

# DOCUMENT REGARDING BILL 96

ASSEMBLY OF FIRST NATIONS  
QUEBEC-LABRADOR



SEPTEMBER 28, 2021



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## SUMMARY

The *Canadian Constitution Act, 1982*, recognizes and affirms the right of First Nations to self-determination and the right to sustain their ways of life, cultures, and languages. Appropriately so, First Nations aspire to protect, promote, and uphold their heritage in high esteem, including their rich Indigenous languages.

After decades of advocacy on behalf of First Nations, the federal government at last enacted legislation that commits to respecting Indigenous languages by adopting the *Indigenous Languages Act* on June 21, 2019. This federal law establishes appropriate, coherent, sustainable, and long-term approaches to support First Nations in their efforts to reclaim, revitalize, maintain, and normalize their languages.

Through our languages, we communicate and pass on our culture, worldviews, knowledge systems, values, traditions, customs, history, spirituality, and social and political identities to future generations. Our languages are living; they come from the land, are integral to our identity, and are a key aspect of our self-determination.

Furthermore, First Nations have, time and time again, expressed their visions and concerns at the provincial level. By virtue of the right to self-government, First Nations have also emphasized their willingness to be an integral part of everyday decision-making processes that directly affect our rights to freely exercise the right to education.

The Government of Québec therefore has the responsibility to recognize the particular and specific character of First Nations, because First Nations are interlocutors unlike any other. In accordance with their status, First Nations have the right to participate directly in any decision-making process that may affect them or their rights.

The Assembly of First Nations Québec-Labrador (“**AFNQL**”) and the regional commissions and organizations (“**RCOs**”) cannot dismiss the repercussions that persist in the new draft of the *Charter of the French Language* (“**Charter**”) proposed by the government of Québec with Bill no. 96: *An Act respecting French, the official and common language of Québec* (“**Bill 96**”), on First Nations, who have been fending off assimilative measures concerning their Indigenous languages and cultures for decades.

The Government of Québec cannot claim ignorance of our ancestral and constitutional rights and the devastating effects that the policy of linguistic assimilation contained in the Charter has on our children, our languages, our culture, and our communities. The exemptions that are currently provided for in sections 95 to 97 are not broad enough to ensure the full exercise of constitutional language rights for First Nations or the educational success of their students.

To ensure that Québec takes account of the constitutional rights of First Nations, the AFNQL Chiefs’ Assembly recently adopted Resolution No. 08/2021 demanding the establishment of a special joint commission of the National Assembly. This special commission would allow

for a true government-to-government dialogue between First Nations elected officials and Québec's elected officials on decisions affecting the First Peoples.

In its current version and despite the proposals contained in Bill 96, the Charter creates systemic language barriers that hinder the academic success of First Nations students. There are multiple socioeconomic determinants that are detrimental to the educational success of First Nations students in Québec, both in the short and long-term. Québec's legislation must not in any way hinder their academic success or Indigenous language learning.

Today, more than half of First Nations students are sent to school off reserve (or "**outside of their community**"). For example, many students are forced to go to schools where they are taught in French, whereas their maternal language may be an Indigenous language or English. Many are unable to obtain secondary and college degrees because of second-language credits in French.

Currently, the Government of Québec is in violation of First Nations constitutional rights and obligations: Bill 96 must clearly provide that the provisions requiring students to be taught in French or to take French as a second language in high school and college do not apply to First Nations students. Without the addition of a clear exemption, this bill will violate First Nations constitutional rights and continue to hinder First Nations students' academic success.

Additionally, we find it difficult to explain why Bill 96 neglects to consider the different reports from the different commissions and committees recommending that section 97 of the Charter be amended to expand the concept of residency to include professional residency. Once again, we seem to be disregarding the realities of these communities. As these communities are faced with a housing crisis, it is difficult to apply section 97 in practice.

In addition, for English-speaking professionals, continuing education poses a problem since the majority of trainings are only offered in French. English-speaking communities who wish to develop their own trainings in English must shoulder the cost for those trainings to be recognized by the appropriate professional order. In fact, some professionals who have completed their studies outside of Québec have experienced difficulties in having their professional diploma equivalency recognized in whole or in part in Québec. However, these professionals provide culturally appropriate services and are aware of the communities' specific issues and needs.

Bill 96 must also exempt professionals working within First Nations communities from section 32 of the Charter. The amendments to this section as set forth in Bill 96 could potentially impact the quality of care that these professionals provide.

## PROPOSED AMENDMENTS

The AFNQL and RCOs invite the Minister Responsible for the French Language to take bold action in consideration of the reality of First Nations by including provisions in Bill 96 that would promote their Indigenous languages through the integration of the following proposed amendments into Bill 96. These provisions would not diminish the French language in Québec.

First, the AFNQL and RCOs request that the Legislator modernize the preamble of the Charter by updating the legislative vocabulary used to refer to First Nations and Inuit in Québec. (**Proposed amendment #1**)

Next, the AFNQL and RCOs request that the provisions on the language of instruction (Chapter VIII) and the policies of college or university-level institutions regarding the use and quality of the French language (Chapter VIII.1) not apply to the First Nations, regardless of their place of living. (**Proposed amendment #2**)

Next, the AFNQL and RCOs request that students possessing a Certificate of Indian Status issued to individuals registered on the Indian Register in accordance with the *Indian Act* (R.S.C. 1985, c. 1-5) or any person recognized by the First Nation's local government membership code be granted the right to receive instruction in English when it is their maternal language or second language. In effect, all provisions of the Charter requiring students to pursue kindergarten, elementary, and secondary instruction in French should not apply to First Nations students because these provisions cause unjustifiable harm to the First Nations' right to self-determination and self-government, in addition to putting the First Nations students at a disadvantage with regard to school success. (**Proposed amendment #3**)

Furthermore, the AFNQL and RCOs request that Indigenous students be allowed to study in their maternal language and be supported in their school success at the secondary level by allowing students who possess a Certificate of Indian Status issued to individuals registered on the Indian Register in accordance with the *Indian Act* (R.S.C. 1985, c. 1-5) or any person recognized by the First Nation's local government membership code to receive instruction in their maternal language, whether it be a traditional language or English. (**Proposed amendment #4**)

Finally, in order to adapt the standards that apply to professional orders to the linguistic context of First Nations, we propose an amendment to the second paragraph of section 97 of the Charter that expands the concept of residency to include professional residency, as

the amendment proposed by Bill 96 is insufficient; it does not cover all situations, namely professionals who reside in Québec, but outside of their community. Consequently, the associated *Regulation 10*<sup>1</sup> should also be amended (Viens Commission, call to action no. 12). **(Proposed amendment #5)**

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<sup>1</sup> *Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French Language*, CQLR, c. C-11, r.10.



## RECOMMENDATIONS

The AFNQL and RCOs have also made recommendations in order to propose amendments so that First Nations students can be exempted from the second language credit requirements and from the instructional language and literature standardized exam at the college level. (**Recommendations #1 and #2**)

Considering the Quebec government's intent to modify certain constitutional provisions, the AFNQL and RCOs are asking the government to join them in a governments-to-government dialogue, and to use this new forum as an opportunity to seek out sustainable solutions for Indigenous language protection. (**Recommendation #3**)

Furthermore, the AFNQL and RCOs have formed four recommendations concerning issues related to continuing education and equivalency recognition:

Implement the recommendations of the Committee regarding the application of the *Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations* within First Nations and Inuit communities immediately (Viens Commission, call to action no. 106), and more specifically, create, recognize, and translate continuing education materials. (**Recommendation #4**)

Offer cultural competency training to health professionals, students, Québec's public service providers, and any other individual providing health-related services to First Nations (National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), call for justice no. 7.4; MMIWG Supplementary report: Québec, call for justice no. 8; Truth and Reconciliation Commission (TRC), call to action no. 23). (**Recommendation #5**)

Increase the number of Indigenous professionals working in the healthcare field (Truth and Reconciliation Commission, call to action no. 23 directed at all levels of government). (**Recommendation #6**)

Create effective and well-funded opportunities to encourage Indigenous individuals to work in the health and wellness fields within their communities and provide socioeconomic incentives for this purpose. (MMIWG, call for justice no. 7.8 directed at all governments and health service providers) (**Recommendation #7**)

Finally, the AFNQL and RCOs put forth the following recommendations regarding access to information and governmental communications with the First Nations:

Require that any government correspondence to First Nations that is written in French be automatically accompanied by a translation in their Indigenous language and/or in English (Viens Commission, call to action nos. 16 and 17). Documents must be translated into English regardless of whether or not one of the parties requests it. (**Recommendation #8**)

Require governmental officials to automatically hold briefings in English when a briefing is planned for the First Nations in French. (**Recommendation #9**)

Provide First Nations organizations with the necessary funding to cover translation costs when First Nations professionals work outside of communities. (**Recommendation #10**)



## **1 Introduction of the Organizations**

### **1.1 The AFNQL and its Regional Commissions and Organizations (RCOs)**

Created in May 1985, the Assembly of First Nations Québec-Labrador (AFNQL) is the occasional meeting point for the Chiefs of the communities of the First Nations of Québec and Labrador.

The Assembly is made up of 43 First Nations communities of Québec and Labrador and represents ten nations: the Abenaki, Algonquin, Atikamekw, Cree, Huron-Wendat, Innu, Maliseet, Mi'gmaq, Mohawk, and Naskapi.

It regularly holds Chiefs' Assemblies in order to receive political mandates, arrive at common positions, and make decisions.

The AFNQL Secretariat supports the AFNQL on a political level on issues that require governmental intervention.

Over the years, the AFNQL has created RCOs: the First Nations of Québec and Labrador Health and Social Services Commission (FNQLHSSC) (1994), the First Nations Human Resources Development Commission of Québec (FNHRDCQ) (1996), the First Nations of Québec and Labrador Economic Development Commission (FNQLEDC) (1999), the First Nations of Québec and Labrador Sustainable Development Institute (FNQLSDI) (2000), and the First Nations of Québec and Labrador Youth Network (FNQLYIN) (2006).

The First Nations Education Council (FNEC) (1985), which existed before the creation of the AFNQL, is also one of the RCOs.

**[See Appendix 1 for a detailed description of each RCO.]**

## **2 Linguistic And Educational Context of Québec First Nations**

### **2.1 First Nations of Québec**

**Eleven Nations** occupy land in Québec: the Abenaki, Algonquin, Atikamekw, Cree, Innu, Maliseet, Mi'gmaq, Mohawk, Naskapi, Huron-Wendat, and Inuit Nations. They make up **42 First Nations communities** and **15 Inuit villages**.

### 2.1.1 Indigenous Languages

Promoting, preserving, and teaching Indigenous languages are vital to our Nations. Our Indigenous languages are intrinsic to our identity and culture. These cultural treasures date back millennia and must be both preserved and brought to light.

Each Nation has its own language that may be made up of several dialects. The **Indigenous languages** are Aln8ba8dwaw8gan (Abenaki), Anishnabemowin (Algonquin), iiyiyuu ayimuun (Cree), Innu Aimun (Innu), iyuw iyimuun (Naskapi), Kanien'kéhà (Mohawk), Mi'kmawì'simk (Mi'gmaq), Nehirowimowin (Atikamekw), Wendat, Wolastoquey latuwewakon (Maliseet), and Inuktitut (the "**Indigenous languages**").

### 2.1.2 Self-Determination and Language Rights

First Nations have a right to self-determination and self-government, which includes among other things language proficiency, both in educational and cultural contexts.

Language rights include the right to use, promote, preserve, revitalize, and teach their languages in order to pass them on to the current and future generations and preserve their cultures.

These rights are Indigenous rights protected by paragraph 35(1) of the *Constitution Act, 1982*, and must be interpreted in a broad and liberal manner in the light of international law.

### 2.1.3 Approved Studies and Language Credits

In order to receive a Secondary School Diploma approved by the Minister of Education or a Diploma of College Studies approved by the Minister of Higher Education, students must complete second language requirements without which they are unable to receive their diplomas.<sup>2</sup>

For non-Indigenous students who attend an English-language secondary school or college, the second language is French on account of the following articles from the *Charter of the French Language*:

**84.** *No secondary school leaving certificate may be issued to a student who does not have the speaking and writing knowledge of French required by the curricula of the Ministère de l'Éducation, du Loisir et du Sport.*

**88.2** [...] *[The language policy] of an institution that provides college or university instruction in English to the majority of its students must pertain to the teaching of French as a second language [...].*

Furthermore, section 62 of Bill 96 proposes the following replacement in Section 88:

**88.3** [...] *the language policy of an English-language college or university-level educational institution must pertain to:*  
[...] (3) *the teaching of French as a second language.*

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<sup>2</sup> Section 32(2) of the *Basic school regulation for preschool, elementary and secondary Education Act*, CQLR c. I-13.3, r. 8; Sections 7 and 8 of the *College Education Regulations*, CQLR c. C-29, r. 4.

Regardless of where they live, Bill 96 must, in our view, grant First Nations students the right to choose, if possible, an Indigenous language as their second language as the sections of the Charter and Bill 96 mentioned above do not apply to them.

Moreover, in order to support their school success, First Nations students whose second language is English should be exempt from having to earn second language credits because in reality that second language would be their third language.

## 2.2 Demographic and Socioeconomic Profile

The data used in this section come primarily from the *Québec First Nations Regional Health Survey - RHS 2015* conducted by the First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC).<sup>3</sup>

According to many authors, it has become apparent that factors such as access to employment, low household income, and food insecurity are impacting access to education, the number of school dropouts, and school success.<sup>4</sup>

It is clear from the demographic and socioeconomic profiles of the Québec First Nations that their population continues to grow and that it is also younger compared to the median age of the rest of Québec's population. According to the 2015 RHS statistics, 57.7% of members live within their community and that number is trending downward.

Two socioeconomic factors in particular, household income and employment, have a significant and systemic impact on access to education and school success.

Regarding household incomes for Québec First Nations, the results of the 2015 RHS show that the majority of Indigenous adults with children are living under the low-income cut-off. Finally, with regard to the employment rate among First Nations adults in Québec, the 2015 RHS results show that this rate stayed at the same level when compared to the 2002 RHS. The data also show a higher employment rate among adult women and that the majority of adults work within their community.

Thus, within the framework of the Charter reform, Québec lawmakers must consider these socioeconomic determinants, detrimental both in the short and long-term to the school success of Indigenous students in Québec, rather than applying provisions regarding the language of instruction and policies at college or university-level educational institutions relating to the use and quality of the French language to First Nations students with a broad stroke.

In addition to respecting the constitutional language rights of the First Nations, this would support their academic success.

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<sup>3</sup> The RHS is a unique example of demographic research designed by and for Québec First Nations that offers scientifically valid information that is both culturally and linguistically adapted to the First Nations. First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC), 2018.

<sup>4</sup> Kirkpatrick and Tarasuk, 2009; Tyler and Lofstrom, 2009; and Duncan, Ziol-Guest, and Kalil, 2010; OECD, 2012.

### 2.2.1 Population According to Place of Residence (on or off reserve)

The results of the 2015 RHS showed that the First Nations populations in Québec continue to grow and that First Nations members are residing more and more frequently outside of their community.

According to the data used by the 2015 RHS, almost 70,000 First Nations members in Québec were counted in 2016 (FIGURE 1 – See the Figures in Appendix 2), 57.7% (39,586) of whom lived on reserve while 42.2% lived off reserve.

That said, the community members living off reserve saw a higher increase (4.3% per year) compared to an increase of only 1.4% per year for community members living on reserve between 1996 and 2016.

### 2.2.2 Median Age<sup>5</sup> According to Geographic Zone

Even though the data used in the RHS show that the Québec First Nations population was becoming older between 1996 and 2016 (FIGURES 2 and 3), the Québec First Nations remain younger when compared to the non-native population of Québec.<sup>6</sup>

The 2015 RHS data paint an economic portrait that illustrates a clear link with the educational success Québec First Nations youth. As we will see below, two factors in particular, household income and employment, have a significant and systemic impact on access to education and school success.<sup>7</sup>

### 2.2.3 Income and Low Household Income

The results of the 2015 RHS show that the majority of Indigenous adults with children were living below the low-income cut-off.

Although the percentage of First Nations adults (25 and older) living in households with a household income of less than \$40,000 has decreased since 2008, more than half of adults (56.3%) reported living in a household with a total income of less than \$40,000 for the previous year (FIGURE 5).

While 58.7% of women reported a household income of less than \$40,000, 54% of men reported living in a household with a total income below \$40,000 (FIGURE 6).

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<sup>5</sup> The median age presents a more accurate picture than the average age because it is not affected by outlying populations that are either far younger or far older.

<sup>6</sup> Statistics Canada, 2016; For information purposes only: according to the data in the 2016 Census, Québec First Nations individuals were considerably younger. While the median age of non-native individuals in Québec was 41.7 years, the median age of Québec First Nations individuals was 33.1 years. Statistics Canada, 2018. In addition, the age of First Nations individuals in Quebec varies according to the place of residence (FIGURE 4).

<sup>7</sup> Ferguson et al. 2007; Sisco et al. 2012. According to Statistics Canada, “The low-income measure, after tax, refers to a fixed percentage (50%) of median adjusted after-tax income of private households. The household after-tax income is adjusted by an equivalence scale to take economies of scale into account.” The low-income cut-off in 2015 was \$22,133 for a one-person household and \$44,266 for a four-person household. Statistics Canada. Statistics Canada, 2016a and 2016b.

## 2.2.4 Employment

In terms of the employment rate among Québec First Nations adults, the 2015 RHS results show that the rate has stayed the same compared to the first RHS study in 2002. The data also show a higher employment rate among adult women (FIGURE 7) and that the majority of adults are working within their own community (FIGURE 8).<sup>8</sup>

## 2.3 THE IMPORTANCE OF INDIGENOUS LANGUAGES IN ENSURING THE CONTINUITY, REVITALIZATION, MAINTENANCE, AND THRIVING OF FIRST NATIONS LANGUAGES AND CULTURE IN QUÉBEC

As the creative vehicle for a society's collective imagination and an indispensable element in the development of principles, worldviews, and knowledge in all cultures, language is a primary criterion for educational success.<sup>9</sup> As a symbol of pride and a channel for intergenerational communication in any community, maternal language attrition can be detrimental to the well-being of the members of a community that speaks it.<sup>10</sup>

According to the *UNESCO Atlas of the World's Languages in Danger*, numerous Indigenous languages in Canada are at risk of disappearing.<sup>11</sup> The UNESCO Atlas reports that three quarters of the Indigenous languages spoken in Canada are "definitely endangered," "severely endangered," or "critically endangered."<sup>12</sup> According to the 2015 RHS, only a minority of respondents living on reserve continue to use a First Nations language for everyday communication. These figures are particularly low among residents of urban communities.

Despite the inherent, constitutional, international, and treaty rights and despite the existence of rights in provincial and federal laws that guarantee the use and maintenance of Indigenous languages, First Nations languages and cultures in Québec and Canada have been constantly disrupted, ignored, disparaged, and silenced by policies and structures that ultimately result in the elimination and assimilation of their speakers.<sup>13</sup>

The continuity, revitalization, support, and development of First Nations languages and cultures in Québec is the cornerstone of educational success and community development.<sup>14</sup>

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<sup>8</sup>For information purposes only: According to the data put out by Statistics Canada, the employment rate (for ages 15 and over) for Québec First Nations individuals was 49.4% compared to 59.5% for the non-native population. We see a similar pattern at the 25 to 64 years age range with an employment rate of 61.9% in Québec First Nations communities compared to 75.5% for non-natives. Statistics Canada, 2018.

<sup>9</sup> United Nations, 2018.

<sup>10</sup> Patrick, 2007; Skutnabb-Kangas, Nicholas and Reyhner 2016.

<sup>11</sup> UNESCO, 2010; Gabriel, 2019.

<sup>12</sup> UNESCO, 2010; Assembly of First Nations, 2020.

<sup>13</sup> Royal Commission of Aboriginal Peoples, 1996; TRC, 2015; Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec, 2019; UNESCO, 2020.

<sup>14</sup> See, among others, Maurais, 1992; and Drapeau, 2011.

### 2.3.1 Indigenous Languages and First Nations Cultures in Québec

First Nations traditional languages are the vehicle for the expression of a unique vision of the world and an indispensable communication link between the past and the future. Through the use of traditional languages, First Nations transmit their cultures, their own theories of knowledge, their knowledge, their traditions, and their values that date back thousands of years,<sup>15</sup>

According to 2015 RHS data, a large proportion of community residents reported having knowledge of a First Nations language. Approximately 50% of respondents living in their community said they had either a medium or advanced ability to understand and speak a First Nations language. However, only one third of respondents said they were able to read (34%) and write a First Nations language (29%) (FIGURE 9 – See Annex 2).

With respect to the everyday use of a First Nations language, only four out of ten 2015 RHS respondents living in a community reported using their First Nations language on a regular basis (FIGURE 10). These proportions do not appear to vary depending on the respondent's gender or age.

According to data from the First Nations Labour and Employment Development (FNLED) survey, 43% of people working on reserve use a First Nations language as their main language in the workplace.<sup>16</sup> It should be noted that 12% of the individuals who work outside of a community reported speaking mainly a First Nations language (FIGURE 11).<sup>17</sup> In addition, three quarters (78%) of respondents believe that speaking a First Nations language is an asset when it comes to obtaining a job in their community, while 29% of respondents believe that having English or French as a second language is a barrier to obtaining a job outside of their community (FIGURE 12).<sup>18</sup>

## 2.4 LITERATURE REVIEW: FIRST NATIONS STUDENT SUCCESS, CULTURAL PRIDE AND FIRST NATIONS CONTROL OF FIRST NATION EDUCATION

For many decades now, a vast array of studies has looked at factors affecting – both negatively and positively – the educational success of First Nations students in Québec and Canada.<sup>19</sup> Whether it is examined through a pedagogical,<sup>20</sup> sociodemographic,<sup>21</sup> historical,<sup>22</sup> epistemological-philosophical,<sup>23</sup> or legal lens,<sup>24</sup> both Indigenous and non-Indigenous scholars agree on the fact that reclamation, activation, and development of a

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<sup>15</sup> AFN, 2019.

<sup>16</sup> 49% of workers working on reserve use primarily English or French at work. Not surprisingly, this proportion is higher among people working off reserve, at 88%. *First Nations Labour and Employment Development (FNLED) survey*. Preliminary data pending publication. Hereafter FNLEDS.

<sup>17</sup> FNLEDS, forthcoming.

<sup>18</sup> FNLEDS, forthcoming.

<sup>19</sup> For instance, Battiste, 2002; CCL, 2009; Archambault, 2010; Fontaine, 2012; Richmond and Smith, 2012; Toulouse, 2013; Moon, 2014; Lévesque et al., 2015; Ratel, 2018.

<sup>20</sup> Maina, 1997; Moon, 2014.

<sup>21</sup> Bougie and Sénécal, 2010; C.D. Howe, 2011; Canadian Centre for Policy Alternatives, 2013.

<sup>22</sup> Cherubini, 2013.

<sup>23</sup> Battiste, 2013.

<sup>24</sup> Leicht, 2006; Fallon and Paquette, 2012.



culturally and linguistically appropriate education system is at the heart of what Marie Battiste labelled “the Renaissance” (2013) of First Nations knowledge in Québec and Canada.

In this section, we begin with a review of the past three decades of literature relative to inhibiting factors to educational success of First Nations students in the Canadian and Québec contexts. We then pursue with an appraisal of avenues for the advancement and educational success of First Nations students as presented in recent studies. Overall, the literature discussed herein brings to the fore the critical significance of First Nations’ life-long, holistic pedagogical approaches; the inclusion and recognition of First Nations’ knowledge, cultures, and languages in pedagogical strategies and curricula; and, most critically, a fully-fledged First Nations control of education for the flourishing and full educational success of First Nations students.<sup>25</sup>

#### 2.4.1 Factors Inhibiting First Nations Student Success

Scholarship has looked at a multiplicity of factors hindering the educational attainment of First Nations students. Issues inhibiting First Nations student success can be broadly conceived of as individual and structural or systemic.<sup>26</sup>

In speaking of factors inhibiting success at the individual level, certain scholars have highlighted that cognitive learning models vary according to culture, and that First Nations students are faced with a binary opposition between a “linear,” Eurocentric epistemology versus “simultaneous” First Nations models of learning.<sup>27</sup> This distinction further emphasizes that mainstream models of individual student assessment focus primarily on quantitative indicators, such as provincial standardized tests or completion rates<sup>28</sup> that fail to tap on the rather social, experiential paths to Indigenous learning,<sup>29</sup> and thereby tend to categorize pedagogical differences as student learning failures.<sup>30</sup>

Scholars have also stressed the extent to which official languages of instruction function as major inhibitors of educational success. Studies have showed, for instance, that despite Canada’s official bilingualism and ethos of multiculturalism,<sup>31</sup> current learning models tend to demote and marginalize traditional languages spoken at home to the detriment of First Nations students’ second, official languages of instruction at school.<sup>32</sup>

In so doing, this so-called “linguistic gap” offers little or no stimulus to First Nations students,<sup>33</sup> has a negative impact on their individual and collective self-esteem,<sup>34</sup> weakens their ties to their communities and cultures,<sup>35</sup> imposes a culture of “monolingualism” and

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<sup>25</sup> Assembly of First Nations, 1972, 1988 and 2012.

<sup>26</sup> Royal Commission on Aboriginal Peoples, 1996; Archambault, 2010; National Collaborating Centre for Indigenous Health, 2017.

<sup>27</sup> Battiste, 2002; Hampton and Roy, 2002; Rodon, 2008.

<sup>28</sup> Moon, 2014.

<sup>29</sup> Battiste, 2013.

<sup>30</sup> CCL, 2009.

<sup>31</sup> Leicht, 2006; Haque and Patrick, 2015.

<sup>32</sup> Fontaine, 2012; Lévesque et al., 2015.

<sup>33</sup> McIvor, 2005.

<sup>34</sup> Morcom, 2013, 2014 and 2017.

<sup>35</sup> Hornberg, 1991.

assimilationism, and subsequently reinforces the decline of already endangered traditional languages.<sup>36</sup>

When it comes to rather systemic factors, recent literature has ranged from meso and meta-level factors that thwart First Nations student success. Archambault<sup>37</sup> and Lévesque et al.,<sup>38</sup> for instance, pinpointed the impact of teacher and education staff turnover in Québec's First Nations educational institutions, which, coupled with chronic teacher shortages, adds up to First Nations students' endemic educational disadvantages.

By the same token, studies have also underscored the difficulties faced by First Nations' education authorities to recruit qualified teachers and education workers,<sup>39</sup> most particularly educators with training on, and awareness of, First Nations' cultures, languages, and realities.<sup>40</sup>

Other researchers have centred on the socio-economic inequities that trample First Nations students' learning success. Poverty has been particularly showed to be a determinant of students' overall well-being and ability to learn,<sup>41</sup> as it is linked to long-term factors of student success, such as family employment, housing, physical and mental health, isolation, food insecurity, parental support or modelling,<sup>42</sup> and by directly limiting the access to cost-related aspects, such as transportation, education materials and aids, access to information and communication, etc.<sup>43</sup>

Chronic, structural inequities in educational funding for First Nations education, especially in rural and isolated regions, have also been discussed as chronically affecting student success. Issues considered include the long-standing underfunding of First Nations' education infrastructure,<sup>44</sup> capped funding for special education and educational services,<sup>45</sup> the meagre financing for language, adult education, culture programming, and early learning and childcare,<sup>46</sup> and the outdated and archaic education funding formulas overall.<sup>47</sup>

Lastly, but arguably most critically, a wide range of studies and reports have spotlighted the pervasive effects of colonialism as well as the intergenerational trauma engendered by Canada's Residential School System on student success.<sup>48</sup> The distress associated with the "total institution"<sup>49</sup> of the Residential School System and its ethos of colonialism, assimilationism, abuse, and racism continue to reverberate and effect the transmission of knowledge onto successive generations.<sup>50</sup>

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<sup>36</sup> Bougie, Wright and Taylor, 2003.

<sup>37</sup> 2010.

<sup>38</sup> 2015.

<sup>39</sup> Presseau et al., 2006; Cherubini et al., 2010.

<sup>40</sup> Taylor et al., 1993; Lévesque et al., 2015; Ratel, 2018.

<sup>41</sup> Sisco et al., 2012.

<sup>42</sup> Hankivsky, 2008; CCL, 2009; C.D. Howe, 2011; Lacour and Tissington, 2011; Treanor, 2012; NCCAH, 2017; Commission on relations between Indigenous peoples and certain public services in Québec, 2019.

<sup>43</sup> Van den Berg, 2008; Canadian Centre for Policy Alternatives, 2013.

<sup>44</sup> SSCAP, 2011; Parliamentary Budget Officer, 2018.

<sup>45</sup> Sisco et al., 2012.

<sup>46</sup> Goulet et al., 2001; Nguyen, 2011.

<sup>47</sup> Bastien, 2008; First Nations Education Council, 2009 and 2010.

<sup>48</sup> Among others, RCAP, 1996; Haig-Brown, 1998; Battiste, 1998, 2002 and 2013; Fallon and Paquette, 2011; Toulouse, 2013; TRC, 2015.

<sup>49</sup> Barman et al., 1986.

<sup>50</sup> Battiste, 2013; TRC, 2015.

Studies have noted the pervasive effects of forceful assimilation on parental attitudes toward education,<sup>51</sup> on graduation rates of second and third-generation survivors,<sup>52</sup> on psychosocial and collective well-being,<sup>53</sup> on the status of values, language and knowledge,<sup>54</sup> on household characteristics and socio-economic status,<sup>55</sup> on parental involvement in children's education,<sup>56</sup> and on the individual and collective sense of belonging,<sup>57</sup> among other inhibitors of First Nations student success.

#### 2.4.2 Key Enablers of First Nations Student Success

In spite of the manifold individual and systemic obstacles affecting First Nations students throughout their school experience, scholarship has nonetheless identified and advanced a variety of avenues that have enabled, or can potentially enhance, First Nations student success and cultural pride.<sup>58</sup>

Scholars have stressed the import of reassessing governmental priorities at both federal and provincial levels (Archambault, 2010) as a means to carve out room for what Battiste labelled "Indigenous Knowledge" at all levels of education governance.<sup>59</sup> Literature further conveys that albeit the attempts to advance education policies during the past decades, Indigenous Knowledge in general, and First Nations knowledge in particular, must come to be considered and embraced as part of mainstream education policies and not as a siloed or "ad hoc" agenda.<sup>60</sup>

Scholarship has also reflected on the importance of instilling traditional language and land-based learning at early ages. Early intervention affects cultural and language revitalization<sup>61</sup> and encourages positive self-worth, development,<sup>62</sup> and school readiness.<sup>63</sup> Similarly, studies have noted how traditional languages and an education environment based on principles of experiential learning have a positive impact on students' self-esteem, cultural pride, future educational and linguistic outcomes, and graduation rates.<sup>64</sup>

Literature in the field has further added that while bilingualism and immersion do have an impact on outcomes, First Nations learners taught in Indigenous mother tongues show lower drop-out rates, perform better overall, receive more family support, and are more likely to engage in community and cultural activities.<sup>65</sup> Be that as it may, studies have cautiously denoted that immersive language programs remain scattered and largely underfunded,<sup>66</sup> and that a distinction needs to be made between "strong" and "weak" immersive or bilingual

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<sup>51</sup> Feir, 2016.

<sup>52</sup> O'Gorman and Pandey, 2015.

<sup>53</sup> Bombay et al., 2013.

<sup>54</sup> Blacksmith, 2011.

<sup>55</sup> Bougie and Sénécal, 2010.

<sup>56</sup> Barnes et al., 2006.

<sup>57</sup> Richmond and Smith, 2012; Whitley, 2014.

<sup>58</sup> AFN, 1988; RCAP, 1996; CCL, 2009; Toulouse, 2013; TRC, 2015.

<sup>59</sup> Battiste, 2008; Nguyen, 2011.

<sup>60</sup> Battiste, 1998; Toulouse, 2013.

<sup>61</sup> Ball, 2007.

<sup>62</sup> Nguyen, 2011.

<sup>63</sup> CCNSA, 2017.

<sup>64</sup> Ball, 2007; Guèvremont and Kohen, 2012; Battiste, 2013; Morcom, 2017.

<sup>65</sup> Freeden, 1988; Fontaine, 2012.

<sup>66</sup> SSCA, 2011; AFN, 2012

education, whereby the former entails the acquisition of and focus on a traditional language in a holistic environment of learning.<sup>67</sup>

In the same vein, the creation of an environment of learning attuned with a rather holistic model of learning has been showed to be conducive to the academic success of First Nations youth.<sup>68</sup> Studies have showed the extent to which a strong parent-school connection,<sup>69</sup> cultural securitization,<sup>70</sup> and elder involvement<sup>71</sup> have a positive impact on student perceptions of academic attainment and success.

Fostering student-teacher trust has been showed to have a positive effect on First Nations learners, as well. An approach based on care, empathy and cultural recognition helps to fulfil oftentimes missing affective roles.<sup>72</sup> The presence of Indigenous educators has also been showed to influence academic attainment.<sup>73</sup>

The integration of Indigenous Knowledge<sup>74</sup> into pedagogical strategies in non-Indigenous contexts has been underscored as essential for First Nations student success, teacher capacity-building, and educational systemic-level changes.<sup>75</sup>

In addition, while calling mainstream educational strategies and measures of student success “a conceptual disconnect,” researchers have concluded that current educational attainment frameworks simply do not paint a full picture of First Nations student learning and rather reproduce an unfair and biased imagery of failure.<sup>76</sup> Assessment frameworks attuned to lifelong and holistic pedagogical approaches, on the opposite end, provide a more nuanced assessment and further appropriately inform policy and program change.<sup>77</sup>

Finally, organizations and scholars alike have called for First Nations control of First Nations education as well as for a conscious shift in the collective perception of First Nations student success.<sup>78</sup> Critically, Fallon and Paquette<sup>79</sup> asserted that the emergence of a discourse on the rights of First Nations to control First Nations education still needs to move from its current abstract, management-oriented language to a self-conscious narrative of control and development of First Nations educational curricula.

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<sup>67</sup> Morcom, 2014.

<sup>68</sup> Moon, 2014; Querengesser, 2014; Girard and Vallet, 2015.

<sup>69</sup> CCL, 2009.

<sup>70</sup> Richmond and Smith, 2012.

<sup>71</sup> Toulouse, 2013.

<sup>72</sup> Hampton and Roy, 2002; Peron and Côté, 2015; Moon and Berger, 2016.

<sup>73</sup> Berger, 2002.

<sup>74</sup> Battiste, 2002.

<sup>75</sup> Hampton, 1995; RCAP, 1996; Wotherspoon and Schissel, 1998; Archambault, 2010; Lévesque et al., 2015; Kim, 2016; Arousseau et al., 2021.

<sup>76</sup> Moon, 2014.

<sup>77</sup> CCL, 2019.

<sup>78</sup> AFN, 1972, 1988 and 2012; Battiste, 2002 and 2013; Bastien, 2008; Toulouse, 2013.

<sup>79</sup> 2012.

### 3 Recognition of First Nations Constitutional Language Rights

#### 3.1 Existing Legislation

The *Charter of the French Language*<sup>80</sup> stipulates in section 97(1) that “The Indian reserves are not subject to this Act.”

In addition, section 95 provides exceptions with respect to the Agreement concerning James Bay and Northern Québec:

*95. The following persons and bodies have the right to use Cree and Inuktitut and are exempt from the application of this Act, except sections 87, 88 and 96:*

*(a) persons qualified for benefit under the Agreement indicated in section 1 of the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67), in the territories envisaged by the said Agreement;*

*(b) bodies to be created under the said Agreement, within the territories envisaged by the Agreement;*

*(c) bodies of which the members are in the majority persons referred to in subparagraph a, within the territories envisaged by the Agreement.*

*This section, with the necessary modifications, applies to the Naskapi of Schefferville.*

The National Assembly of Québec recognizes the right of the “Amerinds and the Inuit of Québec, the first inhabitants of this land, to preserve and develop their original language and culture” in the preamble to the Charter.

#### 3.2 Constitutional Language Rights and First Nations Student Success

The constitutional rights of First Nations must be reflected in the new wording of the *Charter of the French Language*. The exemptions provided for in sections 95 and 97 are not broad enough to ensure the full expression of constitutional language rights and to promote the educational success of First Nations in Québec.

In 1977, The National Assembly of Québec recognized the right of “the Amerinds and the Inuit of Québec, the first inhabitants of this land, to preserve and develop their original language and culture” in the preamble to the Charter, and specifically exempted reserves from its application.

However, today, more than half of First Nations students attend schools off reserve. In addition to violating their most fundamental rights, the *Charter of the French Language* is a barrier to First Nations educational success. Many students are forced to attend school in French, whereas their mother tongue is an Indigenous language or English. Many are

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<sup>80</sup> This remains unchanged in Bill 96.

unable to obtain secondary and college degrees because of second-language credits in French.

Bill 96 should clearly provide those provisions requiring students to be educated in French or to take second-language courses in French at the secondary and college levels are not applicable to First Nations students. Without the inclusion of a clear exemption, First Nations constitutional rights and their academic success will continue to be constrained.

Protection by paragraph 35(1) of the Indigenous right to self-government was upheld by Canadian courts, specifically the *Campbell*<sup>81</sup> and *Coon Come* decisions where the Court of Appeal of Québec ruled that section 35 introduces a “third component” to the functioning of Canadian federalism which should be considered in the division of powers, between provincial legislatures and the Canadian Parliament.<sup>82</sup> The federal government also acknowledged “the inherent right of self-government as an existing Indigenous right under section 35 of *The Constitution Act, 1982*.”<sup>83</sup> The right to self-determination and self-government must be interpreted in the light of the *United Nations Declaration on the Rights of Indigenous Peoples*,<sup>84</sup> which provides in section 14 that:

*Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.*

*States shall, in conjunction with Indigenous peoples, take effective measures, in order for Indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.*

Education is a key element of self-government and the right to self-determination. Competence in education stems in part from the right to education, which includes the right to make decisions about education such as the control of traditional knowledge and pedagogical development. First Nations education, language, and culture competencies must offer a choice in the language of instruction. Because of its constitutional nature, this inherent right cannot be modified or reduced through provincial legislation, cannot be limited to reservations, and must apply to education received off reserve to the extent possible. This means that First Nations have the right to choose the language of instruction, either English or French.

In addition, First Nations have the right to choose an Indigenous language as a second language, whether on or off reserve. As recognized by the Government of Canada in the *Indigenous Languages Act*,<sup>85</sup> Indigenous rights protected by subsection 35(1) of *The Constitution Act, 1982* include language rights, which include the right of First Nations to “to

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<sup>81</sup> *Campbell v. British Columbia*, [2000] 4 CNRL 1 (BC SC), 189 DLR (4e) 333.

<sup>82</sup> *Canada (Attorney General) v. Coon Come*, [1991] CNLR 922 (QC CQ), p. 23.

<sup>83</sup> Indigenous and Northern Affairs Canada, *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*, Hull, online: <https://www.rcaanc-cirnac.gc.ca/eng/1100100031843/1539869205136>

<sup>84</sup> In 114957 *Canada Ltd. (Spraytech, Sparge Corporation) v. Hudson (Town)*, [2001] 2 S.C.R. 241, the Supreme Court of Canada made it clear that principles established in international law, even those that are not binding on Canada, can be legitimately considered in interpreting domestic law.

<sup>85</sup> *Indigenous Languages Act*, L.C. 2019, c. 23, s. 6.

revitalize, use, develop and transmit to future generations their [...] languages[...].”<sup>86</sup> In the Côté decision, the Supreme Court of Canada confirmed that “to ensure the continuity of aboriginal practices, customs and traditions, a substantive aboriginal right will normally include the incidental right to teach such a practice, custom and tradition to a younger generation.”<sup>87</sup>

As Gabriel Poliquin argues, the Crown, federal as well as provincial, has a positive obligation to promote the survival of Indigenous languages by providing First Nations with the means to revitalize their languages to the extent possible,<sup>88</sup> including through the revision of their laws and policies so as not to interfere with the revitalization of Indigenous languages. If this is not the case for all fundamental rights, official languages jurisprudence confirms that language rights protected by the *Canadian Charter of Rights and Freedoms* create a positive obligation on the Crown’s part. In *R. v. Beaulac*, Judge Bastarache stated that, by their very nature, language rights are not negative or passive rights; they can only be exercised if the means are provided. This is consistent with the notion favoured in the area of international law that the freedom to choose is meaningless in the absence of the duty of the State to take positive steps to implement language guarantees.<sup>89</sup>

In the context of official languages, the state must put in place remedial measures to address the inequality between English and French. In the context of Indigenous languages, the objective is rather to ensure the survival of Indigenous languages in order to repair the wrongs that have been caused by the assimilationist policies of Canada and the provinces. At the very least, the federal and provincial governments must not set up barriers to the survival and preservation of Indigenous languages.

### 3.3 Off-Reserve

Following the principle of constitutionalism and the rule of law, the current wording of the Charter is an infringement of the Indigenous rights of First Nations and hinders their educational success. The provisions on the language of instruction (Chapter VIII) and on the policies of college and university institutions with respect to the employment and quality of the French language (Chapter VIII.1) should not be applicable to First Nations, whether on or off reserve.

No provisions of the Charter that require students to continue their preschool, primary, and secondary education in French should be applicable to First Nations students. These provisions are an infringement on the right of First Nations to self-determination and self-government and undermine their educational success.

Moreover, the provisions of the Charter that force students attending an English-speaking college to take French as a second language should not be applicable to First Nations students to the extent that these provisions prevent them from choosing a traditional language as a second language and, therefore, unjustly violates their language rights protected by subsection 35(1) of *The Constitution Act, 1982*, in addition to hindering their educational success.

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<sup>86</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, Section 13.

<sup>87</sup> *R. v. Côté*, [1996] 3 S.C.C. 139, p.176. See also *R. v. Sioui* [1987] S.C.R. 1722 (CA) and *R. v. Sioui* [1985] S.C.R. 83-722 (C.S).

<sup>88</sup> Poliquin, 2013, p. 585.

<sup>89</sup> *R. v. Beaulac* (1999) 1 S.C.R. para. 20.

## 4 Proposed Amendments to Bill 96 Concerning Constitutional Language Rights And First Nations School Success

This section contains proposed amendments to Bill 96 that would protect the constitutional language rights and the educational success of First Nations.

First, the AFNQL and RCOs recommend that the Legislator modernize the preamble to the Charter by updating the legislative vocabulary used to designate First Nations and Inuit in Québec. **(Proposed amendment # 1)**

The AFNQL and RCOs recommend that the provisions on the language of instruction (Chapter VIII) and on the policies of college and university institutions with respect to employment and quality of the French language (Chapter VIII.1) should not be applicable to First Nations, regardless of where they live. **(Proposed amendment # 2)**

The AFNQL and RCOs recommend that students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the *Indian Act* (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code be granted the right to receive instruction in English when it is their maternal language or second language. All provisions of the Charter that require students to continue their preschool, primary, and secondary education in French must not be applicable to First Nations students. These provisions are an infringement on the right of First Nations to self-determination and self-government and undermine their educational success. **(Proposed amendment # 3)**

In addition, the AFNQL and RCOs are calling for Indigenous students to be allowed to study in their maternal language and to promote their academic achievement at the secondary level, specifically, students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the *Indian Act* (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code to study in their maternal language, be it their traditional language or English. **(Proposed amendment # 4)**

Finally, in order to adapt the standards applicable to professional orders to the linguistic context of First Nations, it is proposed that the second paragraph of section 97 of the Charter be amended to extend the concept of residence to that of professional residence, since the amendment as suggested by Bill 96 is not sufficient; it does not cover all situations, namely professionals who reside in Québec but off reserve. The Regulations<sup>90</sup> should also be amended accordingly. **(Proposed amendment # 5)**

The AFNQL and RCOs also recommend amendments so that Indigenous students benefit from an exemption from the second language unit requirement for Indigenous students at the college level and an exemption from the uniform language of instruction and literature test for Indigenous students at the college level. **(Recommendations # 1 and # 2)**

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<sup>90</sup> Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French language, R.S.Q., c. C-11, r.10.



#### 4.1 **Proposed Amendment # 1: Modernization of the preamble to the Charter of the French Language and descriptive terminology applicable to First Nations and Inuit of Québec**

##### 4.1.1 Proposed Amendment # 1

To modernize the terms used to describe First Nations, it is proposed to amend the preamble of the Charter by replacing the fourth paragraph with the following:

*In a nation-to-nation relationship, the National Assembly recognizes the right of **First Nations and Inuit in Québec** to teach, value, and defend their language and culture of origin.*

#### 4.2 **Proposed Amendment # 2: Exemption of First Nations members from the application of Chapter VIII and Chapter VIII.1 of the Charter of the French Language**

##### 4.2.1 Exemption from the Application of Chapter VIII for Members of First Nations

Currently, the non-application of the *Charter of the French Language* is restricted to a physical place, the Indian reserve, and not to individuals that are members of First Nations (with the exception of section 88).

The objective of the proposal is to extend, in the *Charter of the French Language*, the exception to individuals, where they benefit from education off reserve (“*required to exempt from the application of the provisions of this chapter in respect of,*” Chapter VIII of the *Charter of the French Language*).

It is proposed to replace section 87 with the following text:

*Except as provided in section 88, a school body is required to exempt students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation’s local government membership code from the application of the provisions of this chapter.*

In like manner, it is proposed to repeal the second paragraph of section 97 of the Charter.

In view of the amendment to section 87, it is no longer necessary, in our view, for the government to regulate the power of exception provided for in the Regulation adopted under the second paragraph of section 97 and, therefore, calls for the repeal of the *Regulation respecting the language of instruction of children residing on Indian reserves*.

Under this proposed amendment, a secondary student would no longer be required to have to a minimum knowledge of spoken and written French as stipulated in the curricula of the Minister of Education and Higher Education:

**84.** *No secondary school leaving certificate may be issued to a student who does not have oral and written knowledge of French required by the curricula of the Ministère de l'Éducation, du Loisir et du Sport.*

It should be noted, however, that the following proposed amendments concerning Indigenous secondary students would remain necessary in order to remove the language of instruction and second language unit requirements for obtaining a secondary school diploma by a student or adult.

#### **4.2.2 Exemption from the Application of Chapter VIII.1 to Members of First Nations**

It is proposed to add, after section 88.3 of the Charter, section 88.4 as follows:

*Chapter VIII.1 of the Charter does not apply to students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code.*

The objective of the proposed amendment is for Indigenous students to be able to enjoy an exemption from the application of the general policies provided for in Chapter VIII.1 in order to guarantee their specific rights. Without such an exemption, these two obstacles to First Nations constitutional language rights would persist in this chapter:

1. In the case of an institution that provides college or university instruction in French to the majority of its students, the language policy does not allow for the language of instruction, including the language of manuals and other instructional tools, the language of learning assessment instruments, the language of communication used by the administration of the institution in its official texts and documents as well as in any other form of communication, the quality of French and the command of the French language among the students, the teaching staff, especially upon hiring, and other staff members, and the language of work, to be an Indigenous language or English; and
2. In the case of an institution that provides college or university instruction in English to the majority of its students, the language policy must pertain to the teaching of French as a second language, the language used by the administration of the institution in its written communications with the civil administration and legal persons established in Québec, and the implementation of the policy and the monitoring of its application, whereas the second language in some Indigenous communities is a traditional language or English.

#### 4.3 **Proposed Amendment # 3: Allow Indigenous students to receive instruction in their mother tongue or second language**

In order to allow First Nations students to receive instruction in English when it is their mother tongue or second language, the AFNQL and RCOs propose amending section 73 of the Charter by adding the following paragraph:

*(6); students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

In the current version, section 73 of the Charter reads as follows:

73. *May receive instruction in English, at the request of one of their parents:*
- (1) a child whose father or mother is a Canadian citizen and received elementary instruction in English in Canada, provided that that instruction constitutes the major part of the elementary instruction he or she received in Canada;*
  - (2) a child whose father or mother is a Canadian citizen and who has received or is receiving elementary or secondary instruction in English in Canada, and the brothers and sisters of that child, provided that that instruction constitutes the major part of the elementary or secondary instruction received by the child in Canada;*
  - (3) (subparagraph repealed);*
  - (4) (paragraph repealed);*
  - (5) (paragraph repealed).*

The AFNQL and RCOs suggest attributing the right to receive English education to the student's Indian status. Thus, this right would no longer be based on proof of education in English in Canada from a parent.

#### 4.4 **Proposed Amendment # 4: Allow Indigenous students to study in their maternal language to promote their academic success at the secondary level**

##### 4.4.1 Proposed Amendment # 4

To allow students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the *Indian Act* (R.S.C., 1985) 1985, c. I-5) or any person recognized by the First Nation's local government membership code to study in their maternal language, be it their traditional language or English, it is proposed that Bill 96 amend paragraph 1 of subparagraph 1 of section 32 of the *Basic school regulation for preschool, elementary and secondary education* (Chapter I-13.3, r. 8), and thus promote their academic success by adding the following wording at the end:

*, which are evaluated according to the second language requirements for a student holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

#### 4.4.2 Additional Corresponding Changes

Other corresponding regulatory changes must be made in order to pursue this objective:

It is proposed that Bill 96 amend paragraph 2 of subparagraph 1 of section 32 of the *Basic school regulation for preschool, elementary and secondary education* (Chapter I-13.3, r. 8), by adding the following wording at the end:

*, except students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

It is proposed that Bill 96 amend paragraph 1 of subparagraph 1 of section 30 of the *Basic adult general education regulation* (Chapter I-13.3, r. 9), by adding the following wording at the end:

*, which are evaluated according to the second language requirements for a student holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

It is proposed that Bill 96 amend paragraph 2 of subparagraph 1 of section 30 of the *Basic adult general education regulation* (Chapter I-13.3, r. 9), by adding the following wording at the end:

*except students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

It is proposed that Bill 96 amend paragraph 1 of subparagraph 1 of section 2.1 of the *College Education Regulations* (Chapter C-29, r. 4), by adding the following wording at the end:

*, which are evaluated according to the second language requirements for a student holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

It is proposed that Bill 96 amend paragraph 2 of subparagraph 1 of section 2.1 of the *College Education Regulations* (Chapter C-29, r. 4), by adding the following wording at the end:

*except students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

#### 4.4.3 Explanatory Notes to Proposed Amendment # 4

These amendments would have the effect that the language of instruction would become a requirement for second language units and would create an exemption from the requirement for second language units (at the secondary level) for students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the *Indian Act* (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code.

The French language should be evaluated as a second language (if the mother tongue is a traditional language or English) and Indigenous students should be exempted from the units required for the actual second language of instruction.

In the pursuit of this objective, section 32 of *Basic school regulation for preschool, elementary and secondary education* should be amended as follows:

32. *The Minister shall award a Secondary School Diploma to students who earn at least 54 credits at the Secondary IV or V level. Among those credits, there must be at least 20 credits at the Secondary V level and the following credits:*

- (1) 6 credits in Secondary V language of instruction, ***which are evaluated according to the second language requirements for a student holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;***
- (2) 4 credits in Secondary V second language, ***unless the student holds a certificate of Indian status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;***
- (3) 4 credits in Secondary IV mathematics;
- (4) 4 credits in Secondary IV science and technology or 6 credits in Secondary IV applied science and technology;
- (5) 4 credits in Secondary IV history;
- (6) 2 credits in Secondary IV arts education; and
- (7) 2 credits in Secondary V ethics and religious culture or physical education and health.

*Credits earned in a vocational training program leading to a Diploma of Vocational Studies or to an Attestation of Vocational Specialization are taken into account when awarding the Secondary School Diploma.*

Section 30 of the *Basic adult general education regulation* (Chapter I-13.3, r. 9) should also be amended:

30. *The Minister shall award a Secondary School Diploma to adults who earn at least 54 credits at the Secondary IV or V level including at least 20 credits at the Secondary V level, and among those 54 credits, the following credits:*

- (1) 12 credits in language of instruction, including at least 6 at the Secondary V level, **which are evaluated according to the second language requirements for a student holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) ) or any person recognized by the First Nation's local government membership code;**
- (2) 8 credits in second language, including at least 4 at the Secondary V level, **unless the student holds a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) ) or any person recognized by the First Nation's local government membership code;**
- (3) 4 credits in a Secondary IV or Secondary V program of studies established by the Minister in the subject area of Social Sciences;
- (4) 8 credits in a Secondary IV or Secondary V program of studies established by the Minister in the subject area of Mathematics, Science and Technology, including 4 in mathematics.

The number of credits earned in language of instruction and in second language may not exceed 36.

Credits earned at the Secondary IV and V levels are taken into account when awarding the diploma, that is, credits earned for elective subjects in general education programs or a vocational training program leading to a Diploma of Vocational Studies or in a vocational training program leading to an Attestation of Vocational Specialization, and the equivalent learning recognized in accordance with section 250 of the Education Act (chapter I-13.3).

Holders of a Diploma of Vocational Studies or an Attestation of Vocational Specialization who earned the credits in Secondary IV language of instruction, second language and mathematics are, for the purposes of this section, deemed to have obtained the credits set out in subparagraphs 3 and 4 of the first paragraph.

Adults must have earned credits for at least 1 course at the Secondary IV or V level given by an adult education centre.

A concordance is also proposed with section 2.1 of the College Education Regulations:

2.1 is eligible for a program of study leading to the college diploma, the holder of the professional diploma who meets, if any, the special conditions of admission to the program established by the Minister and who has accumulated the number of units allocated by the pre-school education system, Primary and secondary education (Chapter I-13.3, r. 8) or the adult General Education System (Chapter I-13.3, r. 9) for the learning of the following subjects:

- (1) Secondary V Language of Instruction, **which are evaluated according to the second language requirements for a student holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C.**

**1985, c. I-5) or any person recognized by the First Nation's local government membership code;**

(2) *Secondary V Second Language, unless the student holds a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

(3) *Secondary IV Mathematics.*

*A holder of a Secondary School Vocational Diploma who satisfies the conditions of admission established by the Minister may also be admitted to a program of technical studies leading to the Diploma of College Studies. The conditions of admission are established for each program of studies to ensure continuity of training and are based on the vocational training received at the secondary level.*

## **5 Adaptation of the Standards Applicable to Professional Orders to the Linguistic Context of First Nations**

### **5.1 Background**

The work of the *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress* (hereinafter the Viens Commission) has highlighted the language barriers facing communities.<sup>91</sup> To this end, the report of the Laurent Commission presents language as an obstacle to the recruitment of professionals called upon to practise in the community.<sup>92</sup>

As mentioned above, the first paragraph of section 97 of the Charter states that Indian reserves are not subject to its application. However, professional orders are subject to its application.

Nevertheless, the second paragraph of section 97 states that:

*The Government, by regulation, shall determine the cases, conditions and circumstances where or whereunder an agency or body contemplated in the Schedule is authorized to make an exception to the application of one or several provisions of this Act in respect of a person who resides or has resided on a reserve, a settlement in which a native community lives or on Category I and Category I-N lands within the meaning of the Act respecting the land regime in the James Bay and New Québec territories. A list of the professional orders is provided in the Annex.*

In the 1990s, the *Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French language*<sup>93</sup> enacted under section 97 of the Charter was adopted. This regulation creates an exception from the application of

<sup>91</sup>CERP, 2019, p.249. Hereinafter Viens Commission.

<sup>92</sup>*Ibid.*, p. 253.

<sup>93</sup>R.S.Q., C. C-11, r.10.

section 35 of the Charter in respect of “a person who resides or has resided on a reserve, in a settlement in which a native community lives or on Category I and Category I-N lands within the meaning of the Act respecting the land regime in the James Bay and New Québec territories,” provided that they meet two criteria:

*“(1) the person declares under oath to the Bureau of the professional order that he resides or has resided on a reserve, in a settlement in which a native community lives or on Category I and Category I-N lands; and  
(2) the person, despite the fact that he does not have knowledge of the French language appropriate to the practice of his profession, fulfils all the other terms and conditions for the issue of a permit provided for in the Professional Code and, where applicable, in the Act constituting the professional order.”*

Therefore, even if professional orders are subject to the Charter, they may exempt a professional who resides or has resided on a reserve, in an establishment where a native community lives or on Category I or I-N lands for the purposes of section 35 of the Charter.<sup>94</sup> Furthermore, section 68 of Bill 96 amends section 97 by adding wording at the end of the second paragraph, which reads as follows:

*“In addition, the Government may determine by regulation the cases, conditions and circumstances in which a professional order is authorized to depart from the first paragraph of section 35 in respect of a person who resides outside Québec and practises his profession in Québec solely on such a reserve, settlement or lands.”*

In our view, this change, while significant, does not go far enough. This amendment does not take into account the various reports previously tabled with the government, which require an extension of the scope of section 97. These reports find that the requirement to reside or have resided on reserve for the application of the exemption to section 35 of the Charter is too restrictive. Moreover, in 2016, the Committee on the Application of Bill 21 in Aboriginal Communities, appointed by the then Minister of Justice and the Minister Responsible for Indigenous Affairs, addressed the issues raised by the implementation of Bill 21<sup>95</sup> and the underlying issue of enforcement difficulties in Indigenous communities.<sup>96</sup> This committee tabled their report in 2016. The report entitled “Solutions Adapted to First Nations and Inuit Communities to Support the Application of Bill 21” lists all of the issues that First Nations are experiencing with this bill and identifies avenues for solutions. Among the committee’s recommendations is a recommendation specifically addressed to Anglophone communities.

In the report, the committee recommended facilitating the practice of English-speaking professionals in Indigenous Anglophone communities (Recommendation 5). These reports

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<sup>94</sup> Viens Commission, p.253.

<sup>95</sup> Bill 21 (*An Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations*) amended the *Professional Code* to reserve certain activities for professionals who are members of a professional order. Although the objective behind Bill 21 is laudable, the provisions of this bill raise several issues for Indigenous communities, particularly because of difficulties in recruiting and retaining staff. This Act has had the effect of reducing the pool of workers who may be qualified to exercise the responsibilities of the Director of Youth Protection. See the *Report of the Committee on the Application of Bill 21*.

<sup>96</sup> Report of the Committee on the Application of Bill 21, Québec Office des Professions du Québec, 2016, p. v. Hereafter *Report of the Committee on the Application of Bill 21*.



find that “the condition that one must reside or have resided in the community in order for the exception to section 35 of the *Charter of the French Language* to apply is too restrictive.” This is why it recommends:

- *Optimizing the application of the exception to section 35 of the Charter of the French Language;*
- *Broadening the concept of residency to include that of professional domicile with respect to the exception to section 35 of the Charter of the French Language.*

Similarly, the report by the Viens Commission (in call to action No. 12) recommends implementing Recommendation 5 for the implementation of Bill 21 in Indigenous communities.

First Nations are experiencing significant population growth and are thriving populations in Québec, throughout the province.<sup>97</sup> With a population of 65,000 in 2001, the First Nations population in Québec is expected to reach 93,000 in 2026.<sup>98</sup> Over the next five years, the AFNQL predicts that nearly 9,400 houses will have to be built to meet the needs of this growing demographic.<sup>99</sup> Communities are facing a housing crisis, and some professionals, both Indigenous and non-Indigenous, must reside off reserve (Québec or outside of Québec) while practising on reserve. On the other hand, not all professionals who wish to move to a community with their families can benefit from the exception and are only able to practise there.<sup>100</sup> This amendment suggested by Bill 96 does not consider the realities that Indigenous people are experiencing and the problems they face daily.

This is why we recommend expanding the concept of residence to include that of professional residence.

## **5.2 Proposed Amendment to Adapt the Standards Applicable to Professional Orders to the Linguistic Context of First Nations**

### **5.2.1 Proposed Amendment # 5**

It is proposed that the second paragraph of section 97 of the Charter be amended to extend the concept of residence to that of professional residence, since the amendment as suggested by Bill 96 is not sufficient; it does not cover all situations, namely professionals who reside in Québec but off reserve. The *Regulation*<sup>101</sup> should also be amended accordingly.

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<sup>97</sup> FNQLHSSC, 2017, p.9

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

<sup>100</sup> *Report of the Committee on the Application of Bill 21*, p. 26.

<sup>101</sup> *Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French language*, R.S.Q., c. C-11, r.10.

### 5.3 Recommendation # 1: Exemption from the requirement for second-language units for Indigenous students at the college level

#### 5.3.1 Recommendation # 1

It is proposed that Bill 96 amend paragraph 2 of section 7 of the *College Education Regulations* (Chapter C-29, r. 4), by adding the following wording at the end:

*except students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

It is proposed that Bill 96 amend paragraph 2 of section 8 of the *College Education Regulations* (Chapter C-29, r. 4), by adding the following wording at the end:

*except students holding a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;*

#### 5.3.2 Explanatory Notes to Proposed Amendment #5

As with the requirements for a secondary diploma for a student or adult, sections 7 and 8 of the *College Education System Regulations* would be amended as follows:

7. The component of general education that is common to all programs shall comprise the following subject areas for the number of credits indicated:

- (1) *Language of Instruction and Literature, 71/3 credits;*
- (2) *Second Language, 2 credits, **unless the student holds a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person recognized by the First Nation's local government membership code;***
- (3) *Philosophy or Humanities, 41/3 credits;*
- (4) *Physical Education, 3 credits.*

*The Minister shall determine the objectives and standards for each component. It may determine some or all of the learning activities aimed at achieving these objectives and standards.*

8. The component of general education that is specific to each program shall comprise the following subject areas for the number of credits indicated:

- (1) *Language of Instruction and Literature, 2 credits;*
- (2) *Second Language, 2 credits, **unless the student holds a Certificate of Indian Status issued to persons registered in the Indian Register under the Indian Act (R.S.C. 1985, c. I-5) or any person***

***recognized by the First Nation's local government membership code;***

*(3) Philosophy or Humanities, 2 credits.*

*The Minister shall determine the objectives and standards for each subject area, and the college shall determine the learning activities.*

#### **5.4 Recommendation # 2: Exemption from the uniform language of instruction and literature test for Indigenous students at the college level**

Section 26 of the *College Education System Regulations* provides for the Minister's discretion to impose examinations.

*26. The Minister may, for all subject areas included in the component of general education provided for in section 7, impose a uniform examination and may require that the passing of such examination be a condition for awarding the Diploma of College Studies.*

*The college shall ensure the administration of any examination referred to in the first paragraph.*

We recommend that the responsible Minister exercise this authority to exempt students with a Certificate of Indian Status issued to persons registered in the Indian Register under the *Indian Act* (R.S.C., 1985, c. I-5) or any person recognized by the First Nation's local government membership code from uniform language of instruction examinations (English or French).

#### **5.5 Recommendation # 3: Creating sustainable Indigenous language protection solutions in a constitutional context**

Considering the Quebec government's intent to modify certain constitutional provisions, the AFNQL and RCOs are asking the government to join them in a governments-to-government dialogue, and to use this new forum as an opportunity to seek out sustainable solutions for Indigenous language protection.

## **6 Issues Related to Continuing Education and Equivalency Recognition**

### **6.1 Context**

In order to be allowed to continue their practice, professionals must keep up to date on required continuing education.<sup>102</sup> However, continuing education poses a problem for English-language Indigenous communities since the majority of trainings are only available in French.<sup>103</sup> When English-language communities develop culturally appropriate trainings that are available in English, the communities must then shoulder the burden for the funding needed to get those programs recognized by the relevant professional order.<sup>104</sup> The report of the Committee on the Application of Bill 21 recommends creating, recognizing, and translating continuing education programs.

More importantly, training issues also appear on a more global scale with regard to recruiting English-language professionals.<sup>105</sup> Some English-language professionals who completed their studies outside of Québec are unable to have their professional diploma equivalency recognized in Québec. In order to be recognized and obtain a permit issued by a professional order in Québec, these employees must complete additional training to have their equivalent qualifications recognized; some of these trainings are only offered in French. Thus, a distinct inconsistency exists between section 97 of the Charter and the *Regulation* enacted pursuant to this section. These requirements have broad consequences for communities as, “if it is complicated or impossible for professionals to get their training recognized in Québec, that makes it all the more difficult for communities to entice those professionals to fill positions there.”<sup>106</sup> All the more so as few First Nations members hold a college diploma (12%) or a university degree (11%),<sup>107108</sup> and yet these members provide culturally competent services, and do so in a holistic manner in the Indigenous language.

In addition, professional orders are not aware of the issues and needs that communities are facing. Non-native professionals are not trained to intervene culturally with First Nations and Inuit. Professional orders must do more to promote the Indigenous knowledge of Indigenous professionals and invest in cultural safety as recommended by numerous commissions.<sup>109</sup> Cultural safety is a comprehensive and inclusive approach that recognizes and accounts for the historical, social, and cultural background of First Nations.<sup>110</sup> It is a strength to be able to offer culturally appropriate services in a community’s Indigenous language as these cultural competencies ensure that users receive high-quality care.<sup>111</sup> These criteria must be taken into consideration when a candidate seeking admission to a profession applies for a permit to practice on reserve.

In the same vein, we question the amendments made to the wording of section 32 of the Charter. In our view, these amendments could limit the use of English when members or candidates who are seeking to practice a profession communicate with professional orders.

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<sup>102</sup> *Ibid.*, p. 19.

<sup>103</sup> FNQLHSSC, 2020, p.26. Hereinafter the *Regional Workforce*.

<sup>104</sup> *Report of the Committee on the Application of Bill 21*, p.19.

<sup>105</sup> *Regional Workforce*, p.26.

<sup>106</sup> *Regional Workforce*, p.26.

<sup>107</sup> About four in ten adults hold a Secondary School Diploma or higher.

<sup>108</sup> The professional structure of jobs held by First Nations and Inuit compared to that of the general population shows that there is a relatively lower concentration of First Nations and Inuit in higher skilled positions, such as managers (8.2% compared to 10.3%) and professionals (12% compared to 18.1%). First Nations and Inuit Labour Market Advisory Committee: Labour Market Conditions for First Nations and Inuit in Québec, 2016, p. 39.

<sup>109</sup> In particular, see the Viens Commission’s call to action no. 24, MMIWG calls to justice nos. 7.1 and 7.6, and no. 8 from the MMIWG Supplementary report: Québec.

<sup>110</sup> FNQLHSSC, 2017, p.24. Hereinafter the FNCFS Report.

<sup>111</sup> FNQLHSSC, 2021, p.22.

At present, English-language candidates and professionals have difficulties obtaining information in English with regard to practising their profession in Québec and the necessary permits, documentation for professional practices such as guiding principles, and practice guidelines which are found on the professional orders' websites. However, these documents are essential to a professional practice in order for professionals to provide quality care. We find it difficult to explain this amendment; the scope of this section may have repercussions on the quality of care that professionals provide. Thus, Bill 96 must consider the specific context of First Nations and Inuit which is why we recommend adding an exemption for professionals working on reserve.

## **6.2 Recommendations**

### **6.2.1 Recommendation # 4**

Implement the recommendations of the Committee regarding the application of Bill 21 [*An Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations*, S.Q., c. 28] within First Nations and Inuit communities without delay, and more specifically, create, recognize, and translate continuing education materials (Viens Commission, call to action no. 106).

### **6.2.2 Recommendation # 5**

Offer cultural competency training to health professionals, students, Québec's public service providers, and any other individual who contributes to providing health services to the First Nations (MMIWG, call for justice no. 7.4; MMIWG Supplementary report: Québec, call for justice no. 8; TRC, call to action no. 23).

### **6.2.3 Recommendation # 6**

Increase the number of Indigenous professionals working in the healthcare field (TRC, call to action no. 23 directed at all levels of government).

### **6.2.4 Recommendation # 7**

Create effective and well-funded opportunities to encourage Indigenous individuals to work in the health and wellness fields within their communities, and provide socioeconomic incentives for this purpose (MMIWG, call for justice no. 7.8 directed at all governments and health service providers).

## **7 Issues Regarding Governmental Communications and Access to Information in English and French**

The AFNQL and RCOs have noted that provincial governmental officials do not always, or at least not automatically, provide documentation in English to First Nations in consultations. Since not all consultation processes are lengthy, English-language First Nations are deprived of crucial time to respond to the consultation in an informed manner.

If Bill 96 encourages governmental ministries to publish their documentation solely in French, or if it simply becomes more difficult to get access to documentation in English, this will impact consultation processes and thus First Nations themselves, and the government would not be fulfilling its duty to consult.

There are also occasions when funding from the provincial government would allow for First Nations professionals to be hired to work on or off reserve. Depending on client needs, the hired professional would ideally be bilingual (French/English), but they could also be bilingual without having mastered French or English.

Entrepreneurs in the communities who use primarily English as their working language should be able to advertise in the language of their choice, especially on reserve.

## 7.1 Recommendations

### 7.1.1 Recommendation # 8

Require that **any government correspondence to First Nations that is written in French be automatically accompanied by a translation in English**. Documents must be translated into Indigenous languages or English whether or not one of the parties requests it.

### 7.1.2 Recommendation # 9

The same applies to briefings held by provincial officials. These briefings are part of the consultation process and take place over the consultation period. They are useful to First Nations because they offer an opportunity to discuss, ask questions, and receive clarification.

At times simultaneous interpretation is provided, but documentation in English is not available.

The following is recommended so that First Nations have access to the same information at the same time:

Require governmental officials **to automatically hold briefings in English when a briefing is planned for First Nations in French**.

### 7.1.3 Recommendation # 10

Provide First Nations organizations with the necessary funding to cover the costs of translation when First Nations professionals work off reserve.

## Conclusion

We cannot ignore the negative impacts that remain ongoing with the new draft of the Charter proposed by the government of Québec on First Nations, who have themselves also been pushing back for decades against assimilative measures on their respective Indigenous languages and cultures. Although we understand the objectives behind Bill 96, this bill does not do enough to recognize the diversity of Indigenous languages or consider First Nations realities. This recognition would not diminish the French language in Québec.



## Annex 1

### Description of Assembly of First Nations of Québec and Labrador Commissions and Organizations

#### **A-1.1 Assembly of First Nations Québec-Labrador Secretariat**

The Assembly of Chiefs created the AFNQL Secretariat, which is mandated to plan, hold and follow up on meetings, in addition to helping the Regional Chief carry out mandates entrusted by the Assembly. The Secretariat is also responsible for housing and infrastructure and for public safety and supports the First Nations of Québec and Labrador Youth Network.

#### **A-1.2 First Nations Education Council**

The First Nations Education Council (FNEC), created in 1985, is one of the oldest First Nations organizations in Québec founded by communities. It is an association of First Nations and communities: eight nations (Abenaki, Algonquin, Atikamekw, Innu, Maliseet, Mi'gmaq, Mohawk and Wendat) and 22 communities. FNEC represents and defends the interests of this collective strength by validating the experience of every nation and respecting its identity, culture and traditions. Excellence, school success, cultural pride and control of education by and for First Nations are at the heart of FNEC's mission. Its vision is for every one of its First Nations members to exercise their inherent right to and full jurisdiction over academic success. FNEC boasts a strong 35-year track record and is supported by a team of nearly 50 professionals who support school teams on the takeover of education by every member nation. FNEC's main partners include the Assembly of First Nations-education sector, regional commissions and organizations (RCOs) of the Assembly of First Nations Québec-Labrador (AFNQL), Indigenous Services Canada (ISC)-education branch, Canadian Heritage, and the Minister of Education and Higher Education which oversees the Table on First Nations and Inuit Student Success, Secrétariat aux affaires autochtones, and universities.

#### **A-1.3 First Nations of Québec and Labrador Health and Social Services Commission**

Founded in 1994 by the Chiefs of the Assembly of First Nations Québec--Labrador (AFNQL), the First Nations of Québec and Labrador Health and Social Services Commission<sup>18</sup> (FNQLHSSC) is a non-profit organization with the mission of supporting First Nations in Québec in achieving their health, wellness, culture and self-determination goals. FNQLHSSC works closely with First Nations communities and organizations in Québec, as well as with AFNQL and other ANFQL regional commissions and organizations (RCOs). It builds partnerships with governments, community organizations, universities, hospitals,



associations and professional orders, as well as with other First Nations and Inuit organizations at both the regional and national level.

#### **A-1.4 First Nations of Québec and Labrador Economic Development Commission (FNQLEDC)**

The mission of the First Nations of Québec and Labrador Economic Development Commission (FNQLEDC) is to represent, promote, support and defend the interests of the First Nations of Québec and Labrador in socioeconomic development, thus contributing to their overall development, in consultation with all community stakeholders and in accordance with the cultures and local autonomy of the communities. The 10-person FNQLEDC team provides different types of training and support for community economic development officers (CEDOs) so that they can, in turn, assist entrepreneurs in their communities. A range of business services has been created to support entrepreneurs through every step of creating or expanding a business. Services specifically targeting youth, women and social economy entrepreneurs have also been put in place. FNQLEDC advocates for the interests of First Nations clients and communities within the federal and provincial governments and various organizations. Through its research and development mandate, FNQLEDC develops and carries out projects to support its clients and further its mission. The organization works primarily with Indigenous Services Canada (ISC), Secrétariat aux affaires autochtones (SAA), Canada Economic Development, Women and Gender Equality Canada, Secrétariat à la condition féminine and Minister of Labour, Employment and Social Solidarity. It also works with First Nations organizations and agencies, including the AFNQL Council of Elected Women, Native Commercial Credit Corporation, and Québec Aboriginal Tourism. Non-Indigenous organizations are also involved in various projects.

#### **A-1.5 First Nations Human Resources Development Commission of Québec (FNHRDCQ)**

Founded in 1996, the First Nations Human Resources Development Commission of Québec (FNHRDCQ) is the regional commission that oversees development of the workforce and job market in member First Nations communities and urban First Nations populations on behalf of AFNQL. Its mission is to contribute to the personal and professional fulfilment of First Nations by actively supporting their path to employment. FNHRDCQ has four mandates: provide a full range of employment and training programs and services to all clients, support individuals in their professional development while taking into account their particular needs and aspirations, maintain a culture of efficiency and excellence through skills development and continuous improvement of organizational capacity and maintain constructive relationships with stakeholders in education, social development, economic development and the labour market to ensure a strengthening and harmonization of the collective actions. FNHRDCQ works with a number of departments and ministries at the federal level (Employment and Social Development Canada [ESDC], Service Canada and Indigenous Services Canada [ISC]) and at the provincial level (Minister of Labour, Employment and Social Solidarity, through Services Québec). It also partners with First Nations organizations: AFN technical working group on employment and training, First Nations and Inuit Labour Market Advisory Committee (FNILMAC), First Nations Adult Education School Council (FNAESC), AFNQL Secretariat and other regional commissions and organizations (RCOs).

### **A-1.6 First Nations of Québec and Labrador Sustainable Development Institute (FNQLSDI)**

The First Nations of Québec and Labrador Sustainable Development Institute was founded in 2000. Its mission is to support the 43 First Nations communities in Québec and Labrador in applying the First Nations of Québec and Labrador Sustainable Development Strategy and to address economic, social and environmental issues they face. FNQLSDI offers First Nations a dynamic service hub that supports their efforts to improve the health of the land and its resources, develop sustainable communities and gain recognition of their rights. FNQLSDI respects priorities, needs and visions identified by the communities themselves. It also assists AFNQL with issues of common concern. FNQLSDI's areas of action include climate change, conservation and biodiversity, renewable energy and energy efficiency, forestry, waste management, language and culture, mining, comprehensive community planning, strategic and territorial planning and remediation of contaminated sites. FNQLSDI collaborates with many federal and provincial departments, including Environment and Climate Change Canada (ECCC), Canadian Heritage, Fisheries and Oceans Canada (DFO), Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), Natural Resources Canada (NRCAN), Canadian Wildlife Service (CWS) and Indigenous Services Canada (ISC). At the provincial level, FNQLSDI's main partners are the Minister of the Environment and the Fight Against Climate Change, the Minister of Forests, Wildlife and Parks, the Secrétariat aux affaires autochtones (SAA) and Transition énergétique Québec.

## Annex 2

Figure 1 – Distribution (n) of the First Nations population by residence – RHS 2015, with date from Indigenous Services Canada (INAC) 1996, 2001, 2006, 2011 and 2016

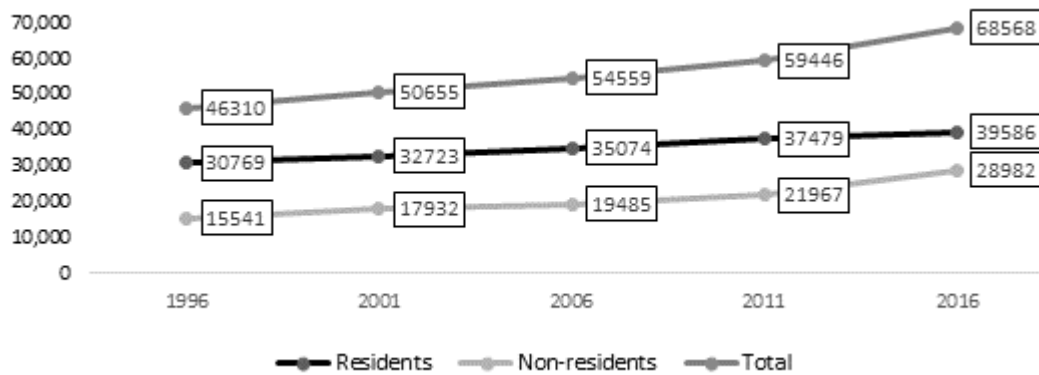
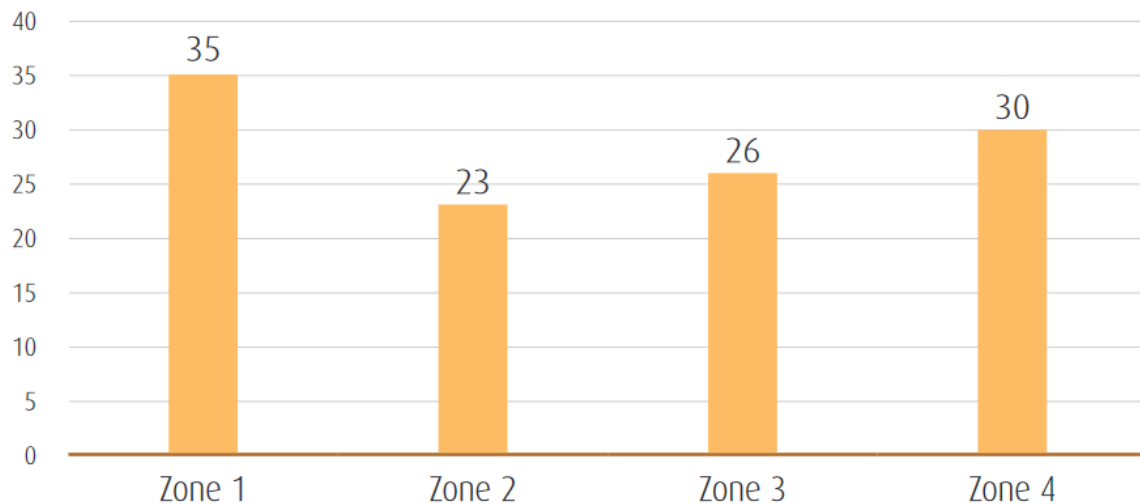
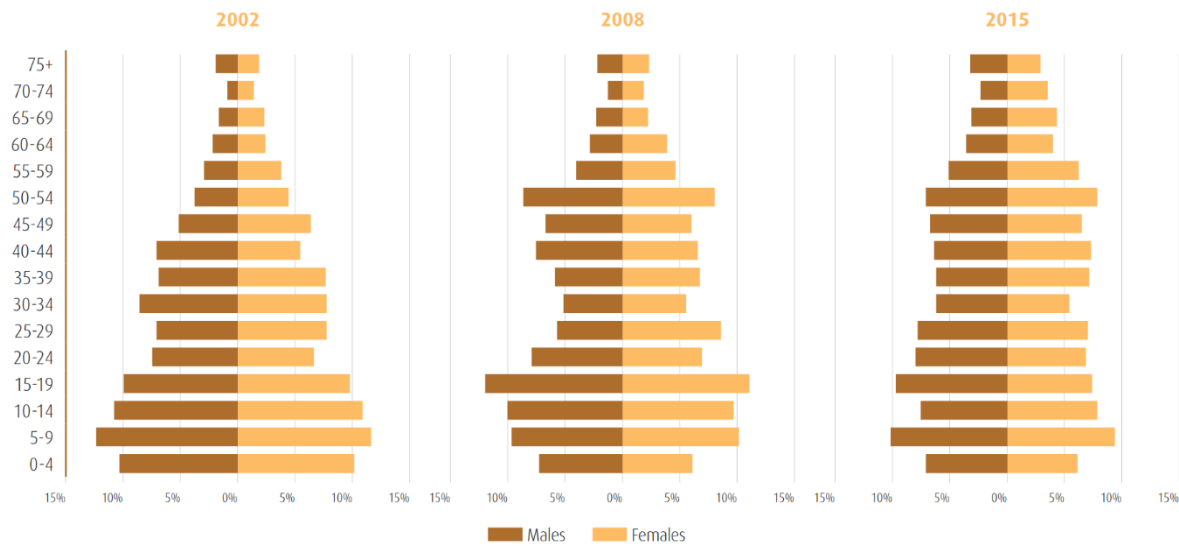


Figure 2 – Median Age According to Geographic Zone, RHS 2015



**Figure 3 – Evolution of the Age Pyramid from 2002 to 2015 - RHS 2002, 2008 and 2015**



**Figure 4 – Distribution (%) of population by age and geographic zone – INAC 1996, 2006 and 2016**

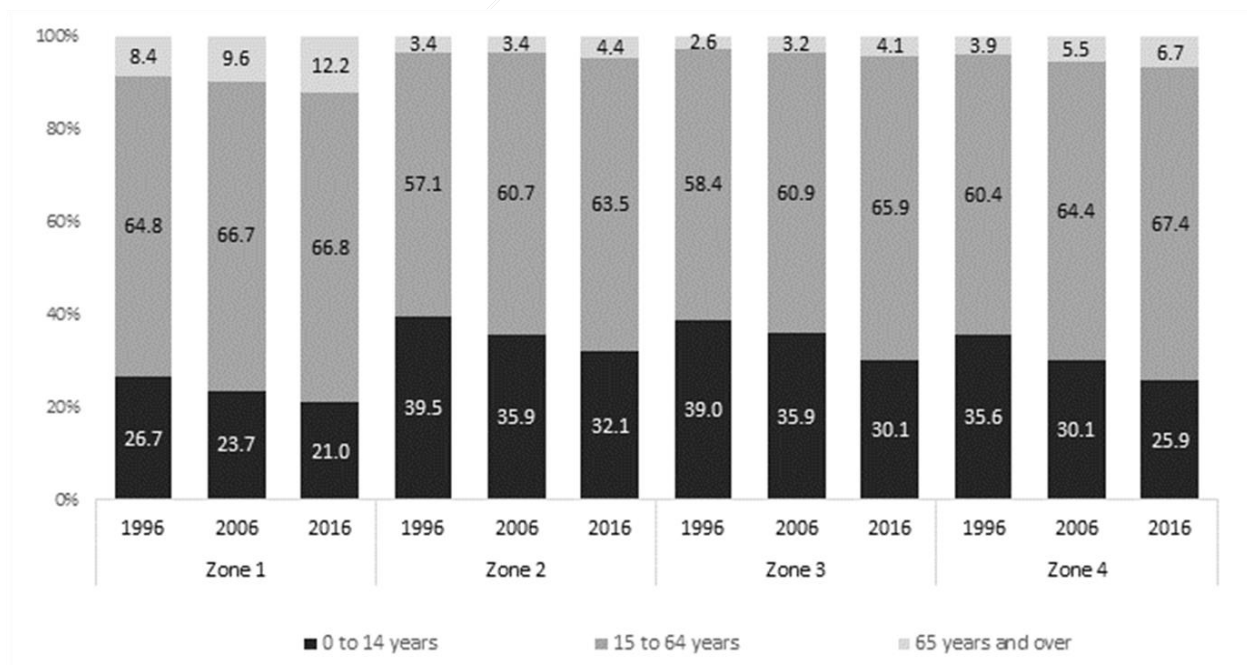


Figure 5 - Distribution of adults (25 years and over) by household income bracket – RHS 2002, 2008 and 2015

	n			%		
	2002	2008	2015	2002	2008	2015
\$0 -19,999	2,106	3,853	4,216	23.2	30.2	28.2
\$20,000 - 39,999	3,513	4,666	4,204	38.7	36.6	28.1
\$40,000 - 59,999	2,148	1,983	2,641	23.6	15.5	17.7
\$60,000 - 79,999	904	1,298	1,648	10.0	10.2	11.0
\$80,000 or more	412	966	2,250	4.5	7.6	15.0
<b>Total</b>	<b>9,083</b>	<b>12,767</b>	<b>14,959</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Figure 6 – Distribution of adults (25 years and over) by household income bracket, and by sex – RHS 2002, 2008 and 2015

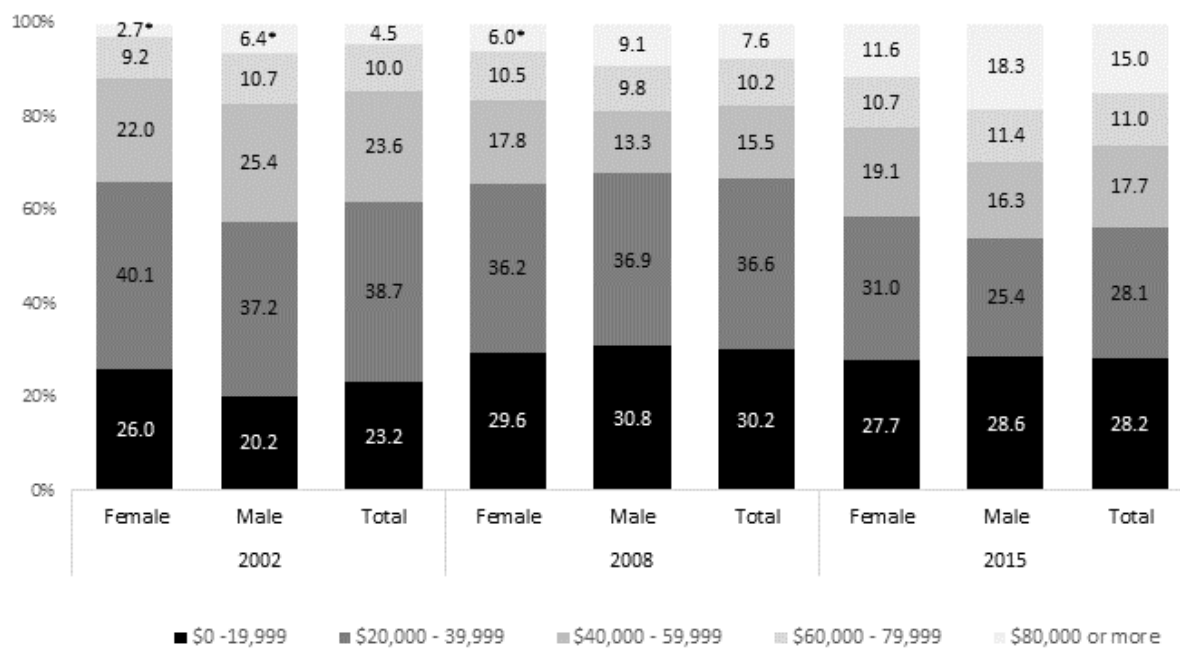


Figure 7 – Proportion of Adults Holding a Job Based on Gender – RHS 2015

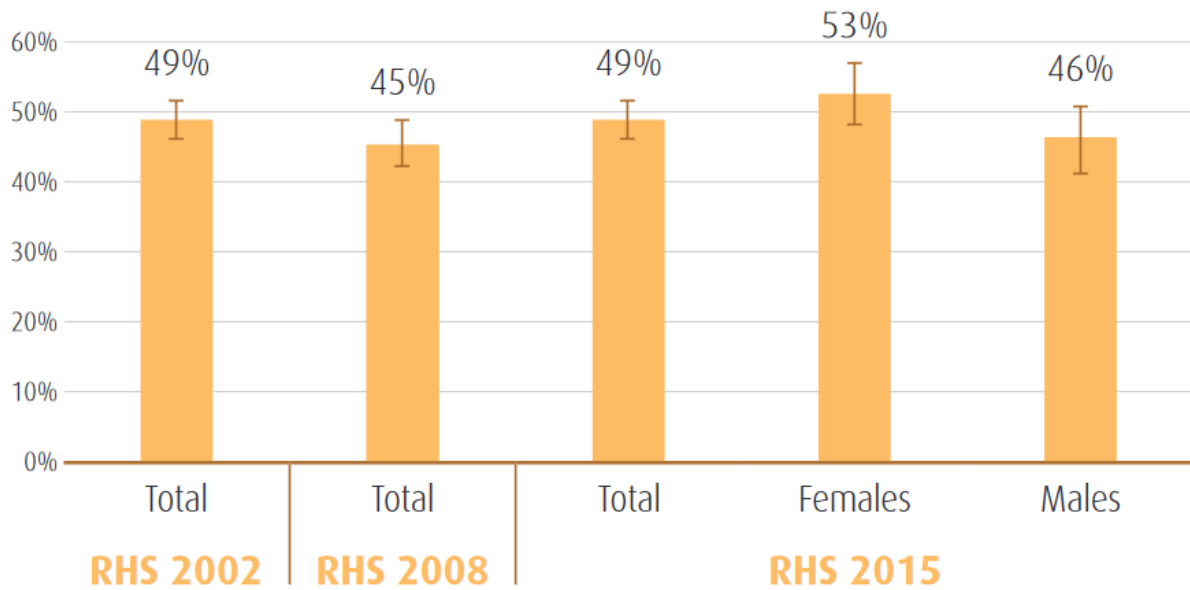
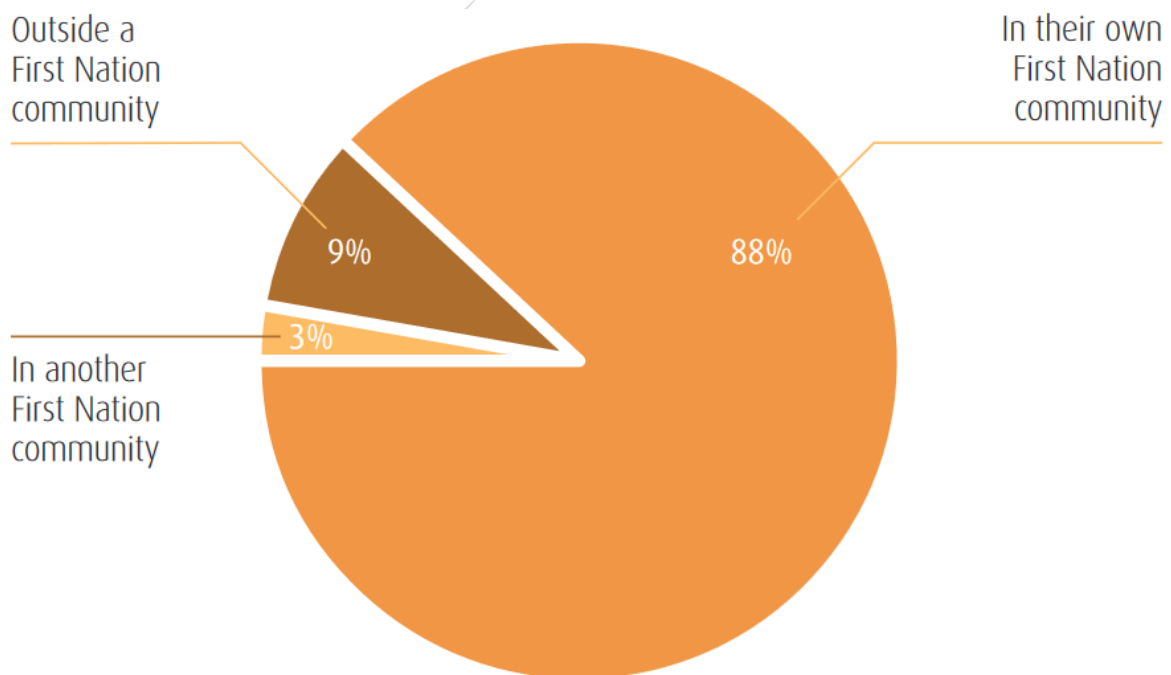
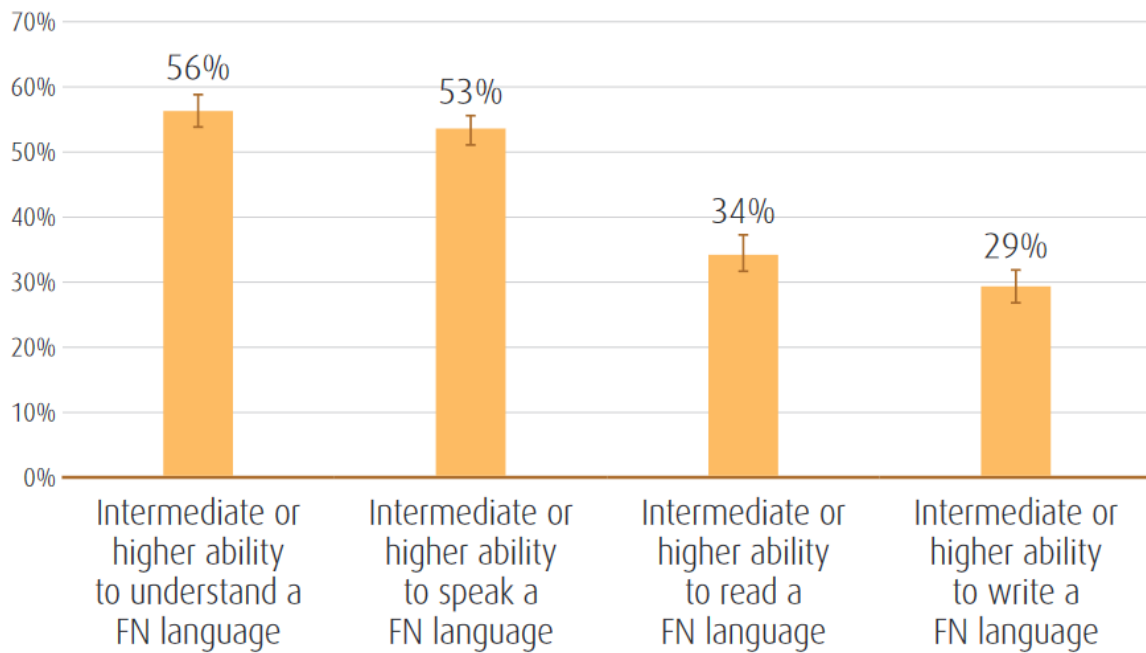


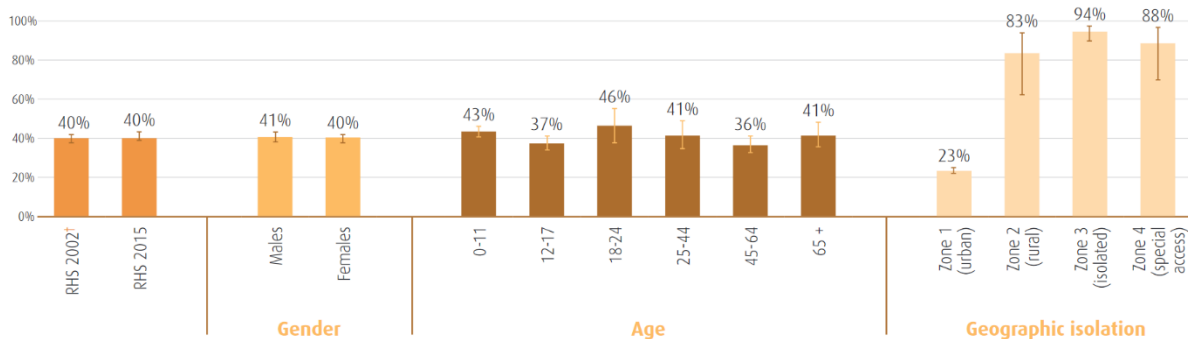
Figure 8 – Workplace Location of Adults Who are Employed – RHS 2015



**Figure 9 – Command of a First Nations Language – RHS 2015**

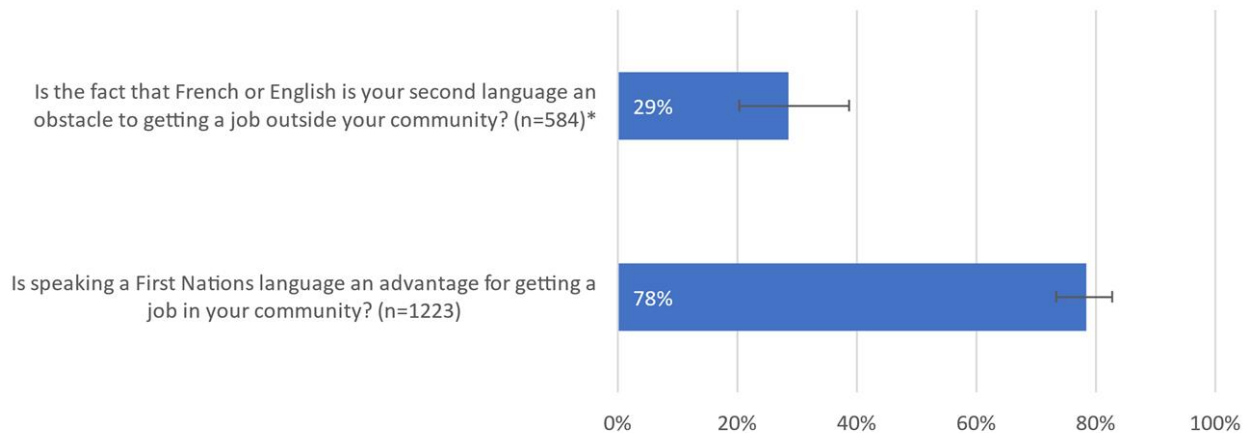


**Figure 10 – First Nations Language as an Everyday Language – RHS 2015**



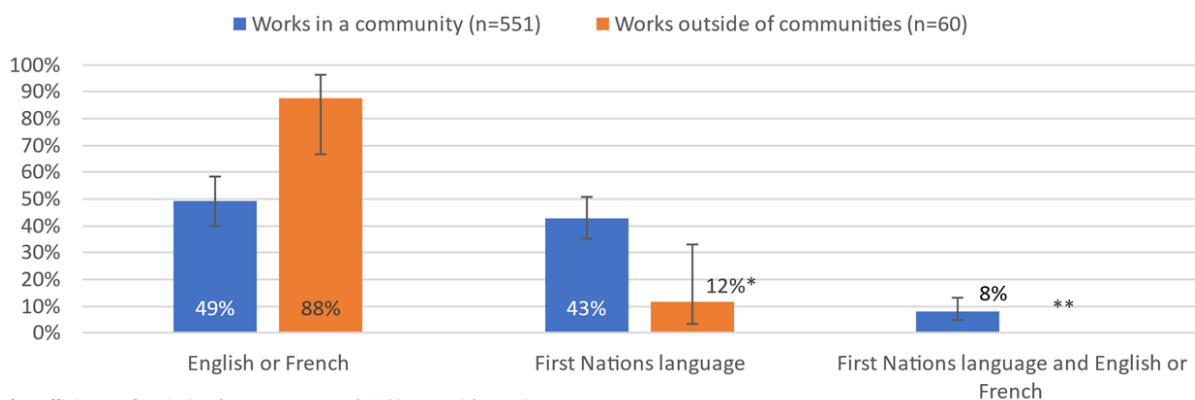
† The 2002 data only includes people ages 12 years and over.

**Figure 11 – Perceived Impact of Language on Employment Prospects Inside and Outside the Community**



\* This question was asked exclusively of respondents for whom English or French was not their mother tongue.

**Figure 12 – Distribution of Individuals According to the Language Spoken Mainly at Work**



\*Coefficient of variation between 16 and 33%. Use with caution.

\*\*Unpublished data, coefficient of variation greater than 33%



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