emphasizes the importance of using the language in the home, Skutnabb-Kangas (1997, 2008) counters that the language used in education influences intergenerational transmission. Children who are not educated in their own language are unlikely to later pass this language on to their own children, which can have a devastating impact on the vitality of already endangered Indigenous languages.

As Leibowitz (2015) comments, language planning with respect to education is often a contentious issue, and this is especially true when the language policies in question are intended to support minority Indigenous languages. Negative societal

attitudes toward Indigenous culture and language in Canada and the United States have also influenced educational policy. These negative attitudes have resulted in "official and unofficial policies that simultaneously dispossessed Indigenous peoples of their languages and their lands," with schooling and the education system serving as a key means of achieving this (McCarty 2008:137). As McCarty (2013:2541) points out, language education policy in Canada and the United States has "long been a primary tool for wielding colonial power and a principal means of linguistic and cultural assimilation." Although residential schools are likely the most well-known example of such practices and are discussed in chapter 3.2.1.1, educational policy proscribing the use of Indigenous languages was not exclusive to residential schools. Policy hindering the maintenance of Indigenous languages continues to exist. Furthermore, McCarty (2013:2642) asserts that not only has educational policy resulted in Indigenous language loss, but the legacy of this schooling has led to the "stigmatization [of Indigenous children] as 'limited' speakers of the national language."

Despite the importance of language policy in education when addressing language revitalisation, much like the situations discussed in section 2.2, language is often neglected in the formulation of educational policy. For example, binding covenants, conventions, and charters produced by bodies such as the United Nations and the European Union "provide in fact very little support for [linguistic human rights] in education and language is accorded in them much poorer treatment than other central human characteristics such as 'race', gender and religion," with language often disappearing entirely from sections pertaining to education (Skutnabb-Kangas 2008:110). Furthermore, where language is included in documents dealing with education issues, it is done in a vague manner with extensive opportunities to opt-out, especially when dealing with mother tongue medium education (Skutnabb-Kangas 2008). Similar situations occur when considering Canadian policy. Although official languages are in fact addressed extensively in Canadian policy, non-official immigrant and Indigenous languages, are largely ignored.

2.3.1. Bilingualism

In addition to the widespread neglect of language in educational policy, Cummins (1988) notes that educational theory, such as pertains to issues of bilingualism or language acquisition, is also often neglected when making educational policy decisions. When language is included in educational policy, it is often influenced by societal language attitudes and inaccurate or false information (Christ 1997, Skutnabb-Kangas 2008). These inaccuracies influence educational decisions, such as the choice of language as the medium of instruction, what foreign languages are offered, and whether other languages are permitted outside of the classroom (Christ 1997). Furthermore, false information about language education and bilingualism continues to impact the formulation of educational policy even where "the correct information is easily available and has in fact been offered to the decision makers" (Skutnabb-Kangas 2008:116). Cummins (1988) asserts that educational policy decisions are frequently strongly influenced by sociopolitical sentiment rather than being based on scientific research and theory. For example, a strong anti-bilingualism bias exists in the United States in spite of substantial research indicating that bilingual education does not hinder children's acquisition of English and may in fact facilitate it (see e.g. Baetens Beardsmore 2003, Baker 2007, Cummins 1988, Meisel 2004, Skutnabb-Kangas 2006, Souto-Manning 2006). These anti-bilingualism attitudes have, for example, resulted in "English-only" educational policies in many parts of the United States. These policies not only affect the maintenance of heritage languages, but can also detract from language revitalisation programmes.

Furthermore, Hinton (2001a:8) points out that where bilingual programmes exist in the United States, the anti-bilingualism bias has resulted in "uncertain funding, inadequate opportunities for teacher training, and negative posturing by politicians," producing less effective programmes which then serve to support the misconception that bilingualism is detrimental to a student's academic performance. Similarly, Lickers (1988:20) notes that although there have been attempts to bring Indigenous language and culture into classrooms since the 1960s, there was insufficient support for such

programming: "the lack of administrative direction has meant that such programs often were offered intermittently, were of uneven quality, and were largely unsupported by supervision, or by the development of curriculum materials and standardization of teacher qualifications." This situation is not unique to the United States. As Cummins (2003:56) points out, despite extensive research on bilingualism and bilingual education, "public policy in many countries has either ignored or repudiated this research and implemented policies, directed at minority language children, designed to *minimise* children's opportunities to develop bilingual and trilingual abilities." Proponents of anti-bilingualism often argue that the inclusion of other languages in the school will interfere with "effective instruction in the standard variety," referring to the majority language (Tollefson 2008:6). These proponents tend not to discuss research findings, which have indicated that instruction in a minority language will not hinder acquisition of the majority language. Many existing bilingual programmes are considered transitional programs, where the inclusion of the minority language is temporary and as soon as the child has sufficient competence in the majority language, the minority language is often cast aside entirely. As Skutnabb-Kangas (2008:108) puts it, minority languages are often regarded as "necessary but negative temporary tools." Furthermore, although bilingualism garners greater support in Canada and programmes such as French Immersion are a popular choice for parents, this tends to primarily be the case when dealing with societal prestige languages. Bilingual programmes also primarily serve the interests of the majority group. Thus, anglophones in most of Canada are the group which is the primary beneficiary of bilingual programmes (Cummins 1988, Dagenais 2013).

Chapter 3.

Indigenous Languages in Canada

This chapter provides background on Indigenous languages in Canada. Section 3.1 discusses some of the statistics on their current use and vitality while section 3.2 addresses some of the mechanisms involved in language loss, including contexts particular to Canada, such as the role played by residential schools. In doing so, this chapter provides further context for the discussion of Canadian language policy that will follow in subsequent chapters.

Globally, a significant number of languages are considered endangered. These languages face decreasing numbers of speakers as well as aging populations of speakers. A key factor in language endangerment occurs when the language in question ceases to be transmitted to children (Fishman 1991). Predictions pertaining to global language loss vary, due in part to differing definitions of what constitutes a language, varying standards of documenting language use from country to country and region to region, and the use of different criteria to assess vitality. Linguists working with endangered languages have proposed that anywhere from 20% to 50% of the world's languages are at risk, and in some regions this may reach as high as 90% (Krauss 1992, Romaine 2013:2986). It has equally been suggested that the rate of language loss is such that another language ceases to be spoken every two weeks. However, although scholars continue to disagree as to the specifics of this global language loss, they nonetheless agree that the situation surrounding language endangerment and language loss is dire and requires attention.

A variety of arguments have been made to explain why language endangerment and language loss is an issue requiring concern. Because language and culture are so

closely entwined, language loss can weigh heavily on members of an endangered language community. Language often plays a role in the identity of any individual as a marker of group membership; Norris (1998:8) calls this "one of the most tangible symbols of culture and group identity." Consequently, language is commonly viewed as being "truly fundamental" to a group's identity (Fishman 1990:11, Herriman & Burnaby 1996, Norris 2007, Royal Commission on Aboriginal Peoples (RCAP) 1996b). Battiste and Henderson (2000:49) point out that language may be regarded as "forms of spiritual identity" for Indigenous peoples. Indeed, the role that language plays for one's identity is of such a significance that the Supreme Court of Canada has ruled on this, stating that "language is more than a means of communication, it is part and parcel of the identity and culture of the people speaking it. It is the means by which individuals understand themselves and the world around them" (Battiste & Henderson 2000:79, citing Mahe et al. v. The Queen in Right of Alberta). A long history of practices intended to promote the assimilation of Indigenous peoples into the colonial society in Canada has resulted in widespread cultural destruction, including extensive language loss. Language revitalisation efforts are often part of a greater effort "to retain or regain their political autonomy, their land base, or at least their own sense of identity" (Hinton 2001a:5). The role played by language in constructing identity, and in particular an Indigenous identity, is reinforced with childhood language acquisition; as Ball (2009:23) argues, "when Indigenous children learn their Indigenous language from infancy, they are able to consolidate a culturally cohesive Indigenous identity with links to the land, to traditional knowledge, to community elders, and to their communities of origin." However, as will be discussed in section 3.1, most endangered Indigenous languages are not being taught to children as a first language and most young speakers of Indigenous languages are second language speakers.

From the perspective of purely scientific interest, endangered languages may contain features that cause linguists to question what we know about language and about what is possible in language. For example, Hixkaryana was the first attested case of Object-Verb-Subject word order, and it was believed that Consonant-Vowel

syllabification was universal until Arrernte was encountered with its preference for Vowel-Consonant syllabification (Evans 2010:54, Nettle & Romaine 2000:11). Endangered languages must be considered important simply for the sheer linguistic diversity they contribute. A number of linguists have also compared language endangerment and language loss to the endangerment of biological species and the loss of biodiversity, drawing parallels between both types of endangerment and further emphasising what stands to be lost. Krauss (1992) in particular makes the point that endangered species get substantially more attention than endangered languages, even in situations where the potential loss of linguistic diversity is significantly more dire than the potential loss of biodiversity (see also Evans 2010, Hornberger 1998, Nettle & Romaine 2000). Furthermore, the loss of language often also means losing access to the knowledge contained within them, including philosophical systems, cultural knowledge, environmental and ecological knowledge, and medical knowledge. Many aspects of traditional knowledge remain unknown to the rest of the world, and in cultures with a strong oral tradition, much of this knowledge is carried only through language (Evans 2010, Romaine 2013). Consequently, as Hinton (2001a:5) points out, "the world stands to lose an important part of the sum of human knowledge whenever a language stops being used."

3.1. Languages and Use in Canada

There are roughly 50 Indigenous languages in Canada, all of which are endangered. These languages belong to 11 different language families, including three language isolates. These Indigenous languages in Canada have long been in decline, and most Canadian Indigenous languages have few remaining speakers. Some causes of such language loss are discussed in section 3.2 below. Furthermore, as raised in chapter 2, language policy has a role in the implementation of language revitalisation projects. Chapter 4 addresses the role of language in a number of Canadian policy documents over recent decades.

Twenty-five years ago, Krauss (1992) noted that some 80% of Indigenous languages spoken in Canada and the United States were no longer being learned by children and therefore may be considered moribund. As section 3.2.1 will discuss, intergenerational transmission, or the acquisition of the language by children, is a key factor in determining linguistic vitality. Furthermore, fewer and fewer people are reporting an Indigenous language as their mother tongue on the Canadian census: only 26% of people who claimed an Indigenous identity indicated an Indigenous mother tongue in 1996 (Norris 1998:8). By the 2001 Census of Canada, that number had decreased to 21% (Norris 2007:20). In the 2006 Census, this number had further decreased to 19%, and again to 14.5% in 2011 (Statistics Canada 2006, 2011). Additionally, the proportion of Indigenous people who speak an Indigenous language, including second language speakers, has also declined, from 29% in 1996 to 24% in 2001, to 21% in 2006 and 17% in 2011 (Norris 2007:20; Statistics Canada 2006, 2011). These declines are even more significant when considering that census data is self-reported. For example, Norris (1998) notes an increase in the number of individuals reporting an Indigenous first language between 1981 and 1991. Battarbee (2007) suggests that patterns in Indigenous self-identification have changed in conjunction with a decrease in societal repercussions for claiming Indigenous heritage. It must be noted, however, that such data is further complicated by the fact that some speakers may deny knowledge of a language and some non-speakers may claim to speak a language that they do not (Krauss 1998). In spite of the increase in individuals identifying an Indigenous mother tongue between 1981 and 1991, the overall vitality of Indigenous languages in Canada nevertheless declined over that same time period when comparing those who speak a particular language at home against those who speak this language as a mother tongue (Norris 1998). This ongoing decline in vitality has equally affected languages previously considered relatively "safe" such as Cree and Ojibwe, both of which exhibited a long-term steady decline in continuity over the period from 1981 to 2001 (Norris 2007).

Although the overall number of speakers of Indigenous languages in Canada has continued to decline, another trend has emerged: the proportion of speakers who learned

an Indigenous language as a second language is increasing. This is particularly true of younger speakers of Indigenous languages. In 2001, for example, 71% of those under age 15 who could speak an endangered Indigenous language had learned it as a second language (Norris 2007:23). Furthermore, for some smaller endangered languages such as Haida or Tlingit, second language speakers outnumber those who learned it as their mother tongue. This trend is also found for Canadian Indigenous languages overall, with 239 600 second language speakers of any Indigenous language compared with 203 300 first language speakers in 2001 (Norris 2007). Although a child learning an Indigenous language as a first language would ideally involve "families where the language has a strong presence in the home, […] in communities where Indigenous languages are flourishing" (Ball 2009:37), such conditions often do not exist, leaving second language learning as the most viable route. Furthermore, the increase in second language speakers of a Indigenous language suggests an "an increased recognition that speaking an Aboriginal language is important" (Norris 2007:25). The current trend where younger generations are more likely to learn an Indigenous language as a second language highlights the importance of investing in bilingual language programs as a method of counteracting language loss. Currently, however, few such programs exist in Canada and those which do have limited curriculum support (Ricento & Cervatiuc 2010).

Table 1 lists the estimated number of speakers of Canadian Indigenous languages, using data from Cook & Flynn (2016) and Lewis et al. (2016). Languages spoken solely in British Columbia are reported using data from the First Peoples Cultural Council (2014). The estimates provided for languages spoken in British Columbia are for the number of fluent speakers. It is difficult to determine the total number of speakers of a Canadian Indigenous language, however, and the estimates provided here may be substantially higher than the actual number of speakers.

The provinces where these languages have traditionally been spoken have also been provided in Table 1. Additionally, most entries in this table list multiple language names. This allows for the inclusion of regional variants of languages as well as both

Indigenous and anglicised names. Where available, the Indigenous language names have been listed first.

Table 1.   **Indigenous languages of Canada**

Language	Estimated number of speakers	Location
Algonquian		
Cree (Including: Plains, Swampy, Woods, Moose, Atikamekw, Montagnais and Naskapi Innu)	89 385[a]	British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Newfoundland
Ojibwe/Anishinaabemowin (Including: Odawa, Saulteaux, Ojibwa/Chippewa, Algonquin, Severn/Oji-Cree)	31 205[a]	British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec
Mi'kmaq	8 030[a]	Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland
Blackfoot	3 255[a]	Alberta
Malecite-Passamaquoddy/Maliseet	485[a]	New Brunswick
Potawatomi/Neshnabémwen	<50[a,b]	Ontario
Abenaki	10[b]	Quebec
Munsee/Delaware	7[b]	Ontario
Eskimo-Aleut		
Eastern Inuktitut (Including: Inuktitut, Inuttut, Inuttitut)	34 100[a]	Nunavut, Quebec, Newfoundland
Western Inuktitut (Including: Inuvialuktun, Innuinaqtun)	1 035[a]	Northwest Territories, Nunavut
Athabaskan		
Dëne Sųłiné/Chipewyan	11 855[a]	Northwest Territories, Alberta, Saskatchewan, Manitoba
Tłįchǫ/Dogrib	2 080[a,b]	Northwest Territories
Tsilhqot'in/Chilcotin	865[c]	British Columbia
Dene K'e/Slave(y)	760[b]	Northwest Territories, British Columbia, Alberta
Dakelh/Carrier	680[c]	British Columbia
Witsuwit'en-Babine/Nedut'en	430[c]	British Columbia
Gwich'in/Kutchin/Loucheux	370[a,b]	Northwest Territories, Yukon
Tutchone (Northern, Southern)	350[b]	Yukon
Tsúut'ína/Sarcee	170[a,b]	Alberta
Dane-Zaa/Dunneza/Beaver	155[c]	British Columbia
Tāłtān/Tahltan	44[c]	British Columbia
Tse'khene/Sekani	29[c]	British Columbia

Language	Estimated number of speakers	Location
Danezāgé'/Kaska	16[c]	British Columbia
Upper Tanana	10[a,b]	Yukon
Hän	7[b]	Yukon
Tagish	2[a,b]	Yukon
Siouxan-Catawban		
Nakoda/Stoney	3 155[a]	Alberta
Dakota/Yankton and Santee	1 160[a]	Saskatchewan, Manitoba
Nakota/Assiniboine	34[a]	Saskatchewan
Lakota/Teton	<10[a]	Saskatchewan
Salishan		
Halkomelem (Including: Halq'eméylem, Hul'q'umin'um', hən'q'əmin'əm')	265[c]	British Columbia
Secwepemctsín/Shuswap	200[c]	British Columbia
Nsyilxcən/Nsilxcín/Okanagan	190[c]	British Columbia
Sťáťimcets/St'áť'imcets /Lillooet	140[c]	British Columbia
Nłeʔkepmxcín/Nlaka'pamuxtsn/ Thompson	130[c]	British Columbia
Éy7á7juuthem/Comox-Sliammon	36[c]	British Columbia
Nuxalk/Bella Coola	16[c]	British Columbia
Sḵwx̱wú7mesh sníchim/ Squamish	8[c]	British Columbia
SENĆOŦEN/Malchosen/ Lekwungen/Semiahmoo/ T'Sou-ke/Saanich/Straits	3[c]	British Columbia
She shashishalhem/Sechelt	3[c]	British Columbia
Tsimshianic		
Nisga'a	860[c]	British Columbia
Gitksan/Gitsenimx̱	350[c]	British Columbia
Sm'algyax̱/Coast Tsimshian	110[c]	British Columbia
Ski:xs/Klemtu/South Tsimshian	1[c]	British Columbia
Iroquoian		
Mohawk	545[a]	Ontario, Quebec
Cayuga	240[a,b]	Ontario
Oneida	175[a]	Ontario
Onondaga	40[b]	Ontario
Seneca	<25[a]	Ontario
Tuscarora	7[b]	Ontario
Wakashan		

Language	Estimated number of speakers	Location
X̌enaksialak̓ala/X̌a'islak̓ala/ Haisla-Henaksiala	240[c]	British Columbia
Kwakw'ala/Kwakiutl	170[c]	British Columbia
Nuučaan̓uɫ/ Nuu-chah-nulth/Nootka	130[c]	British Columbia
Hailhzaqvla/Heiltsuk	60[c]	British Columbia
Diitiidʔaatχ/Ditidaht/Nitinat	7[c]	British Columbia
'Uik̓ala/Oowekyala	5[c]	British Columbia
Isolates		
Ktunaxa/Kutenai-Kinbasket	25[c]	British Columbia
X̱aad Kil/X̱aaydaa Kil/Haida	9[c]	British Columbia
Łingít/Tlingit	2[c]	British Columbia

Note. Sources for the estimated number of speakers are: a = Cook and Flynn (2016), b = Lewis et al. (2016), c = FPCC (2014).

3.2. Language Vitality and Language Loss

Language loss among communities where endangered languages have traditionally been spoken is prevalent and is most frequently experienced by minority and marginalised populations (Quinn 2013, Romaine 2013). However, measuring the vitality of these languages is a complex process, as many factors contribute to the mechanisms of language loss in a given community and those factors involved in language loss will vary from language to language and from community to community. Assessments of language vitality may consider factors such as the following, although any number of other factors deemed relevant may also be included:

- intergenerational transmission, or whether the language is being passed on to children;
- population, considering both the number of speakers as well as what proportion of the population are speakers
- the geographical distribution of speakers, or whether members of a language community are located in the same area or widely dispersed among non-speakers of the language;
- the number of different languages in a particular region, as it is difficult to support a larger number of languages, often resulting in less support for each

individual language, with governments and other authorities less responsive to the needs of each language community (Grenoble & Whaley 2006);

- language status and language policy, as it is difficult to maintain a language with no institutional support and even more so if the language in question has been outright prohibited in a particular jurisdiction;

- regional autonomy, as language has a greater chance of survival if a smaller jurisdiction can tailor its language programmes to its specific language situation; this relates also to issues of self-governance;

- language attitudes, considering both how members of a particular language community feel about their own language as well as attitudes toward the language from non-members of the community;

- the role that the language plays in the identity of an individual or a community, for although language is often regarded as a fundamental feature of a group's identity, this is not necessarily the case for all communities;

- domains of use and media available in the language, as not only must there must be opportunities for language use if a language is to be retained, but the language must serve a meaningful function within the community (UNESCO 2003); occasional use is not sufficient for language maintenance; and

- education, ranging from teaching the language as a subject to using the language as the medium of instruction.

Various scales of language vitality have been proposed to assess the degree of endangerment faced by any particular language, each drawing upon somewhat different sets of factors of language vitality and using different methods to determine degree of endangerment. Consequently, the exact classification of a particular language may vary from language scale to language scale. Among such language scales are Fishman's (1991) Graded Intergenerational Disruption Scale (GIDS), Ethnologue's 2009 Vitality Categories (Lewis and Simons 2010), and UNESCO's (2010) Degrees of Endangerment.

The factors used by each scale in order to assess language vitality vary. UNESCO (2003), for example, proposes nine factors contributing to language vitality. UNESCO further stipulates that rather than placing a language on a single continuum of vitality, each factor involved should be treated independently of the other factors and that "no single factor alone can be used to assess a language's vitality" (UNESCO 2003:7). Although it is important to use multiple factors of vitality in order to assess a language's

degree of endangerment, different factors will influence individual languages and communities to different extents and thus each factor must also be considered independently. There is no one-size-fits-all method to determining language vitality. It is equally important to acknowledge that factors contributing to language endangerment may also influence one another and that none of these factors exists in a vacuum entirely independent of outside influence. Fishman (1991), by contrast, focuses primarily on intergenerational transmission, proposing eight stages of language endangerment based largely on the extent to which a language was passed on to children.

3.2.1. Mechanisms of Language Loss

Intergenerational transmission is indeed a key factor in most scales of language vitality, as even languages spoken by a small number of speakers can have a greater degree of vitality than languages with thousands of speakers, provided the language continues to be used regularly by children (Quinn 2013). Although the most straightforward cause of language loss is through the decimation of the population of speakers, such as through war, genocide, natural disaster, disease, or famine (Krauss 1992, UNESCO 2003), language loss typically progresses more gradually with the disruption occurring as a result of social, ideological, and political factors. Known as language shift, this process transpires over the course of several generations, with each generation increasingly adopting the majority language to the detriment of the endangered minority language. It is possible for language loss to occur in as few as three generations, where in one family the grandparents are monolingual in the endangered language, the parents are bilingual in the endangered language and the dominant language, and the children speak only the dominant language (Battarbee 2007, Dorian 2004, Quinn 2013). May (2006) describes a similar albeit more gradual process, establishing three broad stages of language shift where each stage contains several generations before progressing to the next stage. Although intergenerational transmission may continue to be strong in some language communities, a smaller population of speakers nonetheless places a language at higher risk than a larger population of speakers

(UNESCO 2003). When a language has few remaining speakers, especially where these speakers are all elderly, it becomes substantially more difficult to transmit the language to children. Related to the issue of intergenerational transmission, the phenomenon of a "lost generation" of language speakers may also be present. This occurs when the grandparent generation speaks the language, the parent generation does not speak the language, but the children do speak the language, having learned it in school, from the grandparents, or through programs such as language nests[3]. Such situations may be suggestive of shifting attitudes toward the endangered language. However, as increasing numbers of Indigenous people in Canada are learning their heritage language as a second language, some Indigenous parents, who themselves are not native speakers of their language, are now beginning to raise their children as first language speakers of the Indigenous language (Dorian 2004).

In addition to intergenerational transmission, sociological factors influencing language shift may include geographic displacement, forced assimilation into the dominant colonial society, the encroachment of media such as television and now internet usage in the dominant language (Hinton 2001a, Krauss 1992, RCAP 1996b). With little available media and few domains of use, there are equally few opportunities to use an endangered language and these languages become difficult to maintain. As mentioned earlier, a language must serve a meaningful function within a community if it is to be retained (UNESCO 2003). Furthermore, the omnipresence of the majority language may also result in involuntary language loss. For example, even if a child is raised using the endangered language and this language continues to be used in the home, the outside environment "may be so steeped in the majority language that the child unconsciously shifts languages around school age and no longer speaks the minority language at home" (Hinton 2001a:4). This situation may be especially salient for those Indigenous

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[3] Language nests are a type of childcare where interaction with the children occurs primarily or solely in the endangered language. The use of language nests to maintain and revitalise an endangered language originated with the Māori Te Kōhanga Reo. This model has since been borrowed by other communities working to revitalise their language.

individuals living off-reserve and in urban areas, who often face the additional challenge of living away from the traditional language community.

Education is another significant mechanism of language loss, with schools often acting as a vehicle for imposing the dominant language and culture on a minority group. Not only are minority and Indigenous languages often stigmatized as unsuitable for school, but Indigenous children have also been stigmatized as "limited" speakers of the majority language (McCarty 2013:2642). The "home-school language mismatch" has often been regarded as the cause of academic failure among members of the Indigenous language community (Appel & Muysken 1987:59). Furthermore, many Indigenous children have acquired "indigenized varieties of French and English that are being suppressed by society and schools," and the use of such varieties may also be put forth as evidence that bilingualism is detrimental to an individual's academic performance (Dagenais 2013:288). Misconceptions about bilingualism in schooling contribute to such stigmatization of Indigenous and minority languages, with the erroneous belief that "English is best taught monolingually" and that "the earlier English is taught, the better the results" persisting in spite of research suggesting otherwise (Burnaby 2002:76; see also chapter 2.3.1). Negative experiences with the majority language education system frequently lead Indigenous and other minority groups to use only the majority language with their own children (Skutnabb-Kangas 2008). Early childhood education also appears to have accelerated the process of language loss, wherein the majority language education system influences children at increasingly young ages (Hinton 2001a). Furthermore, although language policies may no longer expressly forbid speaking a non-official language, as was the case with residential schools, some provinces still have policies mandating the use of an official language as the medium of education. In Ontario, for example, it is illegal to teach through a medium that is neither English nor French, although some partial exceptions do exist for the use of sign language and Indigenous languages (Cummins 2003).

Speakers of minority languages may also voluntarily choose to adopt the dominant language. This is frequently done in response to historical conditions such as

those discussed above, although other motivations exist. As Whaley (2011:344) points out, people do not misplace languages "like they misplace reading glasses or keys." Instead, people stop using languages due to changes in their sociocultural environment. Socioeconomic reasons, for example, may motivate a language shift: the dominant language often carries greater prestige in the larger society, and the ability to speak the dominant language in turn provides greater social mobility and economic advantages where the minority language does not (Appel & Muysken 1987, Dorian 2004). The minority language may also be stigmatized and viewed as inferior or associated with poverty (Appel & Muysken 1987, Hinton 2001a). Parents who have "suffered social penalties or educational and occupational disadvantage" as a result of limited or non-native-like knowledge of the majority language may choose to raise their children with the majority language as their sole language (Dorian 2004:440). This is done so that their children need not encounter the same challenges and disadvantages. In such cases, members of a minority language community adopt the majority language as a means of obtaining greater access to schooling, employment, political participation, and government services (Appel & Muysken 1987, Dorian 2004). The idea of language replacement, where one should learn the majority language "at the expense of one's first language" is coupled with the idea that in doing so, one will improve their social mobility (May 2006:263). As discussed in chapter 2.3.1, misconceptions about bilingualism dictate that it must be one language or the other, and that choosing the majority language is the most sensible option.

However, Dorian (2004:455) also suggests that language maintenance may be possible should an economically disadvantaged minority group obtain some form of economic success, allowing speakers of the minority language to "assert ethnolinguistic identity." Language has in the past been used as a symbol of group solidarity, and in so doing has served to bolster linguistic vitality. The increasing number of second language speakers reported in section 3.1 indicates that education can have a positive effect on Indigenous languages, when bilingual education is implemented effectively.

3.2.2.   Residential Schools

In Canada, the loss of Indigenous languages in particular is part of the enduring legacy of the residential school, wreaking what Fettes (1998:118) calls "especial havoc" on the vitality of Indigenous language and culture in Canada. As Dagenais (2013:287) asserts, "educational policies that are legacies of colonialism in Canada have had a devastating impact on Indigenous languages." A system that was established in the 1840s and continued until 1996, when the last residential school was closed, the residential school system often expressly forbade the use of Indigenous languages and punished Indigenous children for using them. Designed to separate children from their families and communities, the primary purpose of residential schools was to assimilate these children into the dominant culture: "[their] way of life was denigrated; [their] beliefs and values were constantly trashed" (TRC 2012:62; see also RCAP 1996b). The experience that most students had in residential schools was traumatic. This negative experience also affected future generations "as former students – damaged by emotional neglect and often by the abuse in schools – themselves became parents" (TRC 2012:77). As with parents who faced social, economic, or academic disadvantages as a result of limited knowledge of English, many parents who attended residential schools elected to raise their children with English as their only language so that their children would be in a position to "avoid the harsh treatment which they had received" (Heimbecker 1997:58).

Chapter 4.

Analysis of Policy Documents

This chapter examines a selection of Canadian policy documents, extracting and discussing propositions dealing with Indigenous languages and Indigenous language education. The documents discussed in this chapter are detailed in Table 2, where they are listed chronologically and grouped according to jurisdiction. Legislative policies that have successfully been enacted are in bold print, while documents that have failed to pass or are currently in Parliament are not. In the subsequent discussion of these documents, however, they will be grouped not chronologically but thematically, in the following manner.

- Federal documents will be presented first, in section 4.2, followed by provincial documents in section 4.3. The AFN documents listed in Table 2 will be included among the federal documents.

- Legislation pertaining generally to constitutional or cultural matters will be presented first, followed by legislation pertaining to matters of education.

- Legislation that has been passed and is presently in force is presented first, followed by legislation that has been proposed but has either failed to be passed or is presently in Parliament.

- Documents which are closely linked are presented adjacent to one another wherever possible.

- The ordering of each document takes into account multiple factors. Due to overlap in the above categories, the documents under analysis have not been grouped under subsection headers other than the overarching 4.2 and 4.3.

While the primary focus of this analysis is federal policy documents, a few provincial documents have also been selected to provide examples of possible approaches to Indigenous language policy and Indigenous language education. In addition to studying

existing legislation, this analysis considers proposed policy as well, examining Bills that were introduced in Parliament but which were never passed as well as those which are currently in Parliament. This consideration of legislation that has failed to pass provides additional insight to this analysis.

Table 2. **Timeline of documents and policies under analysis, subdivided by jurisdiction**

Decade	Jurisdiction		
	Federal	Provincial	Assembly of First Nations
1960	*Official Languages Act (1969)*		
1970		*James Bay and Northern Quebec Agreement (1975)*	Indian Control of Indian Education (1972)
1980	*Constitution Act (1982)* *Canadian Charter of Rights and Freedoms (1982)* *Multiculturalism Act (1988)* *Official Languages Act (amended) (1988)* Bill C-269 (1989)		
1990	*Canadian Heritage Languages Institute Act (1991)* Report of the Royal Commission on Aboriginal Peoples (1996)		
2000	Kelowna Accord (2005) *First Nations Jurisdiction over Education in British Columbia Act (2006)*	*First Nations Education Act (British Columbia) (2007)*	
2010	Bill C-33 (2014) Truth and Reconciliation Commission of Canada: Calls to Action (2015) Bill S-212 (2015)		First Nations Control of First Nations Education (2010)

Note: Italic print indicates policies which have been enacted, while regular print indicates documents which have failed to pass or are currently in Parliament.

This analysis is not intended to be fully comprehensive of all Canadian legislation and policy documents, but instead aims to provide a representation of the variations in government policy. Clauses dealing with language, and in particular Indigenous languages, are reproduced throughout this chapter. Common themes about Indigenous language education in Canada emerge as a result of this close examination of policy documents. Three key themes in particular arise from this analysis of Canadian policy. The theme of exclusion is very prevalent, with Indigenous languages being largely omitted from Canadian legislation. A second theme arises when considering legislation and policy documents which do address Indigenous languages: the failure to enact legislation supporting Indigenous languages. Finally, consultation and the importance of local Indigenous control over education is present as a third theme. Jurisdiction complicates the issue of including Indigenous languages in education. Although education falls under the purview of the provincial government, Indigenous matters, including on-reserve schools, are the responsibility of the federal government. These themes will be discussed further in chapter 5.

4.1. Canadian Language Policy Background

Canadian language policy developed largely during the 1960s in response to increasing Quebec nationalism. This language policy emerged as a result of governmental concerns about tensions between anglophone and francophone Canada: the goal was to "ensure national security and not because of a philosophical or moral commitment to language minority rights" (Dagenais 2013, Ricento & Cervatiuc 2010:35-36). In response to these tensions, the Canadian government established the Royal Commission of Bilingualism and Biculturalism (RCBB), which ran from 1963 to 1969. The RCBB in turn led to the creation of the 1969 Official Languages Act and the declaration of English and French as Canada's official languages. Following the enactment of the Official Languages Act, matters relating to heritage language learning typically fall under the purview of multiculturalism policies. As Burnaby (1997:152) comments, "federal

statements carefully refer to speakers of non-official languages as other *cultural* groups"
rather than other language groups (emphasis in original; see also e.g. Cummins 1994).

Policy and legislation involving Indigenous people in Canada has long ignored
matters of language and culture. Instead, political policy in Canada has been primarily
interested in acquiring control of land belonging to Indigenous peoples (Battarbee
2007:51, TRC 2012:2). The 1876 Indian Act (amended in 1985), for example, does not
once mention language or culture, and it contains few clauses addressing schools and
education. Although the Assembly of First Nations includes the creation of a First
Nations Languages Act as a policy objective in their 2007 *National First Nations
Languages Strategy* and the creation of such an act was later included in the
recommendations presented in the Truth and Reconciliation Commission of Canada's
2015 *Final Report*, no such legislation currently exists in Canada (AFN 2007:13, TRC
2015:204). Bill S-212, the Aboriginal Languages of Canada Act, has since been tabled in
the Senate, although it has yet to progress beyond a second reading.

In the absence of specific legislation about Indigenous languages in Canada, an
analysis of policy and legislation concerning provisions for the inclusion of Indigenous
languages must look to other sources. In addition to looking at language legislation, for
example, legislation addressing cultural or educational matters can be examined for
clauses that may be used to support Indigenous languages. Furthermore, what is not being
said about Indigenous languages in Canadian policy is equally revealing.

4.2. Federal Policy Documents

4.2.1. Official Languages Act (1988)

First enacted in 1969 and later amended in 1988, the Official Languages Act
declared English and French as Canada's two official languages following
recommendations made by the RCBB. The RCBB had been established in response to
tensions between anglophone and francophone Canada. English was overwhelmingly the

dominant language in Canada, and French-speaking Quebecois were concerned about ongoing language shift. By declaring English and French as Canada's two official languages, the Official Languages Act served to ease these tensions.

The Official Languages Act established extensive provisions and legislation pertaining to the use of English and French to the exclusion of all other languages spoken in Canada. Non-official languages are only briefly mentioned in the preamble, a section in a piece of legislation which serves to describe the reason for which the legislation has been created:

> AND WHEREAS the Government of Canada recognizes the importance of preserving and enhancing the use of languages other than English and French while strengthening the status and use of the official languages (Official Languages Act 1988).

Although non-official languages are acknowledged in the preamble as having some intrinsic importance, the central focus of this Act is nevertheless on English and French, as the languages spoken by Canada's two "founding races" (RCBB 1967:xxii). The above statement in the preamble suggests that while the government acknowledges the importance of non-official languages, the maintenance of these languages should not come at the expense of the centrality of English or French nor should the status of either official language come at the expense of the other. Given the history of language shift in Quebec and the government's desire to defuse conflict between anglophone and francophone Canada, the Official Languages Act had a vested interest in strengthening and maintaining the status of French in particular. However, the creation of an Official Languages Act has had wider repercussions for non-official languages: Ricento and Cervatiuc (2010) argue that with the creation of the Official Languages Act, less attention has been paid to non-official languages generally.

Furthermore, Indigenous peoples were excluded from the Royal Commission on Bilingualism and Biculturalism entirely:

Our terms of reference contain no allusion to Canada's native populations. They speak of 'two founding races,' namely Canadians of British and French origin, and 'other ethnic groups,' but mention neither the Indians nor the Eskimos. Since it is obvious that these two groups do not form part of the 'founding races,' as the phrase is used in the terms of reference, it would logically be necessary to include them under the heading 'other ethnic groups.' Yet it is clear that the term 'other ethnic groups' means those peoples of diverse origins who came to Canada after the founding of the Canadian state and that it does not include the first inhabitants of this country (RCBB 1969:xxvi).

This exclusion extends through to the Official Languages Act, which does not directly address Indigenous languages and Indigenous language education. In the Official Languages Act, Indigenous peoples are mentioned only twice, both times as exemptions. Subsection 3(1j) serves to exempt Indigenous governing bodies from the definition of "federal institution" (Official Languages Act 1988). More significantly, Subsection 7(3b) exempts "a by-law, law or other instrument of an Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people" from Section 7(1), which requires that "any instrument made in the execution of a legislative power conferred by or under an Act of Parliament […] shall be made in both official languages and, if printed and published, shall be printed and published in both official languages" (Official Languages Act 1988). Arguably, this particular exemption could raise the possibility of Indigenous governing bodies operating primarily or solely in the local Indigenous language should they so desire.

Although the Official Languages Act discusses language use in Canada extensively, this is done predominantly with regard to federal institutions and governmental services. Part VII of the Official Languages Act addresses the use of English or French in Canadian society, and Section 43 in particular includes a subsection regarding education which mandates the Minister of Canadian Heritage to

43. (d) encourage and assist provincial governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial and municipal services in both English and French and to provide opportunities for members of

English or French linguistic minority communities to be educated in their own language (Official Languages Act 1988).

Consequently, although the Official Languages Act does address language use in education, albeit briefly, this mandate is nevertheless limited to the use of English or French as the medium of education. Furthermore, although the Official Languages Act refers in 43(d) to linguistic minorities, this extends only to official language minorities: English-speaking Canadians in Quebec and French-speaking Canadians in the rest of Canada. No such provisions are made for the Indigenous languages in education. The issue of language in education is further complicated by the fact that although the provincial government is responsible for education, it is the federal government who is responsible for Indigenous matters, which includes on-reserve schools.

4.2.2. Constitution Act and Canadian Charter of Rights and Freedoms (1982)

Both the Constitution Act and the Canadian Charter of Rights and Freedoms emerged as a result of the repatriation of the Canadian Constitution from Great Britain. As a result of this repatriation, the Government of Canada no longer required the approval of the British government to make changes to the Constitution and, in 1982, the Canadian government enacted the Constitution Act and the Canadian Charter of Rights and Freedoms.

Although the 1982 Constitution Act does not address Indigenous languages specifically, Mackey (2010a:54) notes that "post-hoc attempts were made to subsume Native language rights under the 'cultural heritage' clause (sec. 27) or on the acknowledgement of treaties (sec. 35)." Section 27 of the Constitution Act belongs to the Canadian Charter of Rights and Freedoms (1982) and states that "this Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians." While this section does not mention language, it has been leveraged to protect Indigenous languages as belonging to Canada's cultural heritage. Section 35 of the Constitution Act (1982), meanwhile, addresses the Indigenous

peoples of Canada. The purpose of this section is to affirm the rights of the Indigenous peoples of Canada:

> 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
>
> (2) In this Act, 'aboriginal peoples of Canada' includes the Indian, Inuit and Métis peoples of Canada.
>
> (3) For greater certainty, in subsection (1) 'treaty rights' includes rights that now exist by way of land claims agreements or may be so acquired (Constitution Act 1982).

Although Section 35 of the Constitution Act affirms existing treaty rights, no explicit reference to language rights is made. In order for Section 35 to account for Indigenous language rights, these language rights must first have been included in and guaranteed by the treaties referenced by this clause. However, these treaties are numerous and varied in stating these rights.

The Assembly of First Nations has argued that Indigenous language rights are included under Section 35 of the Constitution Act. For example, the 2007 National First Nations Language Strategy identifies language rights as one of two policy objectives: "First Nations have jurisdiction over First Nations languages which is recognized and affirmed consistent with Section 35 of the Constitution Act" (AFN 2007:9). This policy objective argues that Indigenous language rights are guaranteed through existing treaty rights and that "legal recognition of First Nations languages ensures permanent and long term sustainable funding which is required for the revitalization, protection, promotion and preservation of First Nations languages over time" (AFN 2007:12).

In addition to Section 35 of the Constitution Act, treaty rights are acknowledged within the Canadian Charter of Rights and Freedoms, which itself constitutes Part I of the Constitution Act:

> 25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or

other rights or freedoms that pertain to the aboriginal peoples of Canada
including

(a) any rights or freedoms that have been recognized by the Royal
Proclamation of October 7, 1763; and

(b) any rights or freedoms that now exist by way of land claims
agreements or may be so acquired (Canadian Charter of Rights and
Freedoms 1982).

As with Section 35 of the Constitution Act discussed above, Indigenous language rights
may be included via existing treaty rights. However, any attempt to subsume Indigenous
language rights under existing treaty rights assumes that language rights are
acknowledged and guaranteed under said treaty rights.

The Canadian Charter of Rights and Freedoms does explicitly address the official
languages of Canada. Sections 16 through 20 of the Canadian Charter of Rights and
Freedoms discuss English and French as the official languages of Canada and affirm the
rights surrounding the use of these two languages in Canadian institutions. Section 22,
however, notes that:

Nothing in sections 16 to 20 abrogates or derogates from any legal or
customary right or privilege acquired or enjoyed either before or after the
coming into force of this Charter with respect to any language that is not
English or French (Canadian Charter of Rights and Freedoms 1982).

It is possible that the use of Indigenous languages could be included under this clause as
well, in that it appears to protect the right to use non-official languages in some capacity.
However, it likely would not guarantee Indigenous language rights given that, in most
cases, no such provisions existed prior to the enactment of the Charter.

With respect to language use in educational contexts, although Section 23 of the
Canadian Charter of Rights and Freedoms addresses minority language education rights,
the provisions in this section address only the rights of official language minorities to
receive schooling in their first language. By specifying official language minorities, this
clause guarantees only that English-speakers in Quebec and French-speakers elsewhere in

Canada have the right to receive education in their first language. Nothing is said here regarding non-official languages and thus provides no support for non-official language schooling, be it an Indigenous language or an immigrant language.

4.2.3.   Canadian Multiculturalism Act (1988)

Section 27 of the Canadian Charter of Rights and Freedoms (1982), as cited above in Section 4.2.2, is reiterated in the 1988 Canadian Multiculturalism Act. This Act makes it a policy of the Canadian government to "recognize and promote the understanding that multiculturalism reflects the cultural and racial diversity of Canadian society and acknowledges the freedom of all members of Canadian society to preserve, enhance and share their cultural heritage" (Canadian Multiculturalism Act 1988, Section 3(1a)). The enactment of the Canadian Multiculturalism Act follows a declaration made by the federal government in 1971, wherein the government declared itself "by policy multicultural" and "pledged to promote respect and support for all of Canada's languages and cultures" (Burnaby 1997:153). Burnaby further comments that in making this declaration, the government sought to "[calm] backlash among non-English/French groups over the declaration of official languages" in 1969 (Burnaby 1997:153).

The Canadian Multiculturalism Act resembles the Official Languages Act in that it established as policy an aim "to preserve and enhance the use of languages other than English and French, while strengthening the status and use of the official languages of Canada" (Canadian Multiculturalism Act 1988, Section 3(1i)). In addition, the Canadian Multiculturalism Act includes a clause which states that:

> 5. (1) The Minister[4] shall take such measures as the Minister considers appropriate to implement the multiculturalism policy of Canada and, without limiting the generality of the foregoing, may

---

[4] "Minister" is defined in this Act as "such member of the Queen's Privy Council as is designated by the Governor in Council as the Minister for the purposes of this Act" (Canadian Multiculturalism Act 1988, Section 2).

[...]

> (f) facilitate the acquisition, retention and use of all languages that contribute to the multicultural heritage of Canada; (Canadian Multiculturalism Act 1988).

Presumably, this clause includes Indigenous languages. However, the wording used in this clause leaves a great deal to the discretion of the Minister and therefore by no means guarantees language rights, be they Indigenous languages or otherwise.

There are two passages relevant to Indigenous language rights included in the preamble. However, as these passages belong to the preamble, they are not themselves legislation. Instead, as mentioned in 4.2.1, they serve to describe the reason for which the legislation to follow has been created. The first of these passages states:

> AND WHEREAS the Constitution of Canada recognizes rights of the aboriginal peoples of Canada (Canadian Multiculturalism Act 1988).

Although this passage does not explicitly make reference to Indigenous language rights, this passage acknowledges the Indigenous treaty rights affirmed in Section 35 of the 1982 Constitution Act. Furthermore, a later passage in the preamble does consider non-official language minorities:

> AND WHEREAS Canada is a party to [...] the *International Covenant on Civil and Political Rights*, which Covenant provides that persons belonging to ethnic, religious or linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practise their own religion or to use their own language (Canadian Multiculturalism Act 1988).

This passage acknowledges the importance of minority languages and cultures, although it again does not explicitly guarantee minority language rights, including those of Indigenous nations.

4.2.4. Canadian Heritage Languages Institute Act (1991)

Following the adoption of the Canadian Multiculturalism Act, the Canadian Heritage Languages Institute Act (CHLIA) was passed. The mandate of the CHLIA was to establish an Institute which would serve to "preserve and enhance the use of languages other than English and French, while strengthening the status and use of the official languages of Canada" (CHLIA 1991, Section 3). This clause is identical to the one used in the 1988 Multiculturalism Act, which in turn is nearly identical to a clause in the preamble of the 1988 Official Languages Act, both of which were discussed in earlier sections of this chapter. The language used in these clauses acknowledges the importance of non-official languages while ensuring that these non-official languages would not be in a position to threaten the status of either French or English.

The declared purpose of the CHLIA includes several clauses directly pertaining to language education:

> 4. The purpose of the Institute is to facilitate throughout Canada the acquisition, retention and use of heritage languages by
>
> (a) promoting, through public education and discussion, the learning of heritage languages and their benefit to Canada;
>
> […]
>
> (c) developing programs to improve the quality of heritage language instruction;
>
> (d) assisting in the production and dissemination of Canadian-oriented materials related to the study of heritage languages (CHLIA 1991).

Not only was language education among the primary purposes of the CHLIA, but the Institute included among its powers the ability to "initiate, finance and administer programs and activities related to its purpose" as well as to "support and implement the programs and activities of other governments, public and private organizations and individuals" (CHLIA 1991, Section 5(1a-b)).

While the CHLIA never referred directly to Indigenous people or Indigenous languages, it defined a heritage language as "a language, other than one of the official languages of Canada, that contributes to the linguistic heritage of Canada" (CHLIA 1991, Section 2). Indigenous languages would therefore fall under this mandate. However, in practice the term "heritage languages" is typically used when referring to immigrant languages and Indigenous languages are often overlooked (Cummins 1994, Duff & Li 2009).

Although the CHLIA was passed in 1991, the establishment of the Institute was deferred indefinitely in the 1992 Budget. Ultimately, this Act was repealed before coming into force following the 2008 Statutes Repeal Act, which served to repeal all legislation that had not come into force within 10 years of being passed.

4.2.5. Bill C-269: Aboriginal Languages Foundation Act (1989)

Bill C-269 was introduced in 1989 as a private member's bill by Ethel Blondin, an Indigenous MP from the Northwest Territories (First Nations Education Steering Committee (FNESC) 1998). This proposed Aboriginal Languages Foundation Act failed to gain support in the House of Commons. Had Bill C-269 been passed, it would have supported the use, maintenance, and revitalisation of Indigenous languages in Canada. In addition to providing broad support for Canadian Indigenous languages, the declared purpose of Bill C-269 explicitly included language education. This Bill contained several sub-clauses pertaining specifically to language education and the acquisition of Indigenous languages:

> 4. The purpose of the Foundation is to facilitate throughout Canada the acquisition, retention and use of aboriginal languages that contribute to the country's aboriginal heritage by
>
> (a) promoting, through public education and discussion, the learning of aboriginal languages and their benefit to aboriginal peoples of Canada;
>
> […]

(c) developing programs to improve the quality of aboriginal language instruction;

(d) assisting in the production and dissemination of Canadian-oriented materials related to the study of aboriginal languages;

[…]

(h) ensuring the perpetuation, revitalization, growth and protection of aboriginal languages (Bill C-269 1989).

The wording in these clauses is very similar to that in Section 4 of the 1991 CHLIA detailed in section 4.2.4 above. The only substantive difference between (4a, c-d) in Bill C-269 and (4a, c-d) in the CHLIA is that Bill C-269 speaks only about Indigenous languages rather than more generally to all heritage languages. Unlike Bill C-269, which was not passed, the CHLIA was passed in 1991.

Bill C-269 further included clauses which would give the proposed Aboriginal Languages Foundation the power to implement and fund Indigenous language programmes. Such powers are another similarity to the later CHLIA. As in the CHLIA, the proposed Aboriginal Languages Foundation was given the power to "initiate, finance and administer programs and activities related to its purpose" and "support and implement the programs and activities of other governments, public and private organizations and agencies and individuals" (Bill C-269 1989, Section 5(1a-b)). These clauses are almost identical to those that were later used in the CHLIA. Further similarities include language stating that neither the Institute nor the Foundation is an agent of the Queen nor are they part of the federal public administration (Bill C-269 1989, Section 19(1); CHLIA 1991, Section 17(1)). In addition, both stated that persons carrying out the duties of the Foundation or the Institute were expected to "act honestly and in good faith" (Bill C-269 1989, Section 20(1a); CHLIA 1991, Section 18(1a)). This expectation that the Foundation behave in good faith is an interesting point. Many Indigenous people in Canada, for example, do not feel that the treaties were carried out in good faith. As the Truth and Reconciliation Commission (2012) points out, Indigenous peoples and the Canadian government entered into the Treaties with a different

understanding of the goals of those agreements: "First Nations leaders entered into the Treaty making process for the purpose of establishing a relationship of respect that included an ongoing set of mutual obligations including land sharing based on kinship and cooperation. For its part, the Canadian government saw the treaties only as land transfer agreements" (TRC 2012:7).

Bill C-269 also stipulated that the Board of Directors managing this Foundation must "have knowledge or experience that will assist the Foundation in fulfilling its purpose" (Bill C-269 1989, Section 6(2)). Although this does not entail that members of the Board of Directors will be required to have a background in linguistics, education, or Indigenous languages, making such a background a requirement would have resulted in increased legislation with a basis in linguistic and educational research (see also chapter 2.3 for further discussion). In addition to requiring a relevant background, Bill C-269 required consultation with Indigenous peoples. Directors may only be appointed to the Board "on the recommendation of the Minister, after the Minister has consulted with such aboriginal governments, institutions and individuals as the Minister considers appropriate" (Bill C-269 1989, Section 7). However, it is important to note that the use of "considers appropriate" leaves room for interpretation and there may be disagreement as to how much consultation is appropriate (Bill C-269 1989, Section 7).

4.2.6.   Bill S-212: Aboriginal Languages Act

More recent than the other legislation and policy documents discussed in this chapter is Bill S-212, which was introduced in the Canadian Senate in December 2015 by Senator Serge Joyal as a private member's bill. Bill S-212 has since had a second reading, with this debate held in March and May 2016. Bill S-212 is not the first attempt at creating an Aboriginal Languages Act. In 1997, for example, the First Nations Confederacy of Cultural Education Centre [FNCCEC] proposed such an Act; however, this proposal was never tabled in Parliament (FNESC 1998). Furthermore, the Senator sponsoring Bill S-212 had introduced an Aboriginal Languages Act in the Senate in the

past, as Bill S-237 in May of 2009 and more recently as Bill S-229 in June of 2015. Neither progressed beyond a second reading.

Bill S-212 recognises Canada's Indigenous languages and provides broad protections for these languages. The preamble of this bill acknowledges the importance of language as "an integral part of culture and an essential tool of identification, cohesion, communication and creative expression," and recognises that Indigenous groups have repeatedly recommended that the government establish formal legislation protecting Indigenous languages (Bill S-212). Bill S-212 includes language which commits the Canadian government to not only recognise and respect Canada's Indigenous languages, but also to revitalise and promote these languages (Bill S-212, Section 6). Furthermore, the mandate of Bill S-212 includes a number of provisions specific to language education:

> 7. The Minister[5] shall take the measures that the Minister considers appropriate to implement the commitments set out in section 6 and otherwise give effect to and carry out the objectives of this Act and, without restricting the generality of the foregoing, the Minister may take measures to
>
> […]
>
> (b) recognize and support the right of aboriginal governments to use aboriginal languages as the language of instruction in all schools that are operated on reserves, or under tuition agreements for aboriginal students, and funded by the Government of Canada;
>
> (c) encourage and support provincial and territorial governments to encourage and support the certification of aboriginal language teachers and instructors, linguists, interpreters and translators, and the use of aboriginal languages as the language of instruction;
>
> […]

---

[5] "Minister" is defined in this Act as "the member of the Queen's Privy Council for Canada designated by the Governor in Council as the Minister for the purposes of this Act" (Bill S-212 2015, Section 2).

(e) encourage and support institutions of elementary, secondary and higher education to include the study or use of aboriginal languages in their curriculum and to grant full academic credit for proficiency in an aboriginal language equal to that granted for proficiency in either of the official languages of Canada;

(f) encourage and support programs that increase the opportunities for aboriginal persons to learn their languages (Bill S-212 2015).

Section 7 of Bill S-212 provides a concrete mandate supporting Indigenous language education and the inclusion of Indigenous languages as a subject of study or a medium of instruction in schools. In addition to the education-related clauses detailed above, this section also addresses other issues relating to language loss and language revitalisation, such as increasing domains of use or fostering positive attitudes toward Indigenous languages (Bill S-212, Section 7). As with other legislation discussed in this chapter, however, the use of "considers appropriate" does leave room for interpretation, and what constitutes appropriate action will not be universally agreed upon and may not allow adequate local control and input regarding policies affecting specific First Nations.

In addition to promoting Indigenous language education, Bill S-212 includes a clause ensuring that Indigenous people in Canada will also have access to the majority languages:

3. For greater certainty, nothing in this Act shall be construed so as to limit or preclude the funding of English or French language education or training programs for aboriginal peoples (Bill S-212 2015).

One motivation behind language shift arises when people begin to use the majority language as a means of increasing access to educational or occupational opportunity and the accompanying socioeconomic benefits (see chapter 3.2 for further discussion). By including this clause, the provisions supporting Indigenous languages will not come at the expense of access to the socioeconomic advantages afforded by knowledge of one or both of the official languages.

4.2.7.   First Ministers and National Aboriginal Leaders: Strengthening Relationships and Closing the Gap (Kelowna Accord) (2005)

In addition to legislation addressing matters of language and culture, policy documents concerning education contain clauses discussing Indigenous languages. One notable example is the 2005 Kelowna Accord. A proposed agreement between Canada and Indigenous leaders, the Kelowna Accord intended to close the gap in quality of life between Indigenous and non-Indigenous Canadians and improve the socioeconomic conditions faced by Indigenous Canadians. The Kelowna Accord identified four areas of focus: health, education, housing, and relationships between Indigenous leaders and federal, provincial, and territorial governments. Significantly, the Kelowna Accord was produced following eighteen months of extensive negotiations (Patterson 2006), a process which exhibited a commitment to consultation. According to Patterson (2006:2), these negotiations were open to "some 1,000 invitees," including representatives from the federal, provincial, and territorial governments and from numerous Indigenous organisations. Furthermore, these negotiations involved no fewer than ten major meetings as well as several additional smaller meetings. In particular, five national Indigenous organisations, the Assembly of First Nations, the Inuit Tapiriit Kanatami, the Métis National Council, the Native Women's Association of Canada, and the Congress of Aboriginal Peoples, played a central role in these negotiations (Patterson 2006).

Education was one of the four major areas of concern addressed by the Kelowna Accord. While the emphasis of the sections on education remained on closing the achievement gap between Indigenous and non-Indigenous Canadians, the Kelowna Accord highlighted the importance of doing so while "respecting and supporting their unique cultures, traditions, and languages" (Kelowna Accord 2005:4). The inclusion of Indigenous languages was one of several educational initiatives highlighted by the Accord, identifying the need for "curriculum development that reflects local Aboriginal history, cultures, traditions, languages and learning approaches, where appropriate" (Kelowna Accord 2005:4). It is not clear, however, how or by whom "where appropriate" would be defined.

The inclusion of Indigenous languages in schools was reiterated in further discussions of educational initiatives for both First Nations and Inuit, although it was not mentioned among those initiatives declared by the Métis (Kelowna Accord 2005:17-18). This discussion specified the need for "effective interface between First Nations and provincial/territorial teacher certification, and certification of teachers in First Nations language and culture" (Kelowna Accord 2005:12). The Accord also cited as a priority for Inuit students the need to "promote, preserve and protect Inuit languages" as well as to "commit to develop an Inuit-specific approach by incorporating Inuit traditional knowledge, experience, language, and practices in education and lifelong learning" (Kelowna Accord 2005:15).

It is important to note, however, that although Indigenous language education was included as an initiative, it was but one of several initiatives highlighted in the Kelowna Accord: language was by no means the sole focus of the education sections of this Accord. For example, in addition to including Indigenous language education, there was also a call for local Indigenous control of education and for increased support for high-quality schools on-reserve. The development of local Indigenous control over education in particular could facilitate the introduction of further language initiatives, should such measures be desired.

The Kelowna Accord was agreed upon in late November 2005. However, although this included a schedule of funding (see Patterson 2006:Appendix A), the 38th Canadian Parliament was dissolved before federal monies could be approved (Patterson 2006:1). The dissolution of Parliament led to the end of the Kelowna Accord. The budget presented by the new Conservative government allotted significantly less funding towards issues that had been addressed in the Kelowna Accord, providing $150 million in 2006 and $300 million in 2007 while the Kelowna Accord had set aside $600 million in 2006 alone (CBC 2006). In response, the Kelowna Accord Implementation Act was presented in Parliament as a private member's bill and was enacted in 2008. However, the Kelowna Accord Implementation Act does not hold the government to the funding agreed upon in the Kelowna Accord. Instead, it only stipulates that the Canadian

government take measures to implement the terms of the Kelowna Accord and prepare "a report reviewing the progress made by the Government of Canada in fulfilling its obligations under the Kelowna Accord" for five years starting in 2008 (Kelowna Accord Implementation Act 2008, Section 3). Although the Canadian government has produced these reports, the progress detailed in these reports has fallen short of terms agreed upon in the Kelowna Accord.

4.2.8. Indian Control of Indian Education (1972)

While the Kelowna Accord included education as a major area of concern, this was by no means the first time Indigenous groups have emphasized the importance of education. In 1972, the National Indian Brotherhood (now the Assembly of First Nations) published a policy paper entitled *Indian Control of Indian Education* (ICIE) in response to a 1969 White Paper[6] which "called for the dissolution of the reserve system and total assimilation of First Nations peoples" (First Nations Control of First Nations Education 2010:6). This policy paper was subsequently accepted by the federal Department of Indian and Northern Affairs in 1973 (Lickers 1988). The ICIE paper sets forth a proposal calling for local, Indigenous control over education, allowing for the integration of Indigenous culture and values into the curriculum, as well as addressing existing inadequacies in educational facilities and services. In addition to local control over education, the ICIE paper calls for the inclusion of Indigenous culture and history in the provincial and territorial curricula, stating that this "should promote pride in the Indian child, and respect in the non-Indian student" (ICIE 1972:9).

Among the educational initiatives presented in the ICIE policy paper are those specifying provisions for Indigenous language education and the inclusion of Indigenous languages in schools. The ICIE paper notes that both "teaching in the native language," using an Indigenous language as the medium of instruction, and "teaching the native

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[6] A *white paper* is a document presented by a Minister in the government which serves to state and explain the government's stance on a particular issue ("White Papers" 2009).

language" as a subject of study are important aspects of this inclusion (1972:15). In fact, not only are Indigenous languages included among educational initiatives, but the importance of doing so is emphasised throughout this paper. Frequent references to language are included alongside references to Indigenous culture and traditions. The extent of such references to Indigenous languages can perhaps in part be attributed to the fact that many children in 1972 still retained these languages as their first language upon entering school. However, the paper at the same time acknowledges the ongoing language loss among Indigenous language communities:

> The Indian people are expressing growing concern that the native languages are being lost; that the younger generations can no longer speak or understand their mother tongue. If the Indian identity is to be preserved, steps must be taken to reverse this trend. (ICIE 1972:15)

In response to this concern, the ICIE paper argues that including the local Indigenous language as a language of instruction would serve to help stave off this language loss.

Furthermore, not only would including Indigenous languages in schools help preserve these languages, but it would also serve to foster academic success among Indigenous children. To this end, the ICIE (1972) policy paper argues in favour of both teaching the local Indigenous language as a subject as well as teaching using the local Indigenous language as a medium of instruction. This ICIE paper proposes teaching pre-school and primary school in the local Indigenous language, while gradually transitioning to English- or French-medium schooling "only after the child has a strong grasp of his own language" (ICIE 1972:15). Such statements are further indicative of the extent to which children had retained their Indigenous language as a first language in 1972. The assumption that children speak an Indigenous language at home does not appear to exist in later documents, such as the 2010 update to the 1972 ICIE which will be discussed in section 4.2.9.

In addition to the importance of including the local Indigenous language in schooling, the ICIE (1972) policy paper identifies a need for teachers who are fluent in

the local language and proposes a means of fulfilling this need. Not only did the policy paper suggest introducing teacher aides who specialise in the local language, but the paper further recommends waiving teaching qualification requirements to "enable Indian people fluent in Indian languages to become full-fledged teachers" (ICIE 1972:15). Provisions such as these are indicative of the difficulty of finding Indigenous language speakers with teaching certification in 1972, difficulties which have not lessened given similar provisions included in later legislation such as the First Nations Jurisdiction over Education in British Columbia (2006) and the proposed Kelowna Accord (2005).

4.2.9. First Nations Control of First Nations Education (2010)

In 2010, the Assembly of First Nations published a revision to the 1972 ICIE policy paper entitled *First Nations Control of First Nations Education* (FNCFNE). This revision was made in response to the absence of meaningful support by the Canadian government, despite the 1972 ICIE policy paper having been affirmed by the Minister of Indian Affairs in 1973. The educational proposals put forth in the 1972 ICIE paper were never fully implemented. Although the 2010 FNCFNE reaffirms the underlying principles presented in the ICIE paper, the 2010 revision serves "to ensure the ICIE 1972 policy reflects current challenges and changes in education" (FNCFNE 2010:3).

As with the earlier 1972 ICIE policy paper, the inclusion of Indigenous languages in education features extensively in the 2010 FNCFNE paper. In fact, Indigenous languages may feature more centrally in this paper than in the 1972 ICIE paper. Starting in the preamble, the FNCFNE paper highlights the right to maintain one's cultural and linguistic identity, noting that "education is essential to actualizing this right" and that local control over education coupled with adequate funding will contribute to the maintenance of Indigenous languages and culture (FNCFNE 2010:4). The importance of founding Indigenous education on "First Nations languages, cultures, histories, philosophies, worldviews and values" extends throughout the paper, with frequent references to the inclusion of Indigenous language and culture in Indigenous curricula (FNCFNE 2010:8).

Despite the emphasis placed on the importance of grounding Indigenous education in Indigenous languages and cultures, specific approaches to language programming do not feature extensively in this document. The FNCFNE (2010) document is not a curriculum proposal, but rather a policy document. Although the document mentions ensuring access to language nests and immersion programmes as well as the necessity for curriculum development to "allow for the development of materials and programs to preserve and protect Indigenous languages, cultures and histories," few specific language strategies are outlined in this document (FNCFNE 2010:12). The FNCFNE (2010) document instead references the 2007 National First Nations Language Strategy for further discussion on specific approaches to language programming and strategies for language education:

> For successful implementation of First Nations language education, the government of Canada must recognize and support the Policy Objectives and Goals identified in the *National First Nations Language Strategy* as approved by the Assembly of First Nations in Resolution No. 12/2007. (FNCFNE 2010:11)

In addition to this, the FNCFNE document calls for a funding approach which "shall include [...] First Nations developed and approved First Nations language instruction and curricula" (FNCFNE 2010:16).

Finally, Indigenous languages are mentioned briefly in the conclusion to this document, listing "fewer endangered First Nations languages" and "increased use of First Nations languages in school, work, play and social settings" among the outcomes of providing Indigenous-oriented education to Indigenous learners (FNCFNE 2010:18).

4.2.10. Bill C-33: First Nations Control of First Nations Education Act (2014)

Tabled in Parliament in early April 2014, Bill C-33 is a proposal which would establish provisions for local, Indigenous control over education. Despite the centrality of language issues in both AFN-produced papers, discussed in Sections 4.2.8 and 4.2.9

above, language is not discussed to the same extent in Bill C-33. Nevertheless, there are a number of significant instances in which the inclusion of Indigenous languages in education is mentioned in Bill C-33, the first among these being in the preamble:

> Whereas First Nations education systems must receive adequate, stable, predictable and sustainable funding that provides for the teaching of First Nations languages and cultures as well as for education support services (Bill C-33 2014).

Although the inclusion of Indigenous languages, and in particular the emphasis placed on providing adequate funding for this inclusion, is encouraging, the purpose of the preamble is to set out the reasons for creating a piece of legislation in the first place and does not mandate any action itself.

Later sections make explicit the possibility of including Indigenous languages in the curriculum, both as a language of study as well as a medium of instruction:

> 21. (2) Subject to the regulations, the council of a First Nation is to offer English or French as the language of instruction and may, in addition, offer a First Nation language as a language of instruction.
>
> (3) The council of a First Nation may, as part of an education program, give students the opportunity to study a First Nation language or culture (Bill C-33 2014).

Such provisions for the inclusion of Indigenous languages in proposed legislation is particularly significant: as an AFN analysis of Bill C-33 stated, "under current systems, there is no recognition of First Nation language and First Nation culture" (AFN 2014:1). It is important to note, however, that the provision in 21(2) does not appear to include the use of an Indigenous language as the language of instruction in lieu of English or French, but merely in addition to. This particular issue is further addressed in the AFN analysis of Bill C-33:

> There have been questions raised regarding the inclusion of 'in addition' of First Nation language of instruction as First Nations want to ensure that this is inclusive of First Nation language immersion. It is important to note that in a letter to all First Nations of April 15, 2014, the Minister states

that Bill C-33 'legally supports the incorporation of First Nations language and culture programming in the education curriculum, *including the ability to administer immersion in a First Nation language…*' (AFN 2014:7, emphasis in original).

Although this is clear that language immersion would indeed be an option under Bill C-33, it remains unclear as to the extent to which English or French would be required in the classroom. In British Columbia, for example, French Immersion programmes need only have a minimum of 25% of instruction in French in upper grades, although early grades may have as high as 80-100% French-medium instruction (Government of British Columbia, n.d., "French Immersion program"). Related to section 21(2), however, is a further clause in section 48, addressing regulations:

> 48. (1) After seeking the advice of the Joint Council, the Minister may make any regulations that are necessary for carrying out the purposes and provisions of this Act, including regulations
>
> [...]
>
> (d) defining, for the purposes of subsection 21(2), 'language of instruction' and providing for the extent of the use of a First Nation language as a language of instruction for the purposes of that subsection (Bill C-33 2014).

This clause appears to leave the definition of "language of instruction" to the discretion of the Minister, referring here to the Minister of Indian Affairs and Northern Development. The Minister would also have discretion to determine the extent to which the Indigenous language may be used as a language of instruction.

Finally, Bill C-33 includes a provision for funding Indigenous language programmes, mandating that funding "must include an amount to support the study of a First Nation language or culture as part of an education program" (Bill C-33 2014, section 43(4)). The use of *must* in lieu of *may* in this clause is quite striking. As Mendelson (2014:7) points out, "one can search through many laws before finding another that says 'the Minister *must* pay' and then sets out clear criteria for determining what he must pay." The use of *must* in this context makes providing funding for

Indigenous language programming obligatory rather than leaving it to the discretion of the Minister.

The Assembly of First Nations published an analysis of Bill C-33 in late April 2014, noting that one key aspect of the importance of local control of education is that it would allow Indigenous people to provide "education based on [their] history, culture, values, spirituality, language and traditional knowledge" (AFN 2014:2). This analysis includes an assessment of the treatment of language issues in Bill C-33, addressing both the clause regarding immersion programming discussed above as well as concerns regarding the guarantee of funding for language programming. The AFN analysis of Bill C-33 again reiterates the importance of including language and culture in the curriculum and providing funding for such programming.

The response to Bill C-33 has been contentious. A 2013 draft was widely denounced by Indigenous leaders and groups due to an absence of consultation. In contrast to the 2005 Kelowna Accord, which was drafted following eighteen months of extensive consultation (Patterson 2006), no such consultation was held for Bill C-33: "while the legislation was informed through various ad hoc meetings between the government and various First Nation leaders, the drafting itself was done unilaterally with no direct First Nation or Assembly of First Nations participation" (Mendelson 2014:1). Although Prime Minister Harper claimed there had been "unprecedented consultation," in reality this involved only then-National Chief Shawn Atleo (Barrera 2014b, Sayers 2014 "Understanding Bill C-33"). The Bill was not well-received by Indigenous groups (see e.g. Barrera 2014a, Canadian Press 2014, Plokhii 2014, Rennie 2014) and AFN National Chief Shawn Atleo ultimately resigned "in the face of insurmountable opposition" (Mendelson 2014:2). Although Bill C-33 passed a second reading and was referred to committee in the House of Commons, the bill was later put on hold following the Assembly of First Nations' rejection (Kennedy 2014, Newlove 2014).

4.2.11. Royal Commission on Aboriginal Peoples (1996)

In 1991, the Royal Commission on Aboriginal Peoples was established with a mandate to "investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole" and to subsequently "propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today" (RCAP 1996a:12). Over the following years, RCAP conducted 178 days of public hearings, visited 96 communities, consulted experts, and commissioned research studies. This extensive consultation culminated in the five-volume *Report of the Royal Commission on Aboriginal Peoples*, which contained hundreds of recommendations.

Among the recommendations made by RCAP are several pertaining to Indigenous languages and to language education. In addition to recognising that Indigenous language education has been included in recommendations made in past reports and studies, RCAP notes that "Aboriginal people have been restricted in their efforts to implement curricula that would transmit their linguistic and cultural heritage to the next generation" (RCAP 1996b:441). Similar to documents produced by Indigenous groups, RCAP acknowledges the importance of language in Indigenous cultures, commenting that "Aboriginal people speak about language and culture in the same breath" (RCAP 1996b:463). Given the importance of Indigenous languages in Indigenous cultures and in response to ongoing language shift, RCAP includes a recommendation prioritising the inclusion of Indigenous languages in education:

The Commission recommends that

3.5.6

Aboriginal language education be assigned priority in Aboriginal, provincial and territorial education systems to complement and support language preservation efforts in local communities through

(a) first- or second-language instruction or immersion programs where parents desire it and numbers warrant;

(b) recognition of Aboriginal language competence for second-language academic credit whether competence is acquired through classroom or out-of-school instruction;

(c) involving elders and fluent Aboriginal speakers in programs to enhance Aboriginal language acquisition and fluency;

(d) developing instructional materials; and

(e) encouraging and rewarding language teaching as a career path and language research in lexical elaboration, structural analysis and cultural contexts as professional and academic specializations (RCAP 1996b:468).

This recommendation is fairly extensive. It addresses not only the inclusion of Indigenous language instruction and raises the option of immersion programmes, but also considers the issue of language teaching and the inclusion of Indigenous elders in the classroom. Furthermore, this recommendation makes note of the need for materials development, an area which may be neglected in the overarching concerns of protecting language inclusion. In addition to broad recommendations about the inclusion of Indigenous languages in schools, RCAP includes a recommendation that Indigenous languages be included as one element of a school board's educational strategy:

The Commission recommends that

3.5.9

Provincial and territorial ministries require school boards serving Aboriginal students to implement a comprehensive Aboriginal educations strategy, developed with Aboriginal parents, elders and educators, including

[…]

(g) language classes in Aboriginal languages, as determined by the Aboriginal community (RCAP 1996b:474).

Language education is further raised as one element of a broader language revitalisation strategy:

The Commission recommends that

3.6.9

Each Aboriginal nation in the various stages of nation building, capacity building, negotiation and implementing self-government consult with its constituent communities to establish priorities and policies with respect to Aboriginal language conservation, revitalization and documentation, including:

[…]

(e) incorporating their Aboriginal language in education policies and programs (RCAP 1996b:618).

However, although RCAP discusses Indigenous languages extensively, Corson (1997:83) commented that "its language recommendations are likely to be ignored because of the political priority that the French/English debate has in Canada." Perhaps unsurprisingly, little progress has been made on the inclusion of Indigenous languages in schools in the twenty years since RCAP published its Report. As a report, these extensive suggestions about language programming are only recommendations and have not been incorporated into legislation.

4.2.12. Truth and Reconciliation Commission of Canada: Calls to Action (2015)

Created by the Indian Residential Schools Settlement Agreement, the TRC spent six years travelling Canada and hearing from more than 6000 Indigenous Canadians whose lives have been impacted by the residential school system (TRC 2015). In 2015, the TRC released its Final Report, which contains 94 recommendations, presented as Calls to Action. Several of these deal with language and education (Calls to Action 6-17), and two (10 and 16) in particular address language education specifically:

10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:

[…]

iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses (TRC 2015:149).

16. We call upon post-secondary institutions to create university and college degree programs in Aboriginal languages (TRC 2015:157).

In addition to calling for the inclusion of Indigenous languages in educational legislation, Call to Action 10 explicitly names this inclusion of Indigenous languages as a right. Call to Action 16 further extends the inclusion of Indigenous languages to post-secondary schooling, an area which is frequently overlooked in policy discussing Indigenous language education. Furthermore, the use of "full participation and consent" reiterates the importance of consultation with Indigenous peoples in the formulation of educational legislation (TRC 2015:149). The absence of such consultation, as discussed in section 4.2.10, contributed to the failure of Bill C-33 a year earlier.

Although it has been twenty years since the Royal Commission on Aboriginal Peoples presented its recommendations about language education, the recommendations released by the Truth and Reconciliation Commission are very similar in nature. Little progress appears to have been made to implement these initiatives. In response to the release of the TRC's Final Report, however, Prime Minister Justin Trudeau stated in 2015 that "we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission" ("Statement by Prime Minister" 2015). Should this goal be realised, it would result in more concrete protections for the inclusion of Indigenous languages in education.

4.3. Provincial Policy: Some Examples

4.3.1.   James Bay and Northern Quebec Agreement (1975)

At its core a land-use agreement between the Government of Quebec, the James Bay Cree communities, and the Inuit communities in northern Quebec, the 1975 *James Bay and Northern Quebec Agreement* (JBNQA) nevertheless includes sections pertaining to concerns such as health, social services, and police. Among these exist two sections addressing education, one for education in the Cree communities and one for education in the Inuit communities.

Section 16: Cree Education

Section 16 addresses provisions for education within the James Bay Cree communities. Among these provisions is the establishment of the Cree School Board through which local control of education within Cree communities was established:

> To the exclusion of all other school boards, the Cree School Board shall have jurisdiction and responsibility for elementary and secondary education and adult education (JNBQA 1997, Section 16.0.6)[7].

In addition to establishing local control of education within Cree communities, the JBNQA includes two clauses pertaining specifically to language education. The first among these gives the Cree School Board the power to "develop courses, textbooks and materials designed to preserve and transmit the language and culture of the Native people" (JBNQA 1997, Section 16.0.9(h)). However, more significantly, the clause in Section 16.0.10 provides for the inclusion of Cree as a language of instruction:

> The teaching languages shall be Cree and with respect to the other languages in accordance with the present practice in the Cree communities in the Territory. The Cree School Board will pursue as an objective the use

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[7] Note, however, that the Inuit community in Fort George (today Chisasibi), a town falling under the jurisdiction of the Cree School Board, has the option to attend schools run by the Kativik School Board (JBNQA 1997, Section 17.0.1).

of French as a language of instruction so that pupils graduating from its schools will, in the future, be capable of continuing their studies in a French school, college or university elsewhere in Québec, if they so desire.

After consultation with the parents' committee, and having regard to the requirements of subsequent education, the commissioners shall determine the rate of introduction of French and English as teaching languages (JBNQA 1997, Section 16.0.10).

This clause established the possibility of using Cree as the primary language of instruction in classrooms under the jurisdiction of the Cree School Board. Furthermore, this clause appears to effectively exempt these communities from the French-language requirements encountered elsewhere in Quebec. It is also relevant to note that Indigenous language vitality is stronger in northern Quebec than it is in most other parts of Canada, and children living in these areas are often dominant in their Indigenous language when they start school (e.g. Burnaby 1997).

The JBNQA is notable in that it was enacted in 1975. Consequently, sufficient time has elapsed since its enactment that it becomes possible to consider some of the long-term results of language-related provisions which may not be possible when considering more recent policy. Cases such as that of the Cree language provisions in the JBNQA are valuable in that they may provide some insight into possible outcomes of such legislation.

Section 17: Inuit Education

Section 17 includes provisions for Inuit education, including the creation of the Kativik School Board, which will govern "the whole territory north of the 55th parallel" (JBNQA 1997, Section 17.0.1)[8] and have "jurisdiction and responsibility for elementary

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[8] This excludes the Cree community of Great Whale River (today two separate municipalities, the Cree Whapmagoostui and the Inuit Kuujjuarapik), which is under the jurisdiction of the Cree School Board, as well as future municipalities, who "may be constituted as a separate school municipality, after prior consultation between the Department of Education and the Kativik School Board" (JBNQA 1997, Section 17.0.1).

and secondary education and adult education" (JBNQA 1997, Section 17.0.3). As with the creation of the Cree School Board, the establishment of the Kativik School Board gives Inuit communities in northern Quebec local control over education.

A clause pertaining to the use of Inuttitut as a language of instruction exists for Inuit education as well:

> The teaching languages shall be Inuttituut[9] and with respect to the other languages, in accordance with the present practice in the territory. The Kativik School Board will pursue as an objective the use of French as a language of instruction so that pupils graduating from its schools will, in the future, be capable of continuing their studies in a French school, college or university elsewhere in Québec, if they so desire.

> After consultation with the parents' committee, and having regard to the requirements of subsequent education, the commissioners shall determine the rate of introduction of French and English as teaching languages (JBNQA 1997, Section 17.0.59).

Using wording that is almost identical to the clause for the inclusion of Cree, this clause establishes the possibility of including Inuttitut as a language of instruction in Inuit schools.

Furthermore, given the time elapsed since the enactment of the JBNQA, it is again possible to observe some of the outcomes of such legislation on the inclusion of Inuttitut in Inuit schools in northern Quebec. For example, most Inuit schools in northern Quebec have a policy of bilingualism in which another language is taught in addition to Inuttitut and Inuttitut is the language of instruction until grade 3, at which time parents may choose English- or French-medium schooling for their children (Allen 2007, Daveluy 2004, Patrick 2005). However, although Inuttitut is taught as a subject in Inuit schools in all grades, many parents have reported a decline in their children's proficiency

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[9] Note that Inuttitut is the local name for the variety of Inuktitut spoken in northern Quebec. Inuttituut is an alternative spelling.

in Inuttitut after they have transitioned to English- or French-medium education (Taylor et al. 2000).

4.3.2. First Nations Jurisdiction over Education in British Columbia Act (2006)

The First Nations Jurisdiction over Education in British Columbia Act was enacted on the federal level in 2006 and acknowledged on the provincial level in 2007 with the First Nations Education Act. The First Nations Jurisdiction over Education in British Columbia Act established provisions which enabled individual First Nations in British Columbia to enter into an agreement with the government. This agreement gives the First Nation the "power to enact laws respecting education on First Nation land," provided this education allows students "to transfer without academic penalty to an equivalent level in another school within the school system of British Columbia" (First Nations Jurisdiction over Education in British Columbia Act 2006, Section 9).

Although this Act does not address Indigenous language education in any significant way, it does include a subsection pertaining to teacher certification:

> (2) The [First Nations Education] Authority shall, as provided for by a co-management agreement,
>
> […]
>
> (b) provide a teacher certification process for teachers providing educational instruction in schools operated by a participating First Nation on First Nation land, *other than teachers who teach only the language and culture of the participating First Nation*;
>
> (c) provide, upon request by a participating First Nation, a teacher certification process for teachers who teach only the language and culture of the participating First Nation in schools operated by the participating First Nation on First Nation land (First Nations Jurisdiction over Education in British Columbia 2006, Section 19(2b-c); emphasis added).

The clauses in Section 19(2b-c) appear to exempt teachers of Indigenous language and culture from the certification otherwise required of teachers, while making such

certification available if so desired. Such an exemption from certification requirements facilitates the inclusion of Indigenous languages in the classroom. Given the realities of Indigenous language vitality, it can be difficult to find speakers who are proficient in the language and who also have the necessary teaching certification.

Chapter 5.

Conclusion

This study examined existing and proposed Canadian language policy, focussing on provisions made for the inclusion of Indigenous languages in education. Following a discussion of language policy and planning theory and a review of the current state of Indigenous languages in Canada, specific policy documents were discussed. Specific propositions from these policy documents were examined for statements concerning Indigenous languages. Several themes became apparent across the policy documents under study, and these themes are discussed in section 5.1 below.

Presently, Bill S-212 (2015) remains in the Senate and is in the second reading stage. Although Bill C-33 (2014) was placed on hold, the response to this bill was overwhelmingly negative and it seems unlikely that this bill will progress further. While Prime Minister Trudeau has declared his intention to implement the Calls to Action presented in the *Final Report of the Truth and Reconciliation Commission of Canada* (TRC 2015), the impact that this will have on Indigenous language education remains to be seen.

5.1. Themes Arising in Canadian Policy Documents

A number of recurring themes emerged from the discussion of language policy and planning in chapter 2 and in the discussion of mechanisms of language loss in chapter 3. These themes are not limited to language policy and planning theory. The outlining of Indigenous language education in Canadian legislation and other policy

documents presented in chapter 4 also points to a number of related themes which will be discussed in greater detail in this chapter.

Key among these themes is the exclusion of Indigenous languages from language policy. In general, Canadian policy and legislation either does not directly address Indigenous languages or, if Indigenous languages are addressed, language education is not discussed in any great detail. For example, the only mentions of Indigenous languages in the Canadian Multiculturalism Act (1988) occur in the preamble. Meanwhile, Indigenous languages are not once mentioned in the Official Languages Act (1988). This exclusion also occurs with language policies focussing on non-official languages. The Canadian Heritage Languages Institute Act, for example, does not reference Indigenous languages. While one could argue that Indigenous languages would nonetheless be included under the heading of "heritage languages," Burnaby (1997:155) points out that the government has "largely considered Aboriginal peoples and their languages as outside [debates about non-official languages]." The term "non-official languages" is instead associated only with immigrant languages. As far as policymakers are concerned, Indigenous languages belong to another category entirely. According to Burnaby (1997:155), the motivation behind the exclusion of Indigenous peoples from the Royal Commission on Bilingualism and Biculturalism (RCBB) was "on the grounds that their issues were more properly dealt with elsewhere." This exclusion is despite the fact that documents produced by Indigenous groups such as the Assembly of First Nations emphasize the importance of language and language use in education. The inclusion of Indigenous language and culture in education is very central in these AFN-produced policy documents.

The attitude behind the RCBB belief that Indigenous issues were "more properly dealt with elsewhere" (Burnaby 1997:155) continues today. Indigenous languages are often approached with the sense that they are someone else's responsibility. For example, when considering documents such as the Official Languages Act (1988) or the Constitution Act (1982), it seems as though the attitude towards Indigenous languages is such that Indigenous language rights are assumed to be covered elsewhere and therefore

do not need to be addressed. However, maintaining this assumption ultimately overlooks Indigenous language rights entirely. For example, in the absence of legislation clearly including Indigenous languages, Indigenous groups have consequently made reactive ad hoc declarations to obtain support for the inclusion of Indigenous languages. Such declarations often argue that Indigenous language rights are covered under Section 35 of the Constitution Act (1982). This section, however, says nothing about Indigenous languages. Instead, Section 35 of the Constitution Act (1982) serves to affirm existing treaty rights. The understanding in these arguments is that Indigenous language rights are included among treaty rights, which may or may not have been the case. Without searching through the various treaties for Indigenous languages rights, there is no guarantee that language rights are included. Ultimately, however, this belief that Indigenous language rights are someone else's responsibility, and therefore need not be addressed, contributes to the exclusion of Indigenous languages from policy. Existing legislation largely ignores Indigenous languages. Consequently, Indigenous language rights are not enshrined in any one policy document or piece of legislation. This makes it possible for other language issues such as language education to be overlooked.

Ultimately, there seems to be little institutional support for Indigenous languages or Indigenous language schooling. Even where Indigenous language programmes are present, they lack the support that, for example, French Immersion programmes have. As Burnaby (2008:339) commented, it is not uncommon that "Aboriginal language programmes give only lip service to pluralism and are actually assimilationist in intent." Indigenous language issues are largely overlooked or downplayed in Canadian policy and legislation.

Although certain bills have addressed Indigenous languages extensively, such as Bill C-269 (1989) or Bill S-212 (2015), these represent only proposed legislation which does not typically progress beyond a first or second reading. The failure of these bills to pass illustrates the absence of political consensus to achieve the purposes of the bills. For example, the failure to fully implement the Kelowna Accord (2005) is a direct result of the change in government following the 2006 federal election. While Indigenous

language policy is periodically considered, it takes many stages requiring consensus to move such legislation forward. This does not change the reality that Indigenous languages have been excluded from legislation that is successfully passed by Parliament and enacted, however. Furthermore, policy documents which do substantially include Indigenous languages are frequently not in the form of binding legislation, proposed or otherwise. For example, both the Royal Commission on Aboriginal Peoples (1996b) and the First Nations Control of First Nations Education (2010) speak extensively about the inclusion of Indigenous languages and culture in education. These documents, however, are not legislation at all: they consist of proposals and recommendations.

In addition to emphasising the importance of Indigenous languages in education in policy documents, Indigenous groups have long been calling for local, Indigenous control and consultation over education. In a number of policy documents, the AFN has pointed out the need for local control in order to better integrate local Indigenous cultures, history, values, and traditions in a number of policy documents. These policy documents include, for example, the ICIE policy paper (1972) and their response to Bill C-33 (AFN 2014). The Kelowna Accord (2005) also highlighted the importance of local input in the curriculum for the same reason. Given the diversity of Indigenous peoples across Canada, "respecting and supporting [Indigenous peoples'] unique cultures, traditions, and languages" necessitates local input (Kelowna Accord 2005:4). The importance of consultation is also apparent throughout the analysis in chapter 4 in relation to local control over education. The proposed Bill C-269 (1989), for example, contained a clause requiring consultation with Indigenous groups prior to appointing a Board of Directors. The Truth and Reconciliation Commission of Canada proposes a more extensive approach to consultation, with Call to Action #10 calling for the "full participation" of Indigenous peoples in the formulation of educational legislation (TRC 2015:149). The impact that consultation has can be illustrated through the contrast between the Kelowna Accord (2005) and Bill C-33 (2014). The Kelowna Accord (2005) was drafted following eighteen months of consultations and was generally well-received

by Indigenous groups. In contrast, Bill C-33 was widely rejected by Indigenous people in part due to the absence of consultation.

Responsibility over Indigenous education is a particularly complicated area. Although Indigenous affairs, including education, fall under federal jurisdiction, education is under provincial jurisdiction. The different provinces and territories involved result in substantial variation in the role that Indigenous languages may play in schools. Furthermore, some Indigenous children may attend provincial schools, while others attend on-reserve schools, which fall under the jurisdiction of the federal government. There is no one system which can account for the education of all Indigenous children in Canada. This contributes to a lack of clarity with regard to who is responsible for ensuring the inclusion of Indigenous languages in education. Local control and consultation over education may help untangle the complicated jurisdictional issues.

5.2. Directions for Future Research

One possible direction in which to take future research on the topic of Indigenous language education in Canadian policy would be to address the limitations discussed in chapter 1.2. For example, future research could undertake a more comprehensive study of federal policy documents. While this study focussed primarily on federal legislation, a more comprehensive study could involve prioritising other types of policy documents. Those policy documents could, for example, be similar to the two AFN-produced papers that were included in my analysis or the reports produced by the RCBB and the TRC.

Studies of provincial and local policy documents and initiatives are also an important path for future study. Policy documents at the provincial and local levels contain a much wider and more varied range of approaches to Indigenous language education and provide concrete examples of Indigenous language inclusion. Furthermore, because education falls under provincial jurisdiction, policy documents produced at the provincial or local level may provide examples of concrete action regarding Indigenous

language revitalisation and the inclusion of Indigenous language programmes in schools. A study of local policy documents may also provide support for the role of local control in education by demonstrating the ways in which it can be implemented. A study of provincial and local policy documents could be used to better inform the development of policy moving forward.

Future research could also consider what needs to be done in order to produce and implement effective legislation. For example, a study could examine more closely the factors involved in the failure of bills supporting Indigenous languages to pass. While this study found that a combination of factors such as placing a low priority on Indigenous languages and the lack of support by Indigenous peoples for some bills contributed to the failure of these bills, there are certainly other factors involved. Clearly identifying these factors will facilitate addressing these factors. Furthermore, the extent to which any one factor affects the success or failure of a bill could also be investigated.

Studies could equally examine elements of policy necessary to produce practical support for Indigenous language revitalisation programmes. Insufficient funding, for example, is a recurrent problem for language revitalisation programmes, and policy addressing language revitalisation programmes should include measures to ensure adequate funding. Other areas where practical support is necessary may include such challenges as addressing problems encountered with teacher certification, obtaining academic credit, or inadequate curriculum resources.

Finally, in addition to more extensive studies of existing and historical policy documents, it is important to keep an eye on current and future progress as it develops. New bills and other policy documents may always be introduced. Bill S-212 (2015) is presently in the Senate and whether this bill will enacted remains to be seen. Furthermore, the future response to the TRC (2015) recommendations will hopefully include initiatives for the inclusion of Indigenous languages in education.

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