



COALITION OF ENGLISH SPEAKING
FIRST NATIONS COMMUNITIES IN QUEBEC

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English-speaking First Nations Communities in Québec Submission on Bill 96

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THE COMMITTEE ON CULTURE AND EDUCATION**

**BY THE
Coalition of English-speaking First Nations Communities
in Québec
(CESFNCQ)**

Kanesatake, Akwesasne, Kebaowek First Nation, Gesgapegiag, Kahnawake,
Kawawachikamach, Kitigan Zibi, Listuguj, Long Point First Nation / Winneway,
Timiskaming, and Algonquins of Barriere Lake

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I. INTRODUCTION

The International Community, the Government of Canada and the Government of Québec have each recognized the right of Indigenous Peoples to self-determination, including in regards to their institutions, traditions and languages.¹ This right to self-determination includes economic, social and cultural development, and the right of Indigenous Peoples to determine for themselves the development of their unique identity. A vital part of the expression and fulfilment of self-determination is ensuring that the health and well-being of Indigenous Peoples is nurtured and protected. A community cannot flourish and support its development if its people are not taken care of.

In 2019, the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec (the “CERP”) recognized that First Nations and Inuit are victims of systemic discrimination in their relations with Québec public services, and that current structures and processes show a clear lack of sensitivity toward the social, geographical and cultural realities of Indigenous Peoples.² In the case of members of English-speaking First Nations communities in Québec, issues of access to public services can be exacerbated by the fact that they reside in a predominantly francophone province.

Indeed, language forms an integral part of quality of care. Without proper information, clear communication and culturally appropriate language, it is incredibly difficult for Indigenous individuals to protect their rights, tend to their well-being and take ownership of their health. The specific needs resulting from being both First Nations and English-speaking have to be taken into account.

By imposing stricter obligations regarding the use of the French language by public institutions and restricting the use of other languages, Bill 96, *An Act respecting French, the official and common language of Québec*³ (“Bill 96”) negatively impacts English-speaking First Nations communities in Québec and further restricts their access to health and social services in their language; whether that is a traditional Indigenous language or English. While we acknowledge the Government of Québec’s efforts to include Aboriginal Peoples in the text of the Bill, these are inadequate and out of touch with reality. The development of legislation that has such an important impact on all spheres of society must be undertaken in concert with First Nations. Without this collaboration, the Government’s measures will remain insufficient and meaningless.

The development of comprehensive legislation and policies regarding language will have repercussions throughout Québec’s healthcare system, education system, public services,

¹ We make reference here notably to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), section 35 of The Constitution Act, 1982 and the National Assembly of Québec 15 principles recognizing Aboriginal nations and the need to establish a harmonious relationship with them, 1983.

² Gouvernement du Québec, *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress*, Final report, (Québec: Bibliothèque et Archives nationales du Québec, 2019) at 203, online: CERP,

<https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Rapport/Final_report.pdf> [CERP Final Report].

³ Bill 96, *An Act respecting French, the official and common language of Québec*, 1st session, 42nd legislature, National Assembly of Québec, 2021 [Bill 96].

workforce and economic development, and such impact cannot be overlooked. The aforementioned legislation cannot be developed without considering the specific needs of each group on this land, including English-speaking First Nations. As sovereign Peoples, First Nations and the Government of Québec must reach mutual agreements to address their particular needs.

II. SUMMARY AND RECOMMENDATIONS

The Coalition was created to advocate for better access to health and social services for English-speaking First Nations communities and individuals. Accordingly, this brief will offer a portrait of the situation for these communities when accessing health and social services; address the legal recognition of Indigenous rights and Québec's obligations towards Indigenous Peoples; as well as raise specific issues in connection with the *Charter of the French Language* (the "French Charter") and Bill 96 and offer a series of recommendations to address such issues.

The Coalition has reviewed the position document submitted to this Committee on Culture and Education by the Assembly of First Nations Québec-Labrador (the "AFNQL") on September 28, 2021. The Coalition subscribes to all of the statements, amendment positions, recommendations, and conclusions of the AFNQL, which are contained in their written position, notably in respect of education, language of services and exemptions for professionals.

To contribute to a comprehensive response to the specific health and cultural needs of English-speaking First Nations, this brief makes key recommendations and proposes some amendments.

First, to ensure that the health and cultural needs of Aboriginal Peoples are heard and considered in the development of this important piece of legislation, the Coalition is requesting that a special consultation be conducted with First Nations communities in Québec before Bill 96 is enacted (**Recommendation 1**).

Second, the Coalition recommends that a provision be included in the French Charter to **expressly grant the Government of Québec the power to enter into an agreement with respect to any matter to which the French Charter applies**. This is the most efficient solution to address the specific needs of English-speaking First Nations (**Recommendation 2**).

Third, the Coalition recommends that **section 97 of the French Charter be further amended to allow for language requirement exceptions for all professionals who work exclusively on reserves, settlements or Category I lands**, whether they reside on or off-reserve. This will make it easier for First Nations to hire professionals to meet their needs (**Recommendation 3**).

Fourth, as a consequent amendment to the professionals' exemption, the Coalition recommends to include in the French Charter a provision specifying that **all health and safety documentation sent to institutions and professionals on reserves, settlements or Category I lands must be accompanied by an English translation**. Such documentation is essential to the well-being of First Nations individuals, and as such their content must be easily accessible and understood (**Recommendation 4**).

In addition to these key recommendations, the Coalition would also like to see the following changes made to the French Charter, through Bill 96:

- Amend the preamble of the French Charter to better reflect the realities of Aboriginal Peoples situated in Québec (**Proposed amendment 1**);
- Clarify that the use of French is not required by the civil administration when providing services to Aboriginal persons (**Proposed amendment 2**);
- Include an obligation for the Minister of the French Language to consider the particularities of Aboriginal peoples in developing the language policy of the State and agency directives (**Proposed amendment 3**); and
- To account for the particular realities of their clientele, exempt community organizations that serve a predominately Indigenous clientele from French Charter requirements (**Proposed amendment 4**).

III. DESCRIPTION OF THE COALITION

The Coalition of English-speaking First Nations in Québec (the “Coalition”) was established in 2012 by English-speaking First Nations of Québec. It is made up of eleven First Nations communities including Akwesasne, Kebaowek First Nation, Gesgapegiag, Kanasatake, Kahnawake, Kawawachikamach, Kitigan Zibi, Listuguj, Long Point First Nation / Winneway, Timiskaming and Algonquins of Barriere Lake. These First Nations communities are mainly comprised of persons whose first language is English or whose second language (other than their traditional Aboriginal language) is English. Two Indigenous organizations also participate in the Coalition, namely the Native Women’s Shelter of Montreal and the Friendship Centre of Maniwaki. These aforementioned communities are located in seven of Québec’s eighteen health regions in isolated, rural and urban areas. Six are border communities. The Naskapi community of Kawawachikamach is party to the Northeastern Québec Agreement of 1978.

The Coalition’s goals are to expose challenges in accessing public services in federal and provincial systems, share strategies that stakeholders are using to overcome them, further define the members’ relationships with federal, provincial and regional partners in addressing access issues, co-create a strategic framework on a preferred future state of access, and align their First Nations health and social services governance and policies to support their partnerships in addressing access issues. The Coalition has worked hard to bring access issues in regards to health and social services for English-speaking First Nations to the attention of the provincial and regional health authorities, and in doing so has developed partnerships with other associations and centres.⁴

The Coalition was specifically created to address the challenges confronting English-speaking First Nations in Québec with respect to improving access to health and social services in English. Over the years, the Coalition has expressed these concerns to the Minister of Health and Social

⁴ Adapted from: Coalition of English speaking First Nations in Québec, “Barriers to access to health and social services for English-speaking First Nations in Quebec” (Document filed to the Public Inquiry Commission on Relationship between Indigenous Peoples and Certain Public Services in Québec: listening, reconciliation and progress, March 23, 2018), Montreal at 6 [Coalition submission to CERP].

Services (MSSS), the MSSS's Aboriginal Affairs Unit, and other branches of the Government of Québec, including to the CERP.

In its document filed to the CERP, the Coalition addressed the many barriers to access to health and social services faced by English-speaking First Nations communities in Québec, barriers which can be exacerbated by the fact that they reside in a predominantly francophone province.⁵ This document presented the particular challenges faced by English-speaking First Nations communities in Québec, and the changes needed to ensure substantive equality in the funding and provision of services.

In 2019, the Coalition met with MSSS Aboriginal Affairs Unit to convey many of these same issues, and reiterated the importance of improving access to health and social services, and of ensuring access to services that are culturally safe. As recently as January 2020, these topics were raised again in a written letter, in order to continue discussions regarding collection of data, equity in availability of services, interpreter programmes and jurisdictional issues. Continuing this relationship and implementing changes to mitigate the risks related to lack of access to care remains a priority for the Coalition.

As the above examples testify, ensuring access to health and social services for English-speaking First Nations has been an ongoing longstanding concern, which is being raised once again in the context of the current consultations.

IV. CONTEXT

Portrait of the situation for English-speaking First Nations in Québec⁶

About 64.5% of the total Indigenous population in Québec is predominantly English-speaking or has English as the first official language spoken after their own Indigenous language.⁷

Like all Quebecers, English-speaking First Nations Peoples residing in Québec are entitled to receive the health services necessary to maintain and improve their physical, mental and social capacity that are acceptable to themselves.⁸ Yet, there is an enormous disparity in living and health conditions between Indigenous Peoples and the rest of the Québec population. This problematic is rooted in the complex constitutional framework applicable to First Nations, lack of funding, geography and colonialist policies. There is a wall of misunderstanding between Indigenous

⁵ *ibid* at 3 and 4.

⁶ Note that much of the context that will be described in this section was also submitted to Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec (the "CERP") in 2018, in the Coalition's written submissions. The CERP Final Report also highlighted many pressing issues across public services in Québec, and made a series of recommendations to the Government of Québec. The situation so described is still relevant. Despite numerous studies, reports and calls to action, very little has changed over the last few years in the daily lived realities of First Nations in Québec.

⁷ Amy Chamberlin, "Portrait of the Situation for English-speaking First Nations: Accessing Health and Social Services in English in the Province of Québec" (Research Report, 2014), citing Aboriginal Affairs and Northern Development Canada, 2012 and Ministère de la Santé et des Services sociaux du Québec, 2012 [Chamberlin].

⁸ *An Act Respecting Health Services and Social Services*, S-4.2, s. 1.

Peoples and the main providers of public services in Québec.⁹ This difficult situation is further exacerbated by language barriers and lack of adequate services available in English.

As mentioned above, more than half of the total Indigenous population in Québec is predominantly English-speaking or has English as their second language.¹⁰ This reality is, at least in part, explained by the linguistic history of colonialism and religious missionary work. The CERP Final Report recognized the repercussions of evangelization and residential schools on Aboriginal Peoples.¹¹ The current linguistic realities of First Nations in Québec, both in terms of loss of traditional languages and the use of State languages, stem from this colonial history.

In this context, discrimination can arise from the inequitable effects that may result from the application of apparently “neutral” laws, policies, norms and institutional practices on a person or group of people.¹² Systemic discrimination occurs when such discrimination is widespread and institutionalized.¹³ In the words of the CERP Commissioner Jacques Viens, “it seems impossible to deny that members of First Nations and Inuit are victims of systemic discrimination in their relations with the public services [in Québec].”¹⁴

Such systemic racism leads to very real, tragic consequences. On September 28, 2020, Joyce Echaquan, a mother of seven from the Atikamekw community of Manawan, died at the Joliette Hospital, just moments after she recorded footage of hospital staff directing degrading, racist remarks at her.¹⁵ The coroner tasked with the investigation of the death of Joyce Echaquan concluded that racism and prejudice contributed to her death.¹⁶ In considering the issues brought to light by this tragic event, the first recommendation made in the coroner’s investigation report is that the Government of Québec acknowledge the existence of systemic racism within its institutions and make a commitment to help eliminate it.¹⁷

In light of the consensus among various actors regarding the presence of systemic racism in Québec’s institutions, how does Bill 96 respond to this situation? How does it promote reconciliation? What solutions are offered to mitigate the effects of such racism on First Nations whose first or second language is English?

Unless the specific needs for social and health services of English-speaking First Nations are taken into consideration in the development of policies, through consultations, cooperation and specific

⁹ Gouvernement du Québec, *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress*, Summary report, (Québec: Bibliothèque et Archives nationales du Québec, 2019) at 13 [CERP Summary Report].

¹⁰ Chamberlin, *supra* note 7.

¹¹ CERP Final Report, *supra* note 2, at 204.

¹² *ibid* at 203.

¹³ CERP Summary Report, *supra* note 9, at 11.

¹⁴ *ibid* at 11.

¹⁵ Benjamin Shingler, “Racism at Québec hospital reported long before troubling death of Atikamekw woman” (October 1, 2020), online: *CBC News* <<https://www.cbc.ca/news/canada/montreal/quebec-joliette-hospital-joyce-echaquan-1.5745150>>.

¹⁶ Bureau du coroner du Québec, News Release, « La coroner Géhane Kamel dépose son rapport d’enquête » (October 1, 2021) online: *Bureau du coroner* <<https://www.coroner.gouv.qc.ca/medias/communiqués/detail-dun-communique/466.html>>.

¹⁷ *ibid*.

agreements, this situation will carry on. Indigenous peoples must be empowered to develop services and programmes that meet the needs of their population, and be actively involved in the provisions of such services.

Recognizing this pressing need, certain initiatives have been developed. For example, the CISSS de Lanaudière announced that it will hire a community liaison officer from the Atikamekw community and also collaborate closely with Indigenous communities.¹⁸ A training course will also be developed with the input of the Atikamekw community.¹⁹ The CISSS de la Gaspésie also recently hired a liaison nurse to better serve its Indigenous clientele.²⁰ Such initiatives are welcomed and necessary. More are needed to adequately respond to the needs and realities of Indigenous Peoples.

Indigenous Peoples rely on access to public health services, whether they live within their community or in urban centres. The Coalition has worked continuously to shed light on the unique historical, social and political situation of English-speaking First Nations, in particular to ensure access to health and social services. The barriers faced in access to services, as identified by health and social services workers and members of English-speaking First Nations communities, include access to specialized services in English; documentation and information in English; cultural discrimination and a lack of cultural sensitivity; communication and language barriers; jurisdictional issues; long wait times for services (especially services in English), emergency services; funding; and quality of services in English.²¹ These barriers can be addressed by involving English-speaking First Nations communities in the development of health and social service programmes and by making sure that culturally safe services are available for Indigenous peoples, given by Indigenous peoples.

The reality is that, apart from a few crisis situations, the quality of services provided to Indigenous Peoples has never really been a priority for the Government of Québec.²² This lack of action unjustifiably infringes on the rights of English-speaking First Nations and their human right to dignity, safety and health.

Recognition of Indigenous rights and Québec's obligations

UNDRIP and self-determination

¹⁸ Daniel J. Rowe, "Health board that governs Joliette Hospital acts to improve relations with Indigenous patients" (March 11, 2021) online: *CTV News Montreal* <<https://montreal.ctvnews.ca/health-board-that-governs-joliette-hospital-acts-to-improve-relations-with-indigenous-patients-1.5342728>>; Caroline Plante, « Indigenous people to be better served by Lanaudière health authority, Québec says" (February 25, 2021), online: *Montreal Gazette* <<https://montrealgazette.com/news/local-news/indigenous-peoples-to-be-better-served-by-lanaudiere-health-authority-government-says>> [Plante].

¹⁹ *ibid.*

²⁰ CISSS de la Gaspésie, « Embauche d'une infirmière de liaison au CISSS de la Gaspésie » Communiqué de Presse, (31 Septembre 2021), online : *Gouvernement du Québec* <<https://www.cisss-gaspesie.gouv.qc.ca/2021/09/30/embauche-dune-infirmiere-de-liaison-au-cisss-de-la-gaspesie/>> [CISSS de la Gaspésie].

²¹ Chamberlin, *supra* note 7.

²² CERP Summary Report, *supra* note 9, at 15.

The right to self-determination and to self-governance of Indigenous Peoples is recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)²³, recognized in Canadian law.²⁴ Section 35 of The Constitution Act, 1982 recognizes and affirms the aboriginal rights of Aboriginal Peoples located in Canada.

As part of a nation's powers, governance also includes relationships with other nations and external bodies. In this context, First Nations have the right to choose the language in which they will communicate with the State and its institutions.

While among themselves, certain First Nations' individuals may use their traditional language, often a governing body will conduct their affairs and offer services in a language other than its traditional language, namely in English. It is then essential to ensure continuity of service delivery when a member obtains services outside their community. Otherwise, rights entrenched in the Constitution and exercised by First Nations communities are lost.

It is therefore essential that the Government collaborate and cooperate with local English-speaking First Nations communities to answer to their specific needs, including in regards to language. The solutions will be specific to each region and each context.

The 15 Principles

In this context, it is important to note that the National Assembly of Québec has committed to reconciliation with Aboriginal Peoples, including through direct consultation. On February 9, 1983, the Council of Ministers of Québec under the René Lévesque government unanimously adopted the 15 principles recognizing Aboriginal nations and the need to establish a harmonious relationship with them (the "15 principles"). These principles remain in force and applicable to the National Assembly of Québec.

Among these principles, we highlight the first principle, which recognizes the distinct culture, language and customs of Aboriginal Peoples, including the "right to determine for themselves the development of this unique identity."²⁵ We submit that the Aboriginal "unique identity" includes the historical and social realities of English-speaking First Nations, and thus "their right to determine for themselves" when and how to continue using the English language.

Further, we also highlight principle 14, whereby the National Assembly of Québec has undertaken to consult Aboriginal Peoples if it legislates on matters that concern their fundamental rights. This is a political obligation the province has committed to, and which has not been retracted. This

²³ UN General Assembly, *United Nations Declaration on the Rights of Indigenous People*, Resolution adopted by the General Assembly, 2 October 2007, A/RES/61/295.

²⁴ Bill c-15, *United Nations Declaration on the Rights of Indigenous Peoples Act*, 2nd Sess, 43rd Parl, 2020, (received royal assent on June 21, 2021).

²⁵ 15 principles as cited in: *Partie Québécois, "Consultation sur la Proposition d'entente de principe d'ordre général avec les Premières Nations de Mamuitun et de Nutashkuan"* (Document filed to the Commission des institutions de l'Assemblée nationale du Québec, January 2003) Québec, at Annexe I (BLG translation) [15 principles]. Note that these 15 principles have been copied in Schedule I to this brief for the reader's benefit.

principle extends the duty to consult to legislative action, and it should be honoured by the Assembly of Québec, notwithstanding the recent Supreme Court of Canada finding that the legal obligation to consult does not apply at the legislative stage.²⁶

Recommendation 1: Conduct a special consultation with First Nations

The Coalition calls upon the Legislature to honour its political undertaking, and requests that a consultation process with First Nations be conducted before Bill 96 is passed into law, “through mechanisms to be determined with them”.²⁷

This consultation must adequately allow First Nations communities located in Québec to voice their concerns. Despite the Crown’s general discretion to determine the format of the consultation process, the Crown may not choose a format or a process which inappropriately limits the scope of necessary consultation.²⁸ In many cases, when a province is informed of a First Nation’s claim in relation to a proposal, it must consult with them.²⁹

Human rights and freedoms

By restricting the circumstances in which civil administration can use a language other than French, Bill 96 effectively restricts access to English-language services for English-speaking First Nations. This results in inequities between those Indigenous Peoples in Québec who are French-speaking, and those who are English-speaking. In effect, French-speaking First Nations persons will have greater access to health and social services than their English-speaking counterparts, without justification.

The right to equality is a constitutional right, recognized in both the Québec *Charter of human rights and freedoms* and the *Canadian Charter of Human Rights and Freedoms*.³⁰ The Québec *Charter of human rights and freedoms* specifically protects against discrimination on the basis of language.³¹ This right to equality is one of substantive equality, a standard which may take into consideration individual needs and capacities.³²

The Supreme Court of Canada has found that a distinction that results in adverse effect discrimination can be “unwitting, accidental” and still have disproportionately negative impacts on a specific group, which will be recognized as being within the scope of an equality provision’s protection.³³ In the case of members of English-speaking First Nations communities in Québec,

²⁶ *Mikisew Cree c. Canada*, [2018] 2 R.C.S., at para 32.

²⁷ 15 principles, *supra* note 25 at principle 14.

²⁸ Jack Woodward, *Native Law*, (Carswell: 2016) at par. 5§2081, (Thomson Reuters) [Woodward].

²⁹ *ibid* at par. 5§1320 and 5§1342.

³⁰ *Charter of human rights and freedoms*, (CQRL, C-12) at s. 10 [Québec Charter]; *Canadian Charter of Rights and Freedoms*, s. 15(1), Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

³¹ Québec Charter, *supra* note 30 at s. 10.

³² Emmanuelle Bernheim, “Repenser la vulnérabilité sociale en termes d’égalité réelle : une contribution des droits de la personne », *Développements récents : La protection des personnes vulnérables* (2011), vol. 330 (Cowansville) : Yvon Blais, 2011) at 193-194.

³³ *Gosselin v Québec (Attorney General)*, [2002] 4 SCR 429, 2002 SCC 84 at para 120

the specific needs resulting from being both Aboriginal and English-speaking have to be taken into account to ensure equality.

Unless policies are adapted to meet these specific needs, the human dignity of English-speaking First Nations is infringed upon. The distinction based on language affects the full and equal exercise of English-speaking First Nations individuals' right to dignity.³⁴ It is a human right of individuals to receive care in a language they understand.

Given these important impacts on human rights, we denounce and deplore the use of the notwithstanding clause in Bill 96. In light of constitutional principles, human rights and the rule of law, the current version of the French Charter as presented by Bill 96 unjustifiably infringes on the Aboriginal rights of English-speaking First Nations and hinders their access to health and social services.

V. IMPACTS OF BILL 96 ON ACCESS TO HEALTH AND SOCIAL SERVICES AND RECOMMENDATIONS

As stated above, English-speaking First Nations face important barriers in regards to access to health and social services, due to the compounded challenges of being both Aboriginal and English-speaking in a predominantly francophone province. Imposing the use of French in public bodies and limiting access to resources in any other language results in increased burdens for English-speaking First Nations, and for organizations that provide culturally adapted support and services.

Issue 1: Disconnected from First Nations' reality

The current drafting of Bill 96 fails to take into account the realities of First Nations in various ways, which adversely affects the well-being of English-speaking First Nations.

It is the right of every nation to protect its language. The Québec Legislature can enact greater protections for the French language, as part of the heritage of Québec society. However, language policies must be understood as part of a larger political, legal and historical context, one which includes Indigenous Peoples as forming part of the fabric of Québec society. First Nations in Québec are in majority English speaking. This reality stems from the history of evangelization, commerce, and colonialism. The Government of Québec must recognize the historical and social realities of Aboriginal Peoples, and their resulting language rights. To respect the right of Aboriginal Peoples to self-determination, the First Nations in Québec must have the right to receive public services in English when it is their first language or their second language other than their traditional Indigenous language.

³⁴ Such right is protected in the Québec Charter, *supra* note 30, at s. 4. Further, to establish violation of a Québec Charter right, the plaintiff must show “that the distinction, exclusion or preference affects the full and equal exercise of a right or freedom guaranteed to him or her by the *Charter*”, as stated by the Supreme Court of Canada in *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, [2015] 2 S.C.R. 789 at par. 53.

Some First Nations individuals have lost their traditional language as a result of colonial policies and residential schools, and solely rely on the English language to communicate. Whether or not such individuals reside within their respective community, they, like all Quebecers, rely on State health and social services and, if such services are not made available in English, it will be impossible for them to communicate and be understood.

In the context of healthcare, there can be grave consequences to being misunderstood. Lack of clear communication and precise information can put at risk the well-being and safety of an individual.

Bill 96 presents an opportunity to recognize the lived realities of Indigenous Peoples in Québec, which includes an acute need for English language services. The Government of Québec must apply and respect its obligations towards Aboriginal Peoples, in particular by recognizing their right to choose the language of their communication with the Government and its institutions.

Proposed amendment 1: Expand the scope of the preamble recognition.

We propose to modernize and expand the scope of the preamble to the French Charter in order to recognize the historical and social realities of Aboriginal Peoples and the impact of such historical events on the language Aboriginal Peoples in Québec use today.

The language rights recognized to Aboriginal Peoples should include both their “original language” and the second language of their choice. This can be achieved by modifying the current preamble wording.

It is therefore proposed to replace the fourth paragraph of the preamble of the French Charter by the following:

Whereas the National Assembly of Québec recognizes the right of the **First Nations and the Inuit of Québec**, the first inhabitants of this land, to preserve and develop their original language and culture;

Whereas the National Assembly of Québec acknowledges the particular history of each First Nation and Inuit community located in Québec, and the resulting adoption of a language different than its original language;

Issue 2: Reduced access to provincial health services in English

Just over one third of the First Nation population in Québec lives off-reserve.³⁵ Like other urban residents, they rely on State and community organizations outside of their traditional land base. Within their land base, First Nations also often have to rely on external State medical and social

³⁵ Statistics Canada, Figure 1.2 in “Focus on Geography, 2016 Census – Québec” online: *Gouvernement of Canada* <<https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-pr-eng.cfm?LANG=Eng&GK=PR&GC=24&TOPIC=9>> [Statistics Canada, 2016].

services, for these services are not available within their communities. However, current State health and social services are not adapted to English-speaking First Nations' needs and realities.³⁶

At this time, the services available to Aboriginal Peoples are insufficient, and programs destined for them are often fragmented and not well adapted to their realities.³⁷ Existing structures have prevented Aboriginal Peoples from acting on their own to adequately address the cultural and health needs of their populations.³⁸

By imposing a strict structure on the use of the French language, with only but a few exceptions, Bill 96 only widens this gap and imposes additional challenges.

First, in the elaboration of the Bill, the Government of Québec has failed to adequately account for English-speaking First Nations needs in regards to language. To do so, specific programs, funding and community resources must be developed with Aboriginal communities, individuals and organizations. Certain partnerships in this regard are underway in Québec, and it is important to develop them further.³⁹ Recent initiatives show that particular agreements can lead to adapted and effective solutions. For example, the recently announced hire of a liaison nurse in the CISSS de la Gaspésie testifies to the potential of such collaboration between public services and First Nations communities.⁴⁰

It is essential that the Government of Québec and English-speaking First Nations work together to develop services that reflect the values, cultures and realities of the population, including by providing services in an appropriate language. Including an agreement-making provision within Bill 96 would provide the Government of Québec with a tool to address the particular language needs of English-speaking First Nations in Québec.

Second, the emphasis on the exemplary use of French by civil administration limits the availability of English-speaking personnel and therefore appropriate services for English-speaking First Nations. When providing services to an Aboriginal person, the use of French cannot be a requirement, regardless of agency-specific directives.

Third, the development of the proposed “language policy of the State”⁴¹ fails to take into consideration Aboriginal particularities. The language policy of the State and directives define the circumstances where a language other than French can be used; as such, Aboriginal needs must be

³⁶ See, notably, CERP Final Report, *supra* note 2.

³⁷ Regroupement des centres d’amitié autochtones du Québec, « Mémoire présenté à la Commission d’enquête sur les relations entre les Autochtones et certains services publics au Québec : Écoute, réconciliation et progrès », (Wendake, November 30, 2018) at 10 [Mémoire du RCAAQ].

³⁸ CERP Summary Report, *supra* note 9 at 15. The Commissioner goes on to state: “In my opinion this is a big mistake that is in urgent need of remedy by putting an end to the status quo and building a new balance of power.”

³⁹ Mémoire du RCAAQ, *supra* note 37 at 17; See, for example, initiative at Joliette Hospital : Plante, *supra* note 18.

⁴⁰ CISSS de la Gaspésie, *supra* note 20; see also Radio-Canada article on this subject : Brigitte Dubé, « Une infirmière de liaison pour les communautés de Gesgapegiag et Listuguj » (October 1, 2021), online : *Radio-Canada* <<https://ici.radio-canada.ca/nouvelle/1828389/cisss-gaspesie-infirmiere-liaison-gesgapegiag-listuguj?fromApp=appInfoIos&partageApp=appInfoIOS&accesVia=partage>>.

⁴¹ Bill 96, *supra* note 3 at s. 19, proposed s. 29.9 of the *Charter of the French Language*.

accounted for in its development. Otherwise, the impact on the services made available to them are likely to be disproportionate and discriminatory.

Recommendation 2: Add a provision to Bill 96, which expressly grants the Government of Québec the power to enter into an agreement with respect to any matter to which the French Charter applies.

It is essential that the Government of Québec collaborate with First Nations to implement agreements to address the needs of each community. Access to health and social services is regional, therefore the best way to address First Nations' views, concerns, and challenges regarding access to English-language health and social services would be to have these addressed in particular agreements. In line with the nation-to-nation relationship between the Government of Québec and Aboriginal Peoples, English-speaking First Nations must meaningfully participate in the development of agreements directly with the relevant ministries, agencies and institutions in their regions.

Therefore, we recommend adding a provision to Bill 96 that expressly grants the Government of Québec the power to enter into agreements with First Nations in respect to any matter to which the French Charter applies. This would allow for a specific response to specific needs, and honour the principles of self-determination and cooperation between sovereign Peoples.

Such provisions have been included in the *Cannabis Act*, the *Police Act*, the *Act respecting the conservation and development of wildlife* and the *Youth Protection Act*, which serve as strong precedents for including such a provision in the French Charter. Please refer to Schedule II for examples of provisions that have been adopted in other Québec legislation.

Based on these precedents, we propose the following text:

For the purpose of adapting the measures provided for in this Act to Aboriginal realities, the Government is authorized to enter into an agreement on any matter within the scope of the Act or the regulations with an Aboriginal nation represented by all the band councils, or councils in the case of northern villages, of the communities that make up that nation, the Makivik Corporation, the Cree Nation Government, an Aboriginal community represented by its band council, or council in the case of a northern village, a group of communities so represented or, in the absence of such councils, any other Aboriginal group. Such an agreement may also cover the adaptation to Aboriginal realities of other language-related government measures that are not provided for by an Act or a regulation, such as translator or interpreter services.

Such an agreement has precedence over this Act and the regulations. However, a person covered by an agreement is exempt from the incompatible provisions of this Act or the regulations only to the extent that that person complies with the agreement.

Proposed amendment 2: Clarify that the use of French is not required by the civil administration when providing services to Aboriginal persons.

From the combined reading of sections 13.2 and 22.3, which Bill 96 proposes to add to the French Charter, it is understood that the civil administration can use a language other than French in both its oral and written communications with bodies referred to in section 95 and with Aboriginal persons. However, civil administration can only do so where a government directive has been adopted by their agency.⁴² In our view, this limits the application of the exception in an unreasonable manner. The right of Indigenous Peoples to receive services in a language other than French (be it their traditional language or English) should not be subject to ministerial and agency discretion.

To address this unjustified infringement, we propose to amend the second paragraph of section 22.3 to ensure that the civil administration may use a language other than French with Aboriginal persons, even in the absence of a directive, and notwithstanding limitations that may be stated in such a directive.

Further, we propose to add a paragraph 7 to section 22.5, to clarify that the use of a language other than French is permitted in communications with bodies recognized in section 95 and Aboriginal persons.

22.5 The provisions of this division do not prevent the use of a language other than French

[...]

(7) in communications with bodies recognized in section 95, band councils, councils, Aboriginal communities and Aboriginal persons.

Proposed amendment 3: Consult Aboriginal Peoples in developing the language policy of the State and agency directives.

To ensure that Aboriginal realities are taken into consideration, including those of English-speaking First Nations, the Minister of the French Language must take into consideration the specific circumstances of Aboriginal Peoples in the elaboration of the language policy of the State. We propose to ensure this takes place by adding language to section 29.11 to that effect.

The Minister of French Language must take certain social factors into consideration in developing the language policy of the State. Since Aboriginal communities and persons are not part of these considerations, we propose to fill this gap by adding a third paragraph to section 29.11:

29.11. In developing the language policy of the State, the Minister shall take into account

[...]

(3) the particularities of the bodies referred to in section 95, of Aboriginal communities and of Aboriginal persons.

⁴² Bill 96, *supra* note 3 at s. 15, proposed s. 22.3 al. 2 of the *Charter of the French Language*.

Issue 3: Insufficient exceptions for professionals working on reserve

Removing barriers to access to health services for members of English-speaking First Nations communities is particularly important due to the shortage of healthcare professionals on reserve. Québec should support efforts to recruit and retain health professionals working in Indigenous communities in Québec, and remove barriers in doing so.

In particular, the issue of requiring professionals to meet French language requirements even if they wish to work exclusively on reserves is not a recent one; Indigenous groups have been pressing the Government of Québec to remove barriers to practising in Indigenous communities since at least the 1980s.⁴³ In 1983, the Government of Québec did enact amendments to allow for limited exceptions in regards to French language requirements, applicable only to residents of reserves, settlements or Category I lands. This limited exception has failed to resolve this issue, and the amendment proposed by Bill 96 is also insufficient.

Today, trained professionals who reside in Québec cannot provide services on reserve if they are unable to pass the required Québec French-language examination. As a result, for example, midwives who have studied in an English institution, or in the United States, are unable to provide services within their own communities. The same is true of all professionals in the health and social fields, which further reduces access to such services for English-speaking First Nations communities.

Various commissions and committees' reports recommended amending section 97 of the French Charter to allow for French language requirement exceptions to any professional looking to work exclusively on reserves, settlements or Category I lands.⁴⁴ Yet, article 68 of Bill 96 only proposes to modify section 97 to the extent of allowing language requirement exceptions to professionals residing outside of Québec. The amendment suggested to section 97 in Bill 96 is not satisfactory because it does not cover all situations, namely professionals who reside in Québec but outside of reserves, settlements on Category I lands.

The Minister must eliminate barriers to practising on reserves and to access to services on reserves. This includes barriers in regards to language requirements. It is vital to support the development of a workforce with a knowledge of the Indigenous cultural and community context.

Recommendation 3: Widen the section 97 exception to include professionals who reside in Québec, whether on or off-reserve.

In light of the foregoing issues, we propose to broaden the notion of residence at article 97 of the French Charter to that of “professional residence”. The proposed text of section 97 is as follows.

⁴³ See, for example, comment by Gérald Godin in Québec, Commission permanente des communautés culturelles et de l'immigration, *Journal des débats des commissions parlementaires*, 32nd Leg, 4th Sess (12 December 1983) at B-10796 [Journal des débats, 1983].

⁴⁴ CERP Final Report *supra* note 4 at 400; Office des professions du Québec, *Rapport du comité sur l'application du PL 21 au sein des communautés autochtones : Des solutions adaptées au communautés des Premières Nations et des Inuits pour soutenir l'application du PL-21*, Gouvernement du Québec (2016).

97. The Indian reserves are not subject to this Act.

The Government, by regulation, shall determine the cases, conditions and circumstances **in which** an agency or body contemplated in **Schedule I** is authorized to make an exception to the application of one or several provisions of this Act in respect of a person who **practises his profession in Québec solely 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

The added paragraph suggested by section 68 of Bill 96 is therefore not required. The *Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French language*⁴⁵ should also be amended in consequence.

This amendment has also been recommended by the AFNQL in its brief to this Committee. We take the time to raise it again because of its undeniable importance in the context of health and social services.

Issue 4: Lack of access to technical health and safety documents in English

Since 1983, the Government of Québec has recognized that in order to meet the needs of English-speaking First Nations communities, the French language requirements cannot be required of professionals working on reserves, settlements on Category I lands.⁴⁶ As a result, the reality is that a number of healthcare professionals working on reserves do not have a sufficient knowledge of French to carry on their professional activities and offer health services in that language. They are not required to have such knowledge to provide their services.

And yet, the Government of Québec continues to send French-only documentation to on-reserve health institutions, knowing full well that these institutions and the professionals working therein are primarily, if not solely, English-speaking. To answer the needs of English-speaking First Nations and to ensure that healthcare workers obtain the technical information they require, it is primordial that all health and safety documentation be provided in English, and in a timely manner. For example, Québec bodies such as the MSSS, the Institut national de santé publique du Québec (INSPQ) and the Institut national d'excellence en santé et services sociaux (INESSS) all provide directives, training in best practices, up to date research and science for a variety of professionals and quality improvement initiatives. Due to language barriers, English-speaking First Nations communities have no access to these valuable resources. Staff must therefore pay exorbitant costs to access training initiatives outside of Québec, making development and quality improvement difficult.

During the COVID-19 pandemic, documentation has been provided to on-reserve health institutions primarily, if not solely, in French. Given the heavy burden placed on such institutions and the volume of documentation provided, it took days to translate these documents. In the

⁴⁵ C-11, r. 10.

⁴⁶ 1983, c. 56; *Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French language*, chapter C-11, r. 10. See also comment by Gérald Godin in *Journal des débats*, 1983, *supra* note 43 at B-10796.

pandemic context, this put the lives of First Nations Peoples at risk. When directives were changing daily if not hourly at times, communities who could not read French were not able to quickly implement directives, which directives were at times life-saving. In regards to both health and safety, it is primordial that information be provided in a language that the professionals receiving it will understand.

Recommendation 4: Provide professional, technical and other similar documentation in English for professionals on reserves, settlements or Category I lands.

Currently, provisions in the French Charter and Bill 96 allow the use of a language other than French in certain limited circumstances, but they never impose an obligation to translate documents originally drafted in French.

To ensure the well-being of the English-speaking First Nations population, we recommend to create an obligation to provide documents in English at the same time as French documents when such documents relate to health, safety, security and emergency situations, whether such documents are addressed to professionals, communities or other stakeholders on reserves, settlements or Category I lands. English-language documents must be made available at the same time as the French language documents, not weeks or months after the fact. This is a question of safety and well-being.

Issue 5: Increased burden on community organizations offering services particularly to Indigenous Peoples

As mentioned above, approximately 35% of registered First Nations individuals in Québec live off-reserve.⁴⁷ The barriers faced by Aboriginal persons who live in urban, and semi-urban areas include those related to language, racism and discrimination, and accessibility to culturally relevant and safe services.⁴⁸ In addition, shelters in urban centres are often lacking, which can lead to homelessness and the risk of violence and abuse in the streets.⁴⁹

In this context, community organizations that offer services specifically to Indigenous individuals are fundamental in ensuring access to culturally sensitive and adapted services. These organizations provide a link between Indigenous Peoples and the Québec public system.⁵⁰ They provide a safe space and shelter for vulnerable Indigenous individuals, especially women. It is important to support the development of centres, shelters and other community organizations, and reduce all barriers to their operation.

⁴⁷ Statistics Canada, 2016, *supra* note 35.

⁴⁸ Mémoire du RCAAQ, *supra* note 37 at 8.

⁴⁹ Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government, “Initial Brief to the Public Inquiry Commission on Relations between Indigenous Peoples and Certain Public Services in Québec: listening, reconciliation and progress”, (Val d’Or, June 14, 2017) at 1 and 29.

⁵⁰ The RCAAQ makes the following statement in their Mémoire, *supra* note 30, at 9: « Dans les faits, les Centres d’amitiés agissent comme un complément au réseau québécois lorsque celui-ci n’est pas en mesure d’assumer certaines responsabilités auprès de la population autochtone – population qui est en croissance démographique. »

These organizations have a diverse Indigenous clientele that can include First Nations, Inuit and Métis, depending on the region. These individuals speak either French, English, or their Indigenous language, realities that the organizations must respond to. As such, the language requirements of the French Charter, and those proposed in Bill 96, can pose burdens on these organizations, which often have already limited resources.

Notably, section 35 of Bill 96 proposes to amend sections 46 and 46.1 of the French Charter to the effect that employers must provide justification to require its employees to have knowledge of a language other than French. While Indigenous community organizations could likely meet the conditions set out by adopting relevant policies and procedures, given the particular needs of the clientele they serve, the requirements set out in sections 46 and 46.1 pose an additional burden on these organizations when they seek to employ individuals with sufficient knowledge of a language other than French, such as English or an Aboriginal language.

Administrative burdens such as these divert resources of community organizations, resources that would be better served to meet the needs of Indigenous individuals.

Proposed amendment 4: Exempt community organizations that serve a predominately Indigenous clientele from French Charter requirements.

We therefore recommend that community organizations that serve a predominately Indigenous clientele be exempt from the application of the French Charter. This exemption would allow organizations to focus on their work and provide valuable care, and ensure that they can continue to offer services that are adapted to the needs and realities of Indigenous Peoples.

VI. CONCLUSION

In this brief, the Coalition presented particular issues affecting English-speaking First Nations communities in Québec when accessing health and social services. The recommendations proposed herein aim to palliate the adverse effects of the French Charter and the provisions proposed by Bill 96 on such communities. Through consultation and negotiation, we believe that pragmatic solutions to address the cultural and health needs of English-speaking First Nations in Québec can be developed. Overall, a closer collaboration between the Government of Québec, its institutions and First Nations communities is essential in order to identify solutions to improve the gaps in health and social services that English-speaking First Nations experience.⁵¹

The majority of First Nations in Québec are English-speaking. As such, their particular needs must be taken into account in the development of legislation that has the potential to affect them. The potential impacts of Bill 96 are far-reaching, and will touch every public service made available in Québec, including health and social services. The Coalition calls upon the Assembly of Québec to honour its undertaking to consult Indigenous Peoples in the development of legislation. A special consultation with the Indigenous communities of Québec should be held before Bill 96 is enacted, to address their particular needs, including in regards to English-language services.

⁵¹ Coalition submission to CERP, *supra* note 51 at 6.

Further, improved communication between Indigenous clients and service providers is essential, and this can be only be achieved by reducing or removing language barriers. It is our view that, at this time, concluding specific agreements between the Government of Québec, its agencies and individual English-speaking First Nations remains the most effective way to meet the needs of each community and to ensure that social and health services are available in Indigenous languages and in English. It is essential that a provision allowing the Government of Québec the ability to enter into such agreements be included in Bill 96.

Finally, to further reduce language barriers and ensure that efficient, quality health services are available in English-speaking First Nations communities, professionals exercising exclusively on reserves, settlements on Category I lands should be exempt from French-language requirements. In addition, provincial documentation made available to these professionals and essential to their practice must be translated into English, to ensure that their contents are fully understood.

SCHEDULE I: THE 15 PRINCIPLES RECOGNIZING ABORIGINAL NATIONS AND THE NEED TO ESTABLISH HARMONIOUS RELATIONSHIP WITH THEM

Le 9 février 1983, le Conseil des ministres du Québec adoptait les quinze principes suivants :

- 1) Le Québec reconnaît que les peuples autochtones du Québec sont des nations distinctes qui ont droit à leur culture, à leur langue, à leurs coutumes et traditions ainsi que le droit d'orienter elles-mêmes le développement de cette identité propre;
- 2) Le Québec reconnaît également aux nations autochtones, dans le cadre des lois du Québec, le droit de posséder et de contrôler elles-mêmes les terres qui leur sont attribuées;
- 3) Les droits mentionnés aux sous-paragraphes 1 et 2 doivent s'exercer au sein de la société québécoise et ne sauraient par conséquent impliquer des droits de souveraineté qui puissent porter atteinte à l'intégrité du territoire du Québec;
- 4) Les nations autochtones peuvent exercer, sur des territoires dont elles ont ou auront convenu avec le gouvernement, des droits de chasse, de pêche, de piégeage, de cueillette de fruits, de récolte faunique et de troc entre elles ; dans la mesure du possible, la désignation de ces territoires doit tenir compte de leur occupation traditionnelle et de leurs besoins ; les modalités d'exercice de ces droits doivent être définies dans des ententes particulières avec chaque nation;
- 5) Les nations autochtones ont le droit de participer au développement économique de la société québécoise ; le gouvernement est prêt à leur reconnaître également le droit d'exploiter, à leur bénéfice, dans le cadre des lois du Québec, les ressources renouvelables et non renouvelables des terres qui leur sont attribuées;
- 6) Les nations autochtones ont le droit, dans le cadre des lois du Québec, de se gouverner sur les terres qui leur sont attribuées;
- 7) Les nations autochtones ont le droit d'avoir et de contrôler, dans le cadre d'ententes avec le gouvernement, des institutions qui correspondent à leurs besoins dans les domaines de la culture, de l'éducation, de la langue, de la santé, des services sociaux et du développement économique;
- 8) Les nations autochtones ont droit de bénéficier, dans le cadre des lois d'application générale ou d'ententes conclues avec le gouvernement, de fonds publics favorisant la poursuite d'objectifs qu'elles jugent fondamentaux;
- 9) Les droits reconnus aux Autochtones par le Québec sont reconnus également aux hommes et aux femmes;

- 10) Du point de vue du Québec, la protection des droits existants des Autochtones s'étend également aux droits inscrits dans des ententes conclues avec lui dans le cadre de revendications territoriales ; de plus la Convention de la Baie-James et du Nord québécois et celle du Nord-Est québécois doivent être considérées comme des traités et avoir plein effet;
- 11) Le Québec est prêt à considérer que les droits existants issus de la Proclamation royale du 7 octobre 1763 concernant les nations autochtones puissent être explicitement reconnus dans ses lois;
- 12) Le Québec est prêt à considérer cas par cas la reconnaissance des traités signés à l'extérieur du Canada ou avant la Confédération, le titre d'aborigène, ainsi que les droits des peuples aborigènes qui en découleraient
- 13) Les Autochtones du Québec, en vertu de situations qui leur sont particulières, peuvent bénéficier d'exemptions de taxes selon les modalités convenues avec le gouvernement;
- 14) Le Québec, s'il légifère sur des sujets qui concernent les droits fondamentaux reconnus par lui aux nations autochtones, s'engage à les consulter par le truchement de mécanismes à déterminer avec elles;
- 15) Les mécanismes mentionnés au sous-paragraphe 14, une fois déterminés, pourraient être institutionnalisés afin que soit assurée la participation des nations autochtones aux discussions relatives à leurs droits fondamentaux.

SCHEDULE II: EXAMPLES OF AGREEMENT PROVISIONS IN OTHER QUÉBEC LEGISLATION

Cannabis Regulation Act, C 5.3, section 62

62. For the purpose of adapting the measures provided for in this Act to Aboriginal realities, the Government is authorized to enter into an agreement on any matter within the scope of the Act or the regulations with an Aboriginal nation represented by all the band councils, or councils in the case of northern villages, of the communities that make up that nation, the Makivik Corporation, the Cree Nation Government, an Aboriginal community represented by its band council, or council in the case of a northern village, a group of communities so represented or, in the absence of such councils, any other Aboriginal group. Such an agreement may also cover the adaptation to Aboriginal realities of other cannabis-related government measures that are not provided for by an Act or a regulation, such as cannabis harm prevention programs. It must pursue the same objectives as those pursued by this Act.

Such an agreement has precedence over this Act and the regulations. However, a person covered by an agreement is exempt from the incompatible provisions of this Act or the regulations only to the extent that that person complies with the agreement.

An agreement entered into under this section must be tabled in the National Assembly within 15 days of its signature or, if the Assembly is not sitting, within 15 days of resumption. It must also be published in the *Gazette officielle du Québec*

Police Act, p - 13.1, section 90.

90. The Government may enter into an agreement with one or more Native communities, each represented by its band council, to establish or maintain a police force in a territory determined under the agreement.

A police force thus established or maintained shall, for the duration of the agreement, be a police force for the purposes of this Act.

Act respecting the conservation and development of wildlife, c – 61.1, section 24.1

24.1. The Government is authorized, to better reconcile wildlife conservation and management requirements with the activities pursued by Native people for food, ritual or social purposes, or to further facilitate wildlife resource development and management by Native people, to enter into agreements with any Native community represented by its band council in respect of any matter to which Chapter III, IV or VI applies.

The provisions of the agreements shall prevail over the provisions of this Act or the regulations. However, a community, undertaking or person to whom or which an agreement applies shall be exempted from the application of irreconcilable provisions of this Act and the regulations only insofar as the community, undertaking or person abides by the terms of the agreement.

The agreements entered into under this section shall be tabled before the National Assembly within 15 days of the date on which they are signed if the Assembly is in session, or, if it is not sitting, within 15 days of resumption. They shall also be published in the *Gazette officielle du Québec*.

Youth Protection Act p -34.1, section 36.5

37.5. In order to better adapt the application of this Act to the realities of Native life, the Government is authorized, subject to the applicable legislative provisions, to enter into an agreement with a first nation represented by all the band councils of the communities making up that nation, with a Native community represented by its band council or by the council of a northern village, with a group of communities so represented or, in the absence of such councils, with any other Native group, for the establishment of a special youth protection program applicable to any child whose security or development is or may be considered to be in danger within the meaning of this Act.

The program established by such an agreement must be compatible with the general principles stated in this Act and with children's rights thereunder, and is subject to the provisions of Division I of Chapter III thereof. In particular, the powers provided for in section 26 may be exercised with respect to the record relating to the case of a child to whom such an agreement applies.

The agreement shall specify the persons to whom it applies and define the territory in which the services are to be organized and provided. It shall identify the persons or authorities that will be entrusted with exercising, with full authority and independence, all or part of the responsibilities assigned to the director, and may provide, as regards the exercise of the entrusted responsibilities, procedures different from those provided for in this Act. The agreement shall contain provisions determining the manner in which a situation is to be taken in charge by the youth protection system provided for in this Act.

The agreement shall also provide measures to evaluate its implementation, and specify the cases, conditions and circumstances in which the provisions of the agreement cease to have effect.

To the extent that they are in conformity with the provisions of this section, the provisions of an agreement shall have precedence over any inconsistent provision of this Act and, as regards the organization and provision of services, of the Act respecting health services and social services (chapter S-4.2) or of the Act respecting health services and social services for Cree Native persons (chapter S-5).

Any agreement entered into under this section shall be tabled in the National Assembly within 15 days of being signed, or, if the Assembly is not in session, within 15 days of resumption. It shall also be published in the *Gazette officielle du Québec*.