



BACKGROUND PAPER

LANGUAGE REGIMES IN THE PROVINCES AND TERRITORIES

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Language Regimes in the Provinces and Territories
(Background Paper)

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EXECUTIVE SUMMARY

In Canada, language is an area of shared jurisdiction between the various levels of government. Although the federal government has established its own support measures, it relies on the provinces and territories to help ensure the nationwide recognition of both official languages.

This background paper provides an overview of the language regimes established by the provinces and territories and briefly identifies their main features. In recent years, efforts have been made across Canada to promote the recognition of English and French and improve service delivery to the public in both languages.

Each province and territory has its own language regime that evolves over time. Language regimes are governed by a variety of official documents, including the Constitution, Acts, regulations, policies and strategic plans. In addition, language regimes may apply to different areas, such as the delivery of government services, the adoption of legislation, justice, education and municipal services, to name a few.

In recent years, there has been a resurgence of provisions in the provinces and territories to enhance the vitality and to support the development of official-language minority communities. In addition, a number of provincial and territorial governments have updated their legislative, regulatory and policy provisions to adapt to the evolving language needs of their respective populations. And yet, depending on where they live, Canadians experience significant gaps in the types of services available to them in the official language of their choice.

There has also been an upward trend in intergovernmental collaboration, including the development of various regional, national and international partnership mechanisms that aim to improve service delivery in both official languages. Each province and territory has its own governance structure to ensure minority-language status recognition. Certain jurisdictions have ombudsmen or entities responsible for upholding Canadians' language rights and to handle language complaints.

The various language regimes in Canada interact in concert with each other and are constantly called upon to change. This is seen most clearly in the annual Ministerial Conference on the Canadian Francophonie, where provincial and territorial ministers examine various issues, including, in 2019, the modernization of the federal *Official Languages Act*.

LANGUAGE REGIMES IN THE PROVINCES AND TERRITORIES

1 INTRODUCTION

Canada's Constitution contains no provision relating to jurisdiction over language. In a 1988 decision, the Supreme Court of Canada affirmed, "Language is not an independent matter of legislation but is rather 'ancillary' to the exercise of jurisdiction with respect to some class of subject matter assigned to Parliament or the provincial legislatures by the *Constitution Act, 1867*."¹ The power to legislate with regard to language therefore belongs to both the federal and provincial levels of government, under their respective legislative authorities.

The provinces and territories play an important role in the protection of linguistic minorities in sectors falling under their exclusive or shared jurisdictions. Studies have highlighted the efforts made by the provinces and territories to support the development of official-language minority communities.²

Practices are continually evolving, as evidenced in 2013 by the coming into force in Nunavut of the *Official Languages Act* and the *Inuit Language Protection Act*, as well as the completion of reviews of the language regimes in New Brunswick and Prince Edward Island.³ The *Francophone Community Enhancement and Support Act* of Manitoba came into force in 2016, and Alberta's French Policy took effect in 2017.⁴ With Newfoundland and Labrador's adoption in October 2015 of a policy on French-language services,⁵ British Columbia remains the only province that does not have a legislative, policy or regulatory framework in place for such services.

This document summarizes the provincial and territorial language regimes, as well as current practices in intergovernmental collaboration.

2 PROVINCIAL AND TERRITORIAL LANGUAGE REGIMES

2.1 OFFICIAL DOCUMENTS

Language regimes vary significantly from one province or territory to another. Only Quebec and Manitoba were subject to linguistic obligations when they entered Confederation. In 1969, New Brunswick broke new ground by adopting the first *Official Languages Act*.

Today, every province and territory except British Columbia has implemented measures to recognize the official languages or the provision of French-language services.

- Three provinces have entrenched language provisions in the Constitution: New Brunswick, Quebec and Manitoba.
- Across the country, different types of legislative measures are in place. New Brunswick, Ontario,⁶ Nova Scotia,⁷ Prince Edward Island and Manitoba have legislation that sets out the services that must be provided in French. The legislation in New Brunswick also proclaims English and French to be the official languages of the province. Language statutes in the three territories recognize more than two official languages. In Alberta, Saskatchewan and Quebec, language legislation recognizes one official language and restricts the use of the minority language to very specific contexts.⁸
- In addition to existing legislation, policies have been adopted in New Brunswick, Manitoba, Yukon and the Northwest Territories. Policy measures alone exist in Alberta, Saskatchewan and Newfoundland and Labrador as frameworks for offering French-language services.
- Regulatory measures, mainly related to the provision of services to the public, have been adopted in four provinces and one territory: Nova Scotia, New Brunswick, Prince Edward Island, Ontario and the Northwest Territories.⁹
- Four jurisdictions have introduced strategic plans to ensure linguistic obligations are met: New Brunswick, Alberta, Nunavut and the Northwest Territories.
- A review time frame is set out in the legislation of New Brunswick,¹⁰ the Northwest Territories¹¹ and Nunavut.¹² In Manitoba, the law requires a review of the French-Language Services Policy every five years. In Alberta, the French Policy includes a provision ensuring that it be reviewed every five years.
- The three territories' Acts cannot be amended, repealed or made inoperable without the assent of the Parliament of Canada.

In addition to these general provisions, the provinces and territories have adopted specific linguistic measures relating to such sectors as education, justice, municipal services, complaint processes, government services, legislative assemblies and legislation, and minority-language communities.

2.2 EDUCATION

With regard to education, every province and territory has implemented legislative measures to ensure compliance with section 23 of the *Canadian Charter of Rights and Freedoms*.¹³ Section 23 guarantees the right of parents to have their children receive primary and secondary school instruction in the minority language, where numbers warrant. It also guarantees parents the right to manage minority-language schools.¹⁴

Since 1970, the federal government has offered financial support to provinces and territories to cover the additional costs incurred for minority-language education and second-language instruction. A protocol signed between the Government of Canada and the Council of Ministers of Education (Canada) governs the management of funding in education. Each province and territory establishes its own action plan identifying funding commitments and performance indicators.¹⁵

Nunavut's case in terms of language rights in education is unique, since the *Inuit Language Protection Act* includes provisions for instruction in the Inuit language.¹⁶

2.3 JUSTICE

Regarding judicial matters, section 530 of the *Criminal Code*¹⁷ guarantees the right, in criminal proceedings, of every accused to be tried in his or her language of choice. The provinces and territories, which are obligated to meet this requirement, have, for the most part, implemented legislative provisions to that effect, and implemented other measures to clarify the language requirements in their courts.

- In Saskatchewan, Alberta¹⁸ and the three territories, provisions recognizing the right to use French before the provincial courts are part of the official-language legislation.
- In Ontario, separate legislation has been adopted recognizing the status of French before the provincial courts.
- In New Brunswick, Quebec and Manitoba, these rights are entrenched in the Constitution.
- In Nova Scotia, Newfoundland and Labrador, British Columbia¹⁹ and Prince Edward Island²⁰, no provisions exist on the status of French in the provincial courts.
- Alberta has regulations relating to court proceedings.
- In its legislation, Manitoba promotes the representation of francophones on administrative tribunals.

A bill to amend the *Divorce Act*, which received Royal Assent on 21 June 2019, now enables the parties to choose either official language for their divorce proceedings.²¹ These amendments apply to every province and territory although they were adopted by Parliament.

2.4 MUNICIPAL SERVICES

At the municipal level, Quebec, Ontario,²² New Brunswick and Manitoba²³ have adopted language regimes that recognize official-language communities in a minority setting. Nunavut has established Inuit language rights and duties at the municipal level in its *Inuit Language Protection Act*. Under its *Official Languages Act*, Nunavut also prescribes the offer of communications and services by a municipality in English, French or Inuit where there is a significant demand. Elsewhere in Canada, certain municipalities have been given bilingual status or provide services in both official languages; this is the case in Prince Edward Island, Nova Scotia, Manitoba, Saskatchewan, Alberta and the Northwest Territories.

In some provinces, municipalities have formed associations to ensure that services in French are preserved and delivered. These include the Francophone Association of Municipalities of Ontario, the Association francophone des municipalités du Nouveau-Brunswick and the Association of Manitoba's Bilingual Municipalities.

2.5 COMPLAINT PROCESSES

Ontario, New Brunswick, Quebec, the Northwest Territories and Nunavut have established a language ombudsman or created an agency charged with upholding language rights. Their role is to ensure compliance both with official languages legislation and with measures regarding the provision of French-language services in a minority setting – or, in the case of Quebec, a majority setting – and to review complaints about these matters. Informal discussions between the provincial/territorial ombudsmen and the federal Commissioner of Official Languages may occur.²⁴

- In Ontario, the Office of the French Language Services Commissioner was created in 2007 by an order in council. The Commissioner reported to the Minister Responsible for Francophone Affairs until the *French Language Services Amendment Act (French Language Services Commissioner), 2013* came into force. Under that Act, the Commissioner reported directly to the Legislative Assembly between 1 January 2014 and 1 May 2019. On that date, the *Restoring Trust, Transparency and Accountability Act, 2018* came into force and moved the Commissioner position under the Ontario Ombudsman.
- In New Brunswick, the Office of the Commissioner of Official Languages was established by the 2002 *Official Languages Act*. In this province, the Commissioner is an officer of the legislative assembly and is independent of government.

- In the territories mentioned below, the ombudsman positions have a longer history. Their responsibilities apply to French, English and Indigenous languages.
 - The Office of the Languages Commissioner of the Northwest Territories was created in 1990. The Commissioner is appointed by the legislative assembly and is independent of government.
 - The Office of the Languages Commissioner of Nunavut was established when the territory was created in 1999. Here, as well, the Commissioner is an independent officer of the territory's legislative assembly. It should be noted that a separate office, the Inuit Uqausinginnik Taiguusiliuqtiit, has authority over services offered in the Inuit language.
- The situation is different in Quebec, where the Office québécois de la langue française is responsible for promoting French as the majority language. It handles complaints about non-compliance with the *Charter of the French Language*. Quebec has no mechanism for reviewing complaints about the provision of English-language services in a minority setting.

In addition, Prince Edward Island's *French Language Services Act* does not provide for the creation of an ombudsman office, but instead prescribes the appointment of a Complaints Officer accountable to the Minister Responsible for Acadian and Francophone Affairs. Complaints are first addressed by the French Language Services Co-ordinator of the government institution involved in the incident, and may be referred to the Complaints Officer when necessary.

2.6 GOVERNMENT SERVICES

The majority of the provinces (eight out of 10) and all the territories have taken measures regarding the offer of government services in the minority language. However, the extent to which those services must be provided varies from place to place.

- Measures have been taken in Prince Edward Island, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, Yukon and Nunavut to provide for an active offer of services.
- The concept of comparable quality of services offered in English and in French is also part of the legislation or policies in five cases: Prince Edward Island, Manitoba, Alberta, Yukon and Nunavut.
- In New Brunswick, Prince Edward Island, Ontario, Manitoba and Nunavut, the requirement for services offered in the minority language includes third parties providing services on behalf of the provincial government.

- In Prince Edward Island, Nova Scotia, Manitoba²⁵ and the Northwest Territories, government institutions are designated by regulations to offer services in the minority language.
- The concept of designated areas is used in Ontario²⁶ and Manitoba,²⁷ while legislation in the three territories refers to the concepts of significant demand and nature of the office.
- In Saskatchewan, communications with the public and service delivery are provided in the two official languages where appropriate.
- In Nunavut, a separate Act provides for the delivery of government services in the Inuit language.
- In Newfoundland and Labrador, the current policy calls upon the provincial government departments to utilize the services offered by the Office of French Services for French language training for employees, translation services, and other linguistic support and community liaison services.

2.7 LEGISLATIVE ASSEMBLIES AND LEGISLATION

The use of a minority language is permitted in the course of proceedings in nine legislative assemblies.

- In Quebec, Manitoba and New Brunswick, the obligations are entrenched in the Constitution.
- In the three territories,²⁸ as well as in Ontario, Saskatchewan and Alberta, the provisions are under the jurisdictions' respective legislation. However, in the two latter instances, the use of French is allowed for debates only.²⁹

The use of the minority language is also permitted for the printing and publication of Acts in eight cases:

- In Quebec, Manitoba and New Brunswick, the obligations are entrenched in the Constitution.
- In the three territories³⁰ and in Ontario, the provisions are under the jurisdictions' respective legislation.
- In Saskatchewan, the legislation provides that the province's Acts and regulations may be enacted, printed and published in English only or in English and French. No such provision exists in Alberta.³¹

2.8 MINORITY-LANGUAGE COMMUNITIES

Some provincial and territorial Acts and policies contain provisions with regard to the development of official-language minority communities:

- The preamble of Nunavut's *Official Languages Act* recognizes the heritage, cultural contribution and value of all three official-language communities.
- In Saskatchewan, provisions have been made in the provincial policy for consultations with the francophone community. An advisory committee on francophone affairs helps to implement the policy. In June 2012, it recommended that the government and the community review the policy every three years.³²
- In New Brunswick, the equal status, rights and privileges of the English and French linguistic communities are recognized in a specific Act and guaranteed under the Constitution.
- In Prince Edward Island, the *French Language Services Act* broadly defines the Acadian and francophone community as including “people within the province who have a common knowledge and understanding of the French language.” An advisory committee has the mandate to provide advice to the Minister on any matters concerning this community.
- In Nova Scotia, the development of the Acadian and francophone community is encouraged in the Act. The Minister of Communities, Culture and Heritage ensures that the government, departments and agencies consider the needs of this community when developing policies, programs and services. In 2017, the Minister of Acadian Affairs and Francophonie created an advisory committee to help her better understand the Acadian and francophone community's priorities and to ensure that they are reflected in the government's programs, services and policies.³³
- In Manitoba, *The Francophone Community Enhancement and Support Act* defines “Manitoba's Francophone community” as follows: “those persons in Manitoba whose mother tongue is French and those persons in Manitoba whose mother tongue is not French but who have a special affinity for the French language and who use it on a regular basis in their daily life.” The Act provides for gradually increasing the provision of French-language services to the public in order to enhance the vitality of Manitoba's francophone community.³⁴ The Act establishes an advisory council to advise the Minister responsible for Francophone Affairs on measures to achieve that goal. The Act encourages representation of Manitoba's francophone community on the boards of government agencies. Moreover, the Act lists collaboration and dialogue as two of the fundamental principles to be observed in implementing it.

- In Alberta, the French Policy recognizes the contribution of the province's "dynamic and diverse French-speaking population" and is designed to support the "development and vitality of Alberta's French-speaking communities." The policy recognizes these communities as the government's partners in delivering French-language services. It also provides for the creation of an advisory council to guide the government in implementing the policy.

2.9 SUMMARY

The following table provides a non-exhaustive list of the official documents in each province and territory relating to the recognition of the official languages or the provision of services in the minority language.

Table 1 – Laws, Regulations, Policies, Strategic Plans and Constitutional Provisions That Apply in the Provinces and Territories

Province or Territory	Official Documents ^a
Yukon	<ul style="list-style-type: none"> ▪ <i>Languages Act</i> (1988) ▪ French Language Policy (1994)
Northwest Territories	<ul style="list-style-type: none"> ▪ <i>Official Languages Act</i> (1988) ▪ Official Languages Policy (1997) ▪ <i>Official Languages Board Regulations</i> (2004) ▪ <i>Government Institutions Regulations</i> (2006) ▪ Strategic Plan on French Language Communications and Services (2013–2018; 2018–2023)
Nunavut	<ul style="list-style-type: none"> ▪ <i>Official Languages Act</i> (1988, repealed)^b ▪ <i>Official Languages Act</i> (2008) ▪ <i>Inuit Language Protection Act</i> (2008) ▪ Uqausivut Plan (2012–2016; 2018–2023)
British Columbia	–
Alberta	<ul style="list-style-type: none"> ▪ <i>Languages Act</i> (1988) ▪ <i>Languages in the Courts Regulation</i> (2013) ▪ French Policy (2017) ▪ French Policy: 2018–21 Action Plan (2018–2021)
Saskatchewan	<ul style="list-style-type: none"> ▪ <i>The Language Act</i> (1988) ▪ French-language Services Policy (2003)
Manitoba	<ul style="list-style-type: none"> ▪ <i>Manitoba Act</i>, s. 23 (1870) ▪ French-Language Services Policy (1989) ▪ <i>French Language Services Regulation – The Child and Family Services Authorities Act</i> (2005) ▪ <i>The Bilingual Service Centres Act</i> (2012) ▪ <i>Bilingual and Francophone Facilities and Programs Designation Regulation – The Regional Health Authorities Act</i> (2013) ▪ <i>The Municipal Act</i> (2015) ▪ <i>The Francophone Community Enhancement and Support Act</i> (2016)

Province or Territory	Official Documents ^a
Ontario	<ul style="list-style-type: none"> ▪ <i>French Language Services Act</i> (1986) ▪ <i>Courts of Justice Act</i> (1990) ▪ <i>Ontario Regulation 284/11</i> made under the <i>French Language Services Act</i> (2011)
Quebec	<ul style="list-style-type: none"> ▪ <i>Constitution Act, 1867</i>, s. 133 (1867) ▪ <i>Charter of the French Language</i> (1977)
New Brunswick	<ul style="list-style-type: none"> ▪ <i>Official Languages Act</i> (1969, repealed) ▪ <i>An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick</i> (1981) ▪ <i>Canadian Charter of Rights and Freedoms</i>, ss. 16–20 (1982) ▪ <i>Official Languages Policy</i> (1988) ▪ <i>Canadian Charter of Rights and Freedoms</i>, s. 16.1 (1993) ▪ <i>Official Languages Act</i> (2002) ▪ <i>Services and Communications Regulation – Official Languages Act</i> (2002) ▪ <i>Official Languages – Language of Service Policy and Guidelines</i> ▪ <i>Official Languages – Language of Work Policy and Guidelines</i> ▪ <i>Plan on Official Languages</i> (2011–2013; 2015) ▪ <i>General Regulation – Official Languages Act</i> (2015)
Nova Scotia	<ul style="list-style-type: none"> ▪ <i>French-language Services Act</i> (2004) ▪ <i>French-language Services Regulations</i> (2006)
Prince Edward Island	<ul style="list-style-type: none"> ▪ <i>French Language Services Act</i> (1999, repealed) ▪ <i>French Language Services Act</i> (2013) ▪ <i>French Language Services Act General Regulations</i> (2013)
Newfoundland and Labrador	<ul style="list-style-type: none"> ▪ <i>French Language Services Policy</i> (2015)

Notes: a. Only adoption dates are provided for laws, regulations and policies; in some cases, changes may have been made since those dates. For strategic plans, all relevant dates are shown.

b. This Northwest Territories law was in force when Nunavut was created in 1999 and was repealed when Nunavut's *Official Languages Act* was enacted in 2008.

Source: Table prepared by the author using information from provincial and territorial government websites.

3 INTERGOVERNMENTAL COOPERATION

3.1 FEDERAL–PROVINCIAL COOPERATION

Beginning in the mid-1990s, the federal government signed cooperative agreements to promote French-language services in the provinces and territories.³⁵ The goal of these agreements was to increase the capacity of the provincial and territorial governments to develop, improve and provide services, including municipal services, in the language of the minority population.

The allocated funds have enabled the implementation of such initiatives as the *Official Languages Act* in New Brunswick and the *French-language Services Act* in Nova Scotia. They are also used to promote the delivery of services in all areas (other than education) deemed essential to the development of official-language communities in a minority setting (e.g., justice, health, youth, the arts and culture). Each province and territory establishes a strategic plan describing planned actions and expected results.

All provincial and territorial governments have set up offices responsible for francophone affairs. Most of the time, those offices are under the responsibility of the minister responsible for francophone affairs; in some cases, they come under another ministerial portfolio (e.g., a provincial secretariat or intergovernmental affairs). In Quebec, relations with English-speaking residents have been managed by a secretariat under the ministry of the executive council (*ministère du Conseil exécutif*) since November 2017.³⁶

In all of its five-year initiatives begun since 2003, the federal government has reiterated the importance of intergovernmental cooperation and support for delivering services in both official languages in the provinces and territories.³⁷

3.2 INTERPROVINCIAL COOPERATION

Since the late 1980s, the Government of Quebec has signed cooperative agreements with the governments of other provinces and territories in order to improve the provision of services in French.³⁸ The prioritized sectors include culture, communications, education, economic development and health. Help is also provided in other sectors, such as early childhood, youth, immigration, justice, sustainable development and information technologies.

The *Politique du Québec en matière de francophonie canadienne* was updated in 2006.³⁹ The Quebec Secrétariat aux relations canadiennes explained the policy in this way:⁴⁰

The policy became necessary to better convey the Quebec government's desire to resume its leadership role within the Canadian federation and fully assume its historical and specific responsibility to Francophones in all regions of Canada. It was also important to reinforce solidarity between Francophones in Quebec and Francophones elsewhere in Canada, and strengthen our position in light of the risks and opportunities created by globalization for the future of the French language. Finally, it was necessary to consider changes concerning equity with regard to language rights in Canada.⁴¹

In concrete terms, this commitment has involved activities such as the creation of the Comité interministériel québécois sur la francophonie canadienne, the management of financial support programs, the introduction of a Canadian Francophonie Day in Quebec and the implementation of the Centre de la francophonie dans les Amériques.

In 2017, the Quebec government unveiled its Policy on Québec Affirmation and Canadian Relations, which puts the Canadian Francophonie at the centre of the dialogue between Quebec and the rest of Canada.⁴² In 2019, the Minister responsible for Canadian Relations and the Canadian Francophonie opened the door to a review of the 2006 policy that would give the Quebec government more of a leadership role as regards Canada's francophone communities.⁴³ She also announced that a summit on closer relations between Canada's francophone communities would be held, launching a process that should lead to a new policy.⁴⁴

3.3 NATIONAL COOPERATION MECHANISMS

Since 1994, the provinces and territories have participated annually in the Ministerial Conference on the Canadian Francophonie.⁴⁵ This body is committed to strengthening intergovernmental cooperation on issues relating to francophone affairs in Canada. It also works to improve the coordination of provincial and territorial actions with those of the federal government. Each province and territory is represented at the conference by a minister responsible for francophone affairs. The federal government has been represented since 2005. In a consultation report published in 2006, the Canadian Francophonie leaders said that they were relying on the conference to:

- [c]ontribute to the articulation of a mobilizing vision statement and directions that would garner the support of the entire Canadian Francophonie;
- [a]ctively promote the Canadian Francophonie and communicate its current and future relevance at high-media events;
- [e]xercise leadership in matters of youth and immigration, through large-scale, concrete projects with multiple spinoff effects.⁴⁶

At their most recent annual meetings, provincial and territorial ministers examined various issues, including francophone immigration, CBC/Radio-Canada funding, the provision of services in French, early childhood services, economic development, family justice and tourism. In 2019, they spent some time discussing issues related to the modernization of the federal *Official Languages Act*.

3.4 INTERNATIONAL COOPERATION MECHANISMS

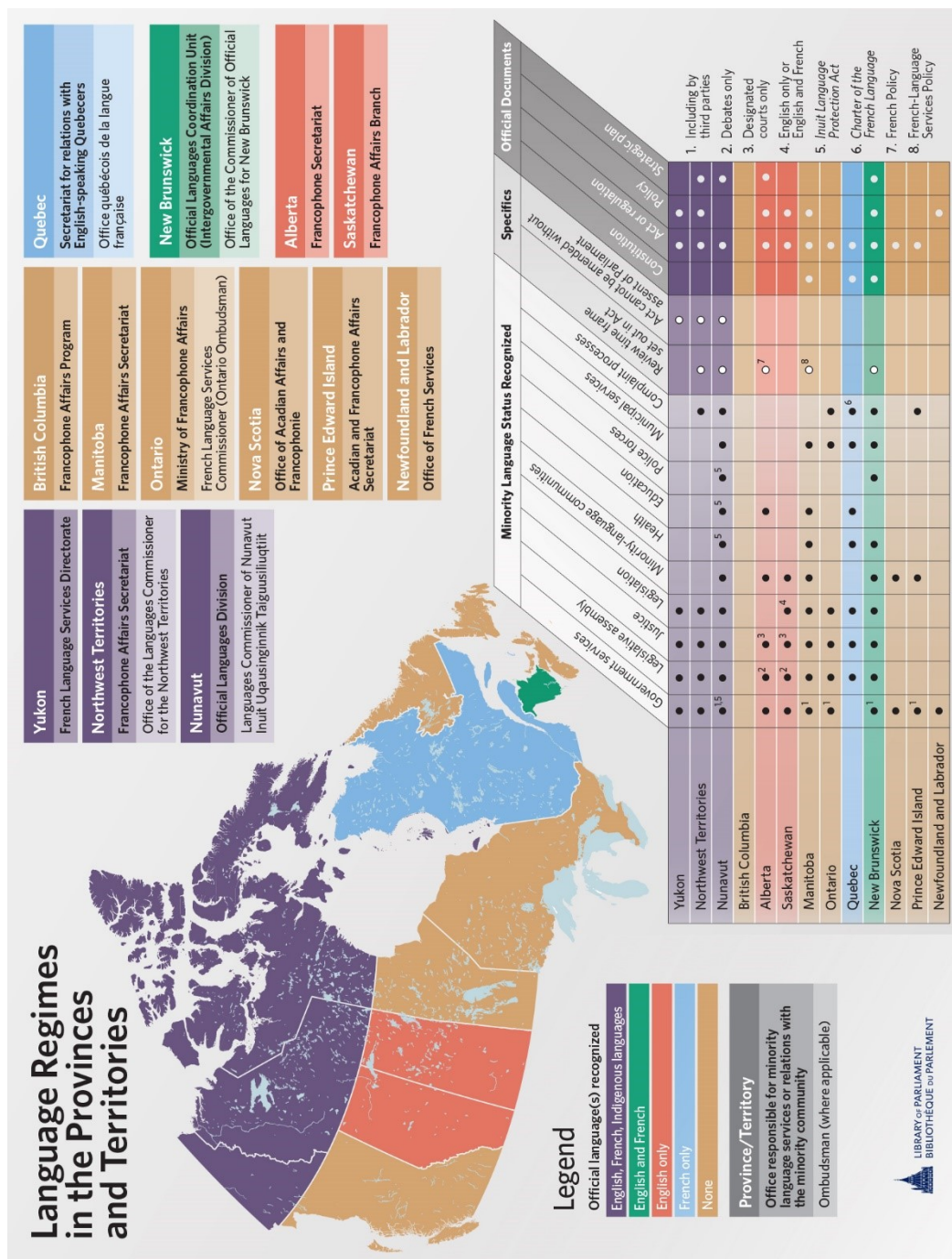
Quebec and New Brunswick have the status of members of the Organisation internationale de la Francophonie. Their participation gives the two provinces the political leverage to influence a number of international issues related to the Francophonie. Since November 2016, Ontario has had observer status, which enables it to attend meetings of the official bodies of the Francophonie, but not to take part in debates. The other provinces and territories are represented by the federal government, which has member status.

Some Quebec municipalities and the Association francophone des municipalités du Nouveau-Brunswick sit on the Association Internationale des Maires Francophones, an international network of locally elected representatives from countries where the place of French is formally recognized. Furthermore, the Francophone and Francophile Cities Network, created in 2015, brings together over 150 municipalities across Canada, the United States and the Caribbean that wish to contribute to the promotion of America's francophone communities.⁴⁷

3.5 SUMMARY

The following infographic provides a visual representation of the characteristics of provincial and territorial language regimes and the governance structures that recognize the status of the minority language.

Figure 1 – Language Regimes in the Provinces and Territories



Source: Infographic prepared by the Library of Parliament using information from provincial and territorial government websites.

4 CONCLUSION

Provincial and territorial language regimes are constantly evolving. They change in concert with each other, influenced by alterations in Canadian society, public pressure and legal changes. Intergovernmental collaboration practices follow the same pattern, with growing recognition of the need for ongoing partnerships between different levels of government. Indeed, the federal government must count on the support of provincial and territorial counterparts to ensure cross-country recognition for the two official languages and to foster the development of official-language minority communities.

NOTES

1. [*Devine v. Quebec \(Attorney General\)*](#), [1988] 2 S.C.R. 790.
2. See Daniel Bourgeois et al., Canadian Institute for Research on Linguistic Minorities, [*Provincial and Territorial Government Contributions to the Development of Francophone Minority Communities: Assessment and Projections*](#), Research report prepared for the Ministerial Conference on the Canadian Francophonie, Moncton, July 2007; Ministerial Conference on the Canadian Francophonie, [*The Canadian Francophonie: An Overview of Government Initiatives*](#), September 2008; Ministerial Conference on the Canadian Francophonie, [*Newsletter – Special Edition*](#), 2015; Ministerial Conference on the Canadian Francophonie, [*Profile of the Legal and Administrative Framework for the Delivery of French-Language Services Within Each of the Provincial and Territorial Governments*](#), May 2019; and Office of the Commissioner of Official Languages, [*Official languages in the provinces and territories*](#).
3. The New Brunswick [*Official Languages Act*](#), as amended in 2002, provided that this Act be reviewed before 31 December 2012. After two years of work and consultation, the provincial government tabled a bill on 14 June 2013 to amend the *Official Languages Act*. [*An Act Respecting Official Languages*](#) was enacted one week later.

On 8 May 2013, the government of Prince Edward Island passed a new [*French Language Services Act*](#). Its enactment on 14 December 2013 repealed the previous statute passed in 1988.
4. The Legislative Assembly of Manitoba adopted [*The Francophone Community Enhancement and Support Act*](#) on 30 June 2016. The delivery of services in French, previously ensured only by a policy, now enjoys statutory protection.

In Alberta, the government unveiled the French Policy on 14 June 2016 in order to help provincial government departments to improve their French-language services and to support the vitality of Alberta's francophone community. See Alberta, "[French Policy](#)," *Francophone Secretariat*.
5. See Newfoundland and Labrador, [*French Language Services Policy*](#).

6. In November 2016, following the recommendations that the French Language Services Commissioner of Ontario made in his [Annual Report 2015–2016](#), the Minister Responsible for Francophone Affairs, the Honourable Marie-France Lalonde, formally committed to modernizing the [French Language Services Act](#). An online process enabled the Franco-Ontarian community to comment on a new legislative proposal developed by legal experts at the University of Ottawa's Faculty of Law. See University of Ottawa, Faculty of Law – Common Law Section, [Réécrire la loi: Loi visant à favoriser le maintien et l'épanouissement de la francophonie ontarienne](#). [Available in French only]

In September 2018, the new Minister of Francophone Affairs, the Honourable Caroline Mulroney, promised to study the modernization of the *French Language Services Act*. See Legislative Assembly of Ontario, [Hansard Transcripts](#), 1st Session, 42nd Parliament, 25 September 2018, 1100.

In November 2018, the Assemblée de la francophonie de l'Ontario, the Association des juristes d'expression française de l'Ontario and the Canadian Francophonie Research Chair in Language Rights at the University of Ottawa committed to developing new language for the *French Language Services Act*. The proposed language was released on 12 October 2019 for public consultation purposes. See Assemblée de la francophonie de l'Ontario, [Projet de loi sur les services en français](#). [Available in French only]

In June 2019, a private member's bill was introduced in the Legislative Assembly of Ontario. Among other things, the bill would do the following:

 - permit the use of English and French in the Legislative Assembly and provide for the enactment of bilingual laws and regulations that are equally authoritative;
 - set out obligations respecting bilingualism in the justice sector;
 - regulate active offer of services in both official languages and extend provision of such services to more government agencies and public institutions, including services provided by third parties, by dropping the concept of "designated areas" established by the current *French Language Services Act*;
 - enable a larger number of Ontario municipalities to operate in both official languages and recognize Ottawa's bilingual character;
 - provide for measures to support French in the province and promote the vitality of Ontario's Francophonie; and
 - restore the independent commissioner's position, renamed Commissioner of La Francophonie.

See Legislative Assembly of Ontario, [Bill 126, La Francophonie Act, 2019](#), 1st Session, 42nd Parliament (first reading version, 5 June 2019). The co-sponsors of this private member's bill are no longer part of the Ontario Legislative Assembly. In October 2019, a similar bill was tabled in the Legislative Assembly by another MP, John Fraser. See Legislative Assembly of Ontario, [Bill 135, La Francophonie Act, 2019](#), 1st Session, 42nd Parliament (first reading version, 28 October 2019).

Then another private member's bill was tabled in November 2019. While repeating many items listed above, this new proposed legislation put forward a definition of the Franco-Ontarian community that codifies the Inclusive Definition of Francophone which has been used by the Government of Ontario since 2009, yet implemented unevenly across the province. See Legislative Assembly of Ontario, [Bill 137, Franco-Ontarian Community Act, 2019](#), 1st Session, 42nd Parliament (first reading version, 5 November 2019).

7. In 2015, the Fédération acadienne de la Nouvelle-Écosse made recommendations to modernize Nova Scotia's [French-language Services Act](#). See Fédération acadienne de la Nouvelle-Écosse, [Modifications suggérées à la Loi sur les services en français](#), Document submitted to Stephen McNeil, Premier of Nova Scotia, and Michel P. Samson, Minister of Acadian Affairs. [Available in French only]

In 2016, the Minister of Acadian Affairs asked a committee to make recommendations to strengthen the role of Acadian Affairs within the provincial government. See Nova Scotia, Committee responsible for making recommendations to enhance the role of Acadian Affairs in government, [The Acadian Reality in Nova Scotia: It's Time to Act!](#), Report, 20 March 2016.

The Government of Nova Scotia responded favourably to two recommendations by promising to strengthen the role of Acadian Affairs and to create an advisory committee to address the community's needs. However, it did not commit to modernizing the *French-language Services Act*. See Nova Scotia, [Response to Reports from the Acadian and Francophone Communities](#), October 2016.

8. With respect to Alberta and Saskatchewan, the Supreme Court of Canada examined the legality of language provisions in force in Alberta and rendered a split decision in November 2015 that stated that the province was not required to enact its laws in both English and French. For details on this case, see [Caron v. Alberta](#), 2015 SCC 56 [Caron]. See also Office of the Commissioner of Official Languages, [Language Rights 2009–2011](#), particularly section 2.1, “Legislative and judicial bilingualism in Alberta”; and Marie-Ève Hudon, [Language Rights of Francophones in Western Canada to Be Heard by the Supreme Court ... Today](#), HillNotes, Library of Parliament, 13 February 2015.
9. In Manitoba, *The Francophone Community Enhancement and Support Act* provides for making regulations.
10. In New Brunswick, the next review of the *Official Languages Act* should take place no later than 31 December 2021.
11. The Northwest Territories’ [Official Languages Act](#) provides for a review of the Act after five years. The Standing Committee on Government Operations tabled the findings of its first review in May 2009, followed in March 2015 by the findings of its second review. In a report presented in 2015, the committee expressed concerns about the lack of follow-up and transparency from the territorial government with regard to review of the Act. See Northwest Territories, Standing Committee on Government Operations, [Report on the 2014 Review of the Official Languages Act](#), 17th Legislative Assembly, 11 March 2015.

The Languages Commissioner’s annual reports for fiscal years 2015–2016 to 2017–2018 include recommendations for changes to the Northwest Territories’ *Official Languages Act*, *Official Languages Regulations* and *Official Languages Policy*. See Northwest Territories, Office of the Languages Commissioner, [Annual Reports](#).
12. In Nunavut, the *Official Languages Act* stipulates that a review be conducted every five years either by the legislative assembly or by one of its committees. See Nunavut, “Official Languages Act – c. 10,” [Statutes of Nunavut \(Annual Volumes\)](#), 2008.
13. Educational measures, commonly referred to as “Education Act” or “School Act,” were adopted by each province and territory in the 1990s.
14. See [Mahe v. Alberta](#), [1990] 1 S.C.R. 342.
15. See Government of Canada, “[Federal-Provincial-Territorial Agreements in Education](#),” *Agreements – Official Languages*. At the time of writing, an agreement had been reached to renew the *Protocol for Agreements on Minority-Language Education and Second-Language Instruction* for 2018–2019 to 2022–2023.
16. Section 8(1) of the *Inuit Language Protection Act* (ILPA) states:

Every parent whose child is enrolled in the education program in Nunavut, including a child for whom an individual education plan has been proposed or implemented, has the right to have his or her child receive Inuit Language instruction.

This section was to come into force on 1 July 2019, but was temporarily suspended for students in grades 4 to 12 because of a lack of certified Inuit-language teachers. On 3 June 2019, Nunavut’s Minister of Education introduced a bill to amend the ILPA in order to extend the deadlines for implementing bilingual education. See Nunavut, “Inuit Language Protection Act – c. 17,” [Statutes of Nunavut \(Annual Volumes\)](#), 2008; and Legislative Assembly of Nunavut, [Bill 25: An Act to Amend the Education Act and the Inuit Language Protection Act](#), 2nd Session, 5th Legislative Assembly (first reading version, 3 June 2019).
17. [Criminal Code](#), R.S.C. 1985, c. C-46.
18. In Saskatchewan and Alberta, the right to use French or English is recognized before certain courts only. This right is restricted by the fact that individuals have no guarantee that they will be understood or that the statutes of the two provinces will be available in French. In Alberta, unlike in Saskatchewan, a regulation defines the use of French in court proceedings.

19. A Supreme Court ruling in the summer of 2013 upheld an 18th-century statute requiring that English be used in the province's courts. In a split decision (4 to 3) the Court ruled that constitutional rights did not apply to the tendering of documents and that it was the responsibility of the British Columbia government to adopt a legislative or policy framework allowing French to be used before the provincial courts. See [Conseil scolaire francophone de la Colombie-Britannique v. British Columbia](#), 2013 SCC 42.

However, in another, this time unanimous, decision, issued in the spring of 2019, the Supreme Court clarified that, in a criminal law context, section 530 of the *Criminal Code* takes precedence. In other words, persons accused of a provincial offence in British Columbia have the right to a trial in the official language of their choice. See [Bessette v. British Columbia \(Attorney General\)](#), 2019 SCC 31.
20. Prince Edward Island's *French Language Services Act* does not directly address the issue of French services in the province's courts. However, the Act makes clear that the legislative intent was not to restrict the use of French in cases not covered by the Act.
21. [Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act](#), 1st Session, 42nd Parliament.
22. In Ontario, the *French Language Services Act* allows for, but does not impose, the passing of by-laws providing that the administration of a municipality shall be conducted in both English and French. Some municipalities in that province have adopted such regulatory measures.
23. Section 147.1 of [The Municipal Act](#) of Manitoba sets out the conditions for repealing or amending a municipal French-language services by-law.
24. Since March 2013, there has been a formal structure for cooperation at the national level. It consists of three memoranda of understanding, between the federal commissioner and the commissioners of Ontario and New Brunswick, and between the commissioners of Ontario and New Brunswick. At the time of writing, it was not known whether the memoranda were still in effect in Ontario following the coming into force of the [Restoring Trust, Transparency and Accountability Act, 2018](#).
25. In Manitoba, the *Francophone Community Enhancement and Support Act* allows institutions to be designated by regulation. Regulations currently exist for institutions providing health, child and family services.
26. In Ontario, services in French are provided in 26 designated areas where the concentration of francophones is at least 10% or represents at least 5,000 people. The agencies required to provide services in French are designated by regulation.
27. In Manitoba, services in French are provided in a number of designated areas where the French-speaking population is concentrated. French-language services are actively offered by fully or partially bilingual service centres.
28. Existing Acts in the three territories allow for the use of English, French or an Aboriginal language in the debates and other proceedings of the legislative assembly.
29. In Alberta and Saskatchewan, all documents of the legislative assembly are made, printed and published in English only.
30. In the three territories, Acts are made, printed and published in English and French, and both versions are equally authoritative.
31. The Supreme Court decision in *Caron* maintains the status quo.
32. Saskatchewan, Advisory Committee on Francophone Affairs, [Report of the Advisory Committee on Francophone Affairs To the Government of Saskatchewan: Government of Saskatchewan French-language Services Policy](#), June 2012. In August 2015, the advisory committee made new recommendations with regard to the implementation of the provincial policy. See Saskatchewan, Advisory Committee on Francophone Affairs, [Report of the Advisory Committee on Francophone Affairs To the Government of Saskatchewan: Government of Saskatchewan French-language Services Policy](#), August 2015.
33. Nova Scotia, ["Acadian Affairs and Francophonie Advisory Committee Announced"](#), News release, 1 November 2017.
34. [The Bilingual Service Centres Act](#) already provides for the delivery of services in French in areas where Manitoba's francophone community has a high degree of vitality.

35. The first cooperation agreement was concluded in 1984 between the Government of Canada and the Government of the Northwest Territories. Other agreements were signed at the end of the 1980s, and such agreements became standard by the middle of the 1990s. See Government of Canada, "[Federal-Provincial-Territorial Agreements on Minority-language Services](#)," *Agreements – Official Languages*.
36. At the time of writing, consultations were under way to provide input for preparing a government action plan for English-speaking Quebecers and establishing the secretariat's orientations and priorities for the future.
37. Government of Canada, [The Next Act: New Momentum for Canada's Linguistic Duality – The Action Plan for Official Languages](#), Ottawa, 2003; Government of Canada, [Roadmap for Canada's Linguistic Duality 2008–2013: Acting for the Future](#), Ottawa, 2008; Government of Canada, [Roadmap for Canada's Official Languages 2013–2018: Education, Immigration, Communities](#), Ottawa, 2013; and Government of Canada, [Action Plan for Official Languages 2018–2023: Investing in Our Future](#), Ottawa, 2018.
38. The first interprovincial agreement for cooperation and trading was concluded in June 1969 between the Government of Ontario and the Government of Quebec. This agreement still exists and has been updated since then. See Government of Quebec, Secrétariat aux relations canadiennes, [Coopération intergouvernementale](#). [Available in French only]
39. Government of Quebec, Secrétariat aux relations canadiennes, [L'avenir en français : Politique du Québec en matière de francophonie canadienne](#), 2006. [Available in French only]
40. In October 2017, the Secrétariat aux affaires intergouvernementales canadiennes became the Secrétariat du Québec aux relations canadiennes.
41. Government of Quebec, Secrétariat aux relations canadiennes, "[Nouvelle Politique du Québec en matière de francophonie canadienne: Le Québec s'engage auprès des francophones du Canada](#)," News release, 7 November 2006. [Translation] [Available in French only]
42. Government of Quebec, Secrétariat aux affaires intergouvernementales canadiennes, [Quebecers – Our Way of Being Canadian: Policy on Québec Affirmation and Canadian Relations](#), June 2017.
43. Government of Quebec, Secrétariat aux relations canadiennes, "[Lettre ouverte de la ministre des Relations internationales et de la Francophonie, Nadine Girault, et de la ministre responsable des Relations canadiennes et de la Francophonie canadienne, Sonia LeBel](#)," 20 March 2019. [Available in French only]
44. Government of Quebec, Secrétariat aux relations canadiennes, "[Le gouvernement du Québec tiendra un Sommet sur le rapprochement des francophonies canadiennes](#)," News release, 7 May 2019. [Available in French only]
45. See the [Ministerial Conference on the Canadian Francophonie](#) website.
46. Ministerial Conference on the Canadian Francophonie, [Canadian Francophonie: Issues, Challenges and Future Directions](#), October 2006, p. iv.
47. See the [Réseau des villes francophones et francophiles d'Amérique](#) website. [Available in French only]