

## **Sinnatuqtugiaq, faire un rêve, to dream: In Nunavut's three official languages**

By Kate Darling\*

*Man is moved just like the ice floe sailing here and there out in the current. His thoughts are driven by a flowing force when he feels joy, when he feels fear, when he feels sorrow. Thoughts can wash over him like a flood, making his breath come in gasps and his heart throb. Something, like an abatement in the weather can keep him thawed up. And then it will happen that we, who always think we are small, will feel still smaller. And we will fear to use words. But it will happen that the words we need will come of themselves. When the words we want to use shoot up of themselves – we get a new song.<sup>1</sup>*

### **Introduction**

Inuktitut and Inuinnaqtun, collectively referred to as the “Inuit Language” under Nunavut’s new language legislation, have been spoken in their various dialectical forms within and between families in the Nunavut Settlement Area for thousands of years. The Inuit Language has been the foundation for the intergenerational transmission of the lessons, laws and values that have long supported Inuit survival and later European survival in the Arctic.<sup>2</sup> While the Inuit Language constitutes a first language for a majority of the population in Nunavut, it is a minority language within Canada.

When in the business of making claims on behalf of a minority language, one inevitably faces the question: “why should we as a society invest in the protection of a minority language against decline?” Exquisite responses to this question have detailed the importance of minority languages on a global scale to both minority *and* dominant language speakers. These have been based on everything from the causal relationships

---

\* Kate Darling is a resident of Nunavut and works as legal counsel for the territorial government. The opinions expressed in this paper are those of the author and do not necessarily reflect those of the author’s employer.

<sup>1</sup> Uqpingalik, Arviligjuarmiut, Rasmussen 1931 in John Bennett and Susan Rowley eds., *Uqalurai: An Oral History of Nunavut* (Canada: McGill-Queen’s University Press, 2004).

<sup>2</sup> On some levels, with respect to Aboriginal languages, it is helpful to remember the conceptual foundations for the honour of the crown and the protection of Aboriginal rights. The Inuit of Nunavut occupied that area long before the arrival of the first whalers and they were not conquered. To some degree, this places Inuit, First Nations and Métis in a different category than other minority language speakers. The source of the right hails from a different place.

between linguistic diversity and the better survival of the human species<sup>3</sup> to the role of language in the formation of cultural identity.<sup>4</sup>

Looking at the importance of a minority language from the more intimate perspective of its community of speakers, Thomas Berger, QC, eloquently conceptualizes the importance of the Inuit Language to Nunavut Inuit:

Inuktitut is the vessel of Inuit culture. It grows out of a particular worldview. The Inuit want to remain true to their past; [...] they want to become what they are. Inuktitut is an integral part of Inuit identity. Of course, collective and individual identity may be nourished by other means. But where a people's language thrives, their identity is more likely to be secure.<sup>5</sup>

In 2006, Statistics Canada reported that the Inuit Language was the mother tongue of approximately 83 percent of the Inuit population of Nunavut and, by extension, nearly three quarters of Nunavut's total population. While these numbers indicate a degree of persistence, the same census demonstrated a concerning drop, from 76 percent in 1996 to 64 percent in 2006, in the use of the Inuit Language at home.<sup>6</sup> As language skills and preferences are first and fundamentally acquired in the home, this decline foreshadows fewer parents in successive generations passing the Inuit Language to their children. This dynamic is compounded by Nunavut's strikingly young population.<sup>7</sup>

The international community, through the United Nations Educational Scientific and Cultural Organization (UNESCO), has recognized this underlying vulnerability in the Inuit Language community. After reviewing indicators such as intergenerational language transmission, absolute number of speakers, proportion of speakers within the total population, trends in existing language domains, response to new domains and media, and materials for language education and literacy,<sup>8</sup> UNESCO identified Inuktitut as "vulnerable" and Inuinnaqtun as "definitely endangered."<sup>9</sup>

---

<sup>3</sup> Commenting on linguistic diversity in relation to biodiversity, Koichiro Matura, Director General of UNESCO recently said, "The reversal of the current trend of biodiversity loss and degradation will only be possible if it is tackled in an integrated, interdisciplinary manner that combines different fields, ...namely education, science, culture and communication." Online: <[www.unesco.org/culture/ich/index.php?pg=00144](http://www.unesco.org/culture/ich/index.php?pg=00144)> (accessed July 20, 2009).

<sup>4</sup> See Joshua Fishman, *Handbook of Language and Ethnic Identity* (Oxford University Press: New York, 2009).

<sup>5</sup> Thomas Berger, QC, "Conciliator's Final Report: The Nunavut Project" (March 1, 2006), p. 24.

<sup>6</sup> Statistics Canada, *Table 12: Percentage of Inuit population who reported Inuktitut as mother tongue and as home language, and knowledge of Inuktitut, Canada and regions, 1996 and 2006*, online: <<http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/table/t12-eng.cfm>> (accessed: July 13, 2009).

<sup>7</sup> Statistics Canada, *Age distribution and median age of the Inuit population, regions, 2006*, online: <<http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/table/t7-eng.cfm>>

<sup>8</sup> UNESCO Ad Hoc Group on Endangered Languages, "Language Vitality and Endangerment" (submitted to the *International Expert Meeting on UNESCO*

The source of threat to the Inuit Language is singular in the sense that it flows from the predominance of the English language despite only 26.5 percent of the population of Nunavut having English as a first language. It is several in the sense that the English language pervades nearly every aspect of Nunavut society. Mirroring the indicators established by the UNESCO Ad Hoc Group on Endangered Languages, English is the language of both the federal and territorial governments, it is the language of the media, it is the language of primary and secondary instruction, it is the language of emergency services, it is the language of the economy and in many instances it is the language associated in many ways with material success.

Historically, Nunavut Inuit have not had access to instruction in the Inuit Language for their children because the education system Nunavut inherited from the NWT did not provide for it. Neither have these residents been able to work in the Inuit Language or to receive essential services therein. Without some kind of systemic change, unilingual and bilingual Inuit Language speakers who wished to operate in the Inuit Language would continue to experience marginalization in nearly every transaction in their territory.<sup>10</sup>

This change has finally come. On June 4, 2008, Nunavut's Legislative Assembly assented to the *Nunavut Official Languages Act*, which designates English, French and the Inuit Language as Official Languages, equal in status. Further, on September 18, 2008, the Legislative Assembly assented to the *Inuit Language Protection Act*, which provides for the promotion, protection and revitalization of the Inuit Language at work, at school and in the daily lives of Inuit Language speakers. The sections below describe the confluence of factors that permitted the enactment of this legislation and the remarkable protections it confers.

## **Foundations**

As a value, the protection of minority and language rights comprises one thread in the fabric of Nunavut's social values. Besides language rights, certainly, law makers needed to consider other values. This list included effective governance and national unity along with human dignity and diversity of worldviews. Undoubtedly, there was nothing novel about this. Nearly twenty years ago, former Canadian Commissioner of Languages, Max Yalden articulated the dynamic, which confronts most governments at some point:

---

*Programme Safeguarding of Endangered Languages*, Paris, March 2003)

<sup>99</sup> UNESCO, *Interactive Atlas of the World's Languages in Danger*, online: <<http://www.unesco.org/culture/ich/index.php?pg=00206>> (accessed: July 13, 2009)

<sup>10</sup> Postal services, telephone bills, Canadian Pension Plan information, emergency evacuation instructions, government tenders and entertainment media are some of the areas out of which unilingual Inuit Language speakers have often been left. See John Packer, "Towards a Consistent Approach in the Management of Linguistic Diversity: Reflections from Practice," in Foucher et al., *Languages Constitutionalism and Minorities* (Lexis Nexis: Canada, 2007) at page 101 for a discussion of a pragmatic approach to the necessary systemic change.

The nature of modern societies, let alone the exigencies of an independent world make it impossible to put all languages on a completely equal footing from the standpoint of public policy [...] The task that faces modern states, therefore, is to provide as much scope as possible for linguistic pluralism without either fostering unhealthy divisions or imposing crippling administrative burdens.<sup>11</sup>

That this balancing act must occur does not necessarily mean that the robust protection of a minority language will be diminished. It seems to depend on a combination of the will of the constituents and the capacity of the leadership. Nunavut, for example, combines a strength on both of these fronts that is rooted in its unique historical, human geographic and political context.

On May 25, 1993, after decades of negotiations between the Inuit of the Eastern Canadian Arctic as represented by the Nunavut Tunngavik Corporation (NTI), and the Federal Government of Canada, the two parties signed the Nunavut Land Claims Agreement (NLCA). One of the objectives noted in the preamble of this modern treaty was to encourage self-reliance and the *cultural and social wellbeing of Inuit*. Article 4 of the NLCA provided for the enactment of legislation by Parliament for the establishment of the Territory and the Government of Nunavut in furtherance, of among other things, this objective.

In the decade culminating in the establishment of the territory, the Nunavut Implementation Commission considered that which needed to be in place to support the social and cultural well-being of Inuit. As part of that consideration, the NIC began envisioning a framework of language legislation and policies for Nunavut. In its second report on the implementation process, the NIC summarized some initial substantive considerations:

The real issue for Nunavut will not be whether and how to consider such things as redefining the status of English and French, but what practical steps to take to “preserve and promote” the Inuit Language as a working language above and beyond what “grandfathering” the NWT situation delivers.

Even if the official status of languages were left entirely up to the Nunavut Legislature in 1999, a satisfactory and secure role for Inuit Language could not likely be achieved solely through the enactment of ideal official languages legislation. Historical and contemporary experience reveal that a language can be official [...] and not be spoken regularly at anyone’s breakfast table. Rather, a satisfactory and secure place for the Inuit

---

<sup>11</sup> Max Yalden, “Multilingualism in an Interdependent World: European and North America Perspectives,” presented at The Ontario Goethe-Institute and The Ontario Institute for Studies in Education, Toronto, September 9-11, 1993.

Language in Nunavut depends on weaving together a thoughtful, doable and affordable combination of government, private sector and personal decisions and initiatives that address the use of the Inuit Language in a wide range of relevant societal circumstances.<sup>12</sup>

Until 1999, Inuit Language speakers existed in minority populations across Canada. The creation of Nunavut resulted in their ascent to an identifiable majority within a jurisdiction in the Canadian Confederation. No longer did Inuit need to rely upon the goodwill of the majority or on the minimum standards of international human rights law to protect their language rights. Inuit were now in a position to elect a leadership that was responsible to them as an Inuit Language speaking majority. An additional layer of this rich context, after the establishment of the Government of Nunavut, Inuit continued to benefit from promises included in the terms of the NLCA, which in some cases fetter the executive powers of the territorial government.

On April 1, 1999, the *Nunavut Act*<sup>13</sup> came into force and Nunavut was thereby established. The *Nunavut Act* provided that the laws made under the ordinances of the Northwest Territories (NWT) would be deemed laws of the Legislative Assembly insofar as they were applicable. Among that great swath of legislation, Nunavut inherited the *NWT Official Languages Act*.<sup>14</sup>

This statute reflects a political, linguistic and demographic reality that does not prevail in Nunavut. For example, the Act designates Chipewyan, Cree, Dogrib, English, French, Gwich'in, Inuktitut, Inuinnaqtun, North Slavey and South Slavey as official languages. Of these, only English French, Inuktitut and Inuinnaqtun are spoken within the Nunavut Settlement Area. Further, while the Act indicates that the aboriginal languages are official languages, that status accords with a permission to use those languages in court and legislative debates, for example, rather than a *requirement* to use those languages in official contexts. This is a lesser status than that accorded to French and English languages.

The inclusion of the additional aboriginal languages and the diminished official status accorded to the Inuit Language was not appropriate in the context of the new territory. As will be discussed below, a remarkable amount of time, effort and creativity went into developing an appropriate remedy to this unsatisfactory situation. It should be noted that at the outset of this long process, it was not clear that Nunavut's language policy would operate through new legislation. Indeed it was only after failed negotiations with federal counterparts and consultations with Nunavummiut, that the Nunavut Legislative Assembly and its able advisors undertook the major task of developing two language statutes.

---

<sup>12</sup> NIC, *Footprints in New Snow II* (1996)

<sup>13</sup> *Nunavut Act* S.C. 1993, c. 28, Section 29.

<sup>14</sup> R.S.N.W.T. 1988, c. O-1

## The Language Legislation

### *The Official Languages Act*

The Nunavut *Official Languages Act* received assent in the Nunavut Legislative Assembly on June 4, 2008 and recently obtained the concurrence of the House of Commons on June 1, 2009 and the Senate on June 11, 2009. The Act resembles official language legislation across Canada. Like these other statutes, the Nunavut *Official Languages Act* applies language obligations to the Government of Nunavut and its public agencies, to the Nunavut Legislative Assembly and to the judicial and quasi-judicial bodies in the Territory.

In a few ways, the Nunavut statute pushes the envelope of official languages discourse in this country beyond these fundamental similarities. It does so by designating an aboriginal language – the Inuit Language – as an official language and by according it with a status *equal* to that of the languages that Europeans brought with them to the Territory.<sup>15</sup> The Act communicates its own evolved understanding of the Supreme Court of Canada’s instruction in *Beaulac* that language rights must be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada and in light of the importance of language rights as a fundamental tool for the preservation and protection of official language communities where they do apply.<sup>16</sup> The following paragraphs share snapshots of how the Act works.

The provisions in the Nunavut *Official Languages Act* dealing with the Administration of Justice offer a portal into the statute’s essence. The Act has been envisioned as part of the future growth of the territory. For example, Section 8 of the statute provides that not only may any person before a judicial or quasi-judicial body use any of the Official Languages, but also may a presiding member of the judicial or quasi-judicial body. Act anticipates the day that first language Inuit Language speaker presides over a the superior court.

Further, section 9 of the Act ensures that any person before a judicial or quasi-judicial body can ask for and receive a translation of a final decision, order or judgment in the Official Language of his or her choice. This stands regardless of the language in which the proceedings were conducted. A translation must be provided where it deals with a question of public interest, where it determines a question of importance to a language community or where it deals with an issue of significance to a *participant* who used that Official Language in the proceeding. These expand upon the NWT *Official Languages Act* provisions where decisions are only issued in both English *and* French if the decision

---

<sup>15</sup> Minister of Languages, Louis Tapardjuk, appeared as a witness before the Senate Committee on Legal and Constitutional Affairs. In his statement, he noted: “The right to language is indeed one central to human dignity. It is central to the Inuit who have lived within the Nunavut Settlement Area for thousands of years. And it is central to the Anglophones and Francophones who brought their languages with them to this great country.”

<sup>16</sup> *R. v. Beaulac*, [1999] S.C.J. No. 25 at para 25.

was of general public import or if the proceedings were conducted in the language in which the decision was not initially issued.

A second area under the Act, Communications with and Services to the Public, is of considerable significance to Nunavummiut. The framework under Section 12 mirrors the “head office / other offices where there is significant demand / nature of the services” framework present in the NWT *Official Languages Act*. However, the Nunavut *Official Languages Act* adds flexibility by listing facets of significant demand such as, “proportion of the population served by an office who have designated an Official Language as their first or preferred language,” “characteristics of that population” and “volume of communications.” Also the Act explains that where the office offers a certain scope, impact or importance of service or where those services relate to health, safety or security, they will be offered in the Official Languages spoken by service recipients.

Nunavut has taken note of recent guidance from the Supreme Court of Canada with respect to the delivery of services in official languages. In *Desrochers v. Department of Industry Canada*,<sup>17</sup> the Court reiterated that the standard is substantive rather than formal equality. Drawing the logical conclusion in the language context, the Court determined that where a government department establishes an objective for a program or service, the administrative head of that department must take reasonable steps to ensure that it is achieving that objective for *all* official languages.

In pursuit of this standard of substantive equality between official languages, the Nunavut *Official Languages Act* is both flexible and proactive in responding to the needs of particular language communities. For example, the statute specifically requires the administrative heads of government departments and agencies to deliver services of comparable quality *with attention to cultural appropriateness and effectiveness*.<sup>18</sup> Another instance of this approach, which is of particular importance to Inuinnaqtun speakers and small francophone communities throughout Nunavut, is section 12(5). This section gives the Executive the authority to target communities prone to being left outside the traditional official languages framework:

Despite subsections (3) and (4), in the event of special concern about language loss or assimilation, the Commissioner in Executive Council may, by regulation, provide that the duty described in subsection (2) applies to the office of a department of the Government of Nunavut or a public agency on the grounds that its communications or services, or their availability or method of delivery, are likely to have a revitalizing impact on or promote the use of the language indigenous to the affected area or group.

---

<sup>17</sup> 2009 SCC 8 [*Desrochers*]

<sup>18</sup> See Nunavut *Official Languages Act*, section 7(b)(ii) and (iii).

The Management and Accountability provisions in the Nunavut *Official Languages Act* signify the determination of the Legislative Assembly to see the obligations under the statute implemented. Of particular note, section 13(1) designates a Minister of Languages who has the responsibility of promoting<sup>19</sup> and advocating the equal status of the Official Languages and the full realization of the rights accorded to each Official Language. Every year, the Minister of Languages must table a report on his or her success and failures of that year with respect to his or her obligations under the Act. This ensures that an elected representative speaks publicly and specifically about language in the territory at the Committee of the Whole.<sup>20</sup>

### **The Inuit Language Protection Act**

The *Inuit Language Protection Act* received assent in the Nunavut Legislative Assembly on September 14, 2008 and is now in force. This statute was designed to operate in tandem with the Nunavut *Official Languages Act* in ameliorating the position of the Inuit Language in Nunavut and by extension in Canada.<sup>21</sup> Extensive research was conducted into the systemic challenges faced by Inuit Language speakers. In settling on an appropriate design, it was concluded that by placing the Inuit Language at the center of education, work and daily life in Nunavut, the *Inuit Language Protection Act* responds to those systemic challenges. It is an innovated, purposive and far-reaching document. The sections below highlight some of its central features.

The statute sets only one major parameter around its application and that is the definition of the Inuit Language itself. The definition reflects the linguistic geography of the territory and appears as follows in the Act:

Except as directed by the Inuit Uqausinginnik Taiguusiliuqtiit under paragraph 16(5)(b), "Inuit Language" means,

- (a) in or near Kugluktuk, Cambridge Bay, Bathurst Inlet and Umingmaktuuq, Inuinnaqtun;
- (b) in or near other municipalities, Inuktitut; and
- (c) both Inuinnaqtun and Inuktitut as the Commissioner in Executive Council may, by regulation, require or authorize.

---

<sup>19</sup> The term "promote" as it appears throughout the statutes is understood as encompassing the full range of activities recommended or required to maintain and revitalize minority, indigenous or endangered languages. As the term's full definition is still developing both nationally and internationally, the Legislative Assembly concluded upon advice that it was not advisable to fix the definition.

<sup>20</sup> The Government of Nunavut operates on the basis of consensus decision-making. There are no political parties.

<sup>21</sup> It is hoped that Nunavut will play a role with respect to the Inuit Language that Québec plays with respect to the French Language. That is, by providing the Inuit Language its epicenter of numerical strength and vitality, the language will have the critical mass needed to flourish throughout Canada.

Seamless and elegant, this definition is the result of lengthy and at times charged discussions about the differences between dialects and languages and the attendant importance of these on a community's identity.<sup>22</sup> Inuinnaqtun is under particular strain. By distinguishing the languages and grouping them under one title, the Act achieves both the linguistic unity that is so important for nation-building and the flexibility to respond to unique situations. Under the Act, the Minister of Languages must implement the statute in such a way that prioritizes its revitalization and the access of its speakers to services in that language.

As elsewhere, in Nunavut, the education system can be a force of assimilation. To counter this, the *Inuit Language Protection Act* provides that every parent whose child is enrolled in school (from Kindergarten to grade 12) the right to have his or her child receive Inuit language instruction. The education program that the Act mandates is results oriented, requiring the Minister of Languages to design *and enable* the education program to produce secondary school graduates fully proficient in the Inuit Language, in both its spoken and written forms. In other words, it is not enough to offer an after school Inuktitut course for two hours per week.

The Minister must develop a curriculum complete with competency targets and evaluation tools, must create appropriate effective materials and must deliver all of this according to a strict timeline.<sup>23</sup> The Kindergarten to grade 12 programming is on a fairly severe timeline. For Kindergarten to Grade 3, the provisions came into force on July 1, 2009. For grades 4 to 12, those provisions come into force on July 1, 2019. Certainly, the Government of Nunavut plans to implement this programming in a graduated way with a completion date of July 1, 2019.<sup>24</sup>

A similar set of materials and programming are required for early childhood education.<sup>25</sup> Early childhood education programming provisions come into force on a day fixed by order of the Commissioner,

A second important pillar under the Act's ameliorative program, the right to work in the Inuit Language is roundly protected. Under the Act, Inuit language speakers have the right to work, communicate and do business with their territorial government in their own language. At the front end of the employment process, the Government of Nunavut, as employer, is obliged to extend, in a culturally appropriate and non-coercive manner, an active offer or "clear explanation in the Inuit Language of an individual's right to use the

---

<sup>22</sup> There are seven dialects in Nunavut: South Baffin, North Baffin, Aivilik, Kivalliq, Arctic Quebec, Natsilingmiut and Inuinnaqtun Inuktitun. Though these are largely intelligible across regions, some standardization will be necessary to facilitate communication. As late as April 2009, the issue of which dialect should direct that standardization process continued to attract debate at high levels of political leadership.

<sup>23</sup> *Inuit Language Protection Act*, section 8.

<sup>24</sup> *Inuit Language Protection Act*, section 49.

<sup>25</sup> *Inuit Language Protection Act*, section 9.

Inuit Language during recruitment or employment.”<sup>26</sup> Throughout the Act and in the parts dealing with language of work in particular, the standard is substantive equality with the burden of achieving this placed on the organizations operating in Nunavut.

During the course of employment, an employee or potential employee has indicated an Inuit Language preference, the employer must ensure that management can communicate with and supervise the employee in the Inuit Language, must conduct performance appraisals in the Inuit language; must promote Inuit language networks, mentoring, or other ways of encouraging the use of the Inuit language in the workplace; and finally, must accept grievances filed in the Inuit language.<sup>27</sup> Here, the language program dovetails with the Inuit Employment Program established under Article 23 of the NLCA.<sup>28</sup>

One of the boldest aspects of this legislation, the aspect that speaks most about its character as a response to a truly systemic problem, is that it applies to private entities. Section 3 requires organizations, which include private sector bodies, to display public signs and conduct advertising in the Inuit Language, with that text in equal prominence. That section also requires that reception and other customer services available to the general public be provided in the Inuit Language.

The *Inuit Language Protection Act* further requires that particular services to be delivered in the Inuit Language. Subsection 3(2) states:

An organization shall communicate with the public in the Inuit Language when delivering the following particular services:

- (a) essential services, including
  - (i) emergency, rescue or similarly urgent services or interventions, including intake or dispatch services, and
  - (ii) health, medical and pharmaceutical services;
  
- (b) household, residential or hospitality services, including
  - (i) restaurant, hotel, lodging, residential or housing services, and
  - (ii) basic services to a household, including the supply of electricity, fuel, water and telecommunications;
  
- (c) the other prescribed services that the Commissioner in Executive Council considers to be appropriate as the result of their essential nature or important consequences for individuals.

---

<sup>26</sup> *Inuit Language Protection Act* section 11

<sup>27</sup> *Inuit Language Protection Act*, section 12.

<sup>28</sup> Article 23, “Inuit Employment within Government,” has the objective of increasing Inuit participation in government employment in the Nunavut Settlement Area to a representative level (83%).

## Communications

(3) In addition to the requirements under subsection (1), the communications with the public referred to in subsection (2) are the following:

- (a) all notices, warnings or instructions directed to users or consumers of the service;
- (b) monthly bills, invoices and similar demands directed to persons who may be Inuit Language speakers;
- (c) the other communications that the Commissioner in Executive Council may prescribe.

These provisions respond to the needs of a group that has been chronically overlooked and ensure that the businesses that benefit from the territory's growing economy, support the social and cultural well-being of Inuit to some degree. It is an essential part of promoting substantial equality as between unilingual Inuit Language and English Language speakers.

Beyond these specific protections, an important aspect of the statute is that it creates space and supports for the evolution of the Inuit Language in Nunavut. The Inuit Uqausinginnik Taiguusiliuqtiit (IUT), like the *Académie* in France, has the responsibility of expanding the knowledge and expertise available with respect to the Inuit Language, and of considering and making decisions about Inuit Language use, development and standardization under the Act. The five members of the IUT are nominated by Inuit and other organizations within Nunavut and are selected by the Minister, upon recommendation from NTI and the Government of Nunavut. The IUT continues the dialogue that started with the NIC consultations in the 1990's and the Legislative Assembly's consultations in 2004.

With respect to management and accountability, the *Inuit Language Protection Act* provisions mirror those in the Nunavut *Official Languages Act*. The *Inuit Language Protection Act* provides for the appointment of a Minister of Languages who carries promotion obligations specific to the language portfolio. Section 24 of the Act requires the Minister of Languages to develop programs intended to promote, *inter alia*, the use and development of the Inuit Language, public access to Inuit Language resources and national, international and private sector recognition of and support for the Inuit Language.<sup>29</sup>

### **Authority to enact language legislation**

The Legislative Assembly took an expansive view of its obligations and authority respecting the protection and promotion of the Inuit Language. It found the authority it

---

<sup>29</sup> Under this section, the Minister has 12 areas in which he or she is obligated to develop programs.

needed to enact the *Official Languages Act* and the *Inuit Language Protection Act* both on the distant shores of international consensus and within its own political construct. While Nunavut does present an opportune circumstance for the development of the two statutes, none of this would have happened without the considerable will of a leadership to find the reasons why it could be done. The following sections briefly outline the authoritative bases for Nunavut's language framework.

### **Canada's International Obligations**

Since positive obligations towards the protection of aboriginal languages do not exist explicitly in the *Charter* or in federal statute, the Legislative Assembly looked to the normative framework for indigenous language protection under development in the international community.

In their fifth and eighth recitals respectively, the Nunavut *Official Languages Act* and the *Inuit Language Protection Act* acknowledge that positive actions are required to protect the inherent right of Inuit to speak the Inuit Language. The preamble cites Canada's international undertakings as signatory to the *International Covenant on Civil and Political Rights*,<sup>30</sup> the *International Covenant on Economic, Social and Cultural Rights*<sup>31</sup> and the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*<sup>32</sup> as guiding minimum standards for the protection of the rights of Inuit Language speakers.

Expanding on the content of Canada's international undertakings, Article 27 of the ICCPR states:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. [Emphasis added]

Further, Article 2 of the ICESCR constitutes a non-discrimination clause, which applies to all subsequent sections. It states:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other

---

<sup>30</sup> *International Covenant on Civil and Political Rights* UNGA Resolution 2200A (XXI), 16 December 1966. [ICCPR]

<sup>31</sup> *International Covenant on Economic, Social and Cultural Rights* UNGA Resolution 2200A (XXI), 16 December 1996 [ICESCR]

<sup>32</sup> *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* UNESCO 33 General Conference, October 2005 [CPPDCE]

status. [Emphasis added]

Notably, these provisions are negative rights and protect speakers of a minority language only insofar as they might be discriminated against or interfered with on the basis of their language. Neither Convention explicitly obliges State Parties to actively protect minority languages that are under threat of extinction by the simple presence of a dominant language. The position in Nunavut has been that to adhere only to these minimum standards would obviate the need for those standards in a few short generations. The *Inuit Language Protection Act* and the *Nunavut Official Languages Act* exceed these minimum protections.

The CPPDCE takes a slightly different approach and suggests a normative framework that State Parties may use in order to maintain the diversity of cultural expression in their territories. It is, however, couched in permissive language, leaving it to the signatory to adopt or not in accordance with its own reality. Article 6(1) and (2) of the CPPDCE state:

1. Within the framework of its cultural policies and measures as defined in Article 4.6 and taking into account its own particular circumstances and needs, each Party may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory.

2. Such measures may include the following:

(a) regulatory measures aimed at protecting and promoting diversity of cultural expressions;

(b) measures that, in an appropriate manner, provide opportunities for domestic cultural activities, goods and services among all those available within the national territory for the creation, production, dissemination, distribution and enjoyment of such domestic cultural activities, goods and services, including provisions relating to the language used for such activities, goods and services;

Nunavut's language legislation was inspired in part by and does embrace the basic principles contained in these statements of International Law. Again, though, it far exceeds their minimum articulations.

### **The Nunavut Land Claim Agreement, Article 32**

An analysis of Nunavut's construct has to begin with the fact that the Territory emerged from extensive negotiations which resulted in the NLCA. This Agreement has the stated objective of securing the social and cultural well-being of Inuit. And this is Nunavut's *raison d'être*. Article 32.1.1 of the NLCA states:

Without limiting any rights of Inuit or any obligations of Government, outside of the Agreement, Inuit have the right as set out in this Article to participate in the development of social and cultural policies, and in the

design of social and cultural programs and services, including their method of delivery, within the Nunavut Settlement Area.

Further, Article 32.2.1 of the NLCA states:

Government obligations under Section 32.1.1 shall be fulfilled by Government:

(a) providing Inuit with an opportunity to participate in the development of social and cultural policies, and in the design of social and cultural programs and services, including their method of delivery, in the Nunavut Settlement Area; and

(b) endeavouring to reflect Inuit goals and objectives where it puts in place such social and cultural policies, programs and services in the Nunavut Settlement Area.

Unfortunately, as compared with other parts of the NLCA, this one is conspicuous in its vagueness. Part of the explanation for this is that Article 32 deals directly and intimately with government programming. Some involved in the land claim negotiations have explained that the federal government took the position that they could not preconceive government programming in a land claim agreement. Another part of the explanation may be that area of “social development” constituted a compromise that was accepted in return for greater protections in other areas of the NLCA.<sup>33</sup>

Despite the vagueness of the wording, the Legislative Assembly has interpreted NLCA Article 32, in combination with the stated objective “to encourage self-reliance and the social and cultural well-being of Inuit,” as imposing an obligation to enact the language legislation that it finally did. The sixth recital in both *Inuit Language Protection Act* and the Nunavut *Official Languages Act* articulate this interpretation:

Observing that territorial institutions have an obligation to design and deliver programs and services that are responsive to the linguistic goals and objectives of Inuit, and that Nunavut and Canada are the government parties obliged to implement and give effect to the land claim rights of Inuit;

### **The Nunavut Act<sup>34</sup>**

As Nunavut is a Territory, its governing powers extend as far as those that the federal government has delegated to it. The *Nunavut Act* lists the classes of subjects on which the

---

<sup>33</sup> Paul Quassa, former president of Nunavut Tunngavik Inc. and former NLCA negotiator remarked on both these points during a February 2009 NLCA workshop in Iqaluit, Nunavut.

<sup>34</sup> S.C. 1993, c. 28

Legislative Assembly of Nunavut is empowered to make laws. Of particular interest here section 23(1)(n) lists:

...the preservation, use and promotion of the Inuktitut language, to the extent that the laws do not diminish the legal status of, or any rights in respect of, the English and French languages;

While the Federal Government assigned the Legislative Assembly a wide birth with respect to Inuktitut, the Federal Government did not give that body free reign in the realm of designating official languages. The *Nunavut Act* gives the Canadian Parliament a final say over certain amendments to the *Official Languages Act* that Nunavut inherited from the NWT. That section instructs:

The law of the Legislature that, under subsection 29(1), is the duplicate of the ordinance of the Northwest Territories entitled the *Official Languages Act* may not be repealed, amended or otherwise rendered inoperable by the Legislature without the concurrence of Parliament by way of a resolution, if that repeal, amendment or measure that otherwise renders that law inoperable would have the effect of diminishing the rights and services provided for in that ordinance as enacted on June 28, 1984 and amended on June 26, 1986.<sup>35</sup>

Of note, this provision was actually conceived during some early and important negotiations regarding territorial authority over language. In its decision in *Fédération Franco-ténoise c. Canada (Procureur generale)*,<sup>36</sup> Supreme Court of the Northwest Territories explained that in June 1984, the Government of Canada and the Government of the NWT entered into an agreement with respect to official languages. Under its terms, the Federal Government promised not to enact Bill C-26 which would have inserted sections 16(1) and 20(1) of the *Charter* directly into the *Northwest Territories Act*<sup>37</sup> and the *Yukon Act*. The Federal Government also promised to cover the costs of French Language service delivery in perpetuity.

For its part, the Government of the NWT proclaimed its Official Language Ordinance, which identified English, French and 9 Aboriginal Languages as its official languages. Subject to Section 43.1 of the *Northwest Territories Act*, which requires Parliamentary concurrence for an amendment to take effect, the Northwest Territories were then able to enact their own official languages legislation and were removed from the list of federal institutions to which the *Canada Official Languages Act* applied.<sup>38</sup> This system of checks and balances was incorporated into Nunavut's legislative powers on division.

---

<sup>35</sup> *Ibid.*, section 38.

<sup>36</sup> 2006 NWTSC 20

<sup>37</sup> R.S.C. 1985, c. N-27

<sup>38</sup> 1985, c. 31 (4th Supp.). See section 2 of the *Canada Official Languages Act* where the NWT, Nunavut and the Yukon are specifically excluded from the application of the Act.

### **Section 35 of the *Constitution Act of Canada***

The courts have not yet made a determination about whether the use, preservation or promotion of Aboriginal language and Aboriginal education can constitute aboriginal rights that are protected under section 35 of the Constitution.<sup>39</sup> In *Tsilhqot'in Nation v. British Columbia* 2007 Language was employed as *the* distinguishing feature of the Aboriginal group. While addressing the existence or non-existence of other aboriginal or treaty rights, courts seem to identify language as an element integral to an Aboriginal people's distinctive culture. Courts, however, have not ruled upon Aboriginal Language *itself*.

Indeed, it is difficult to tell exactly what track such an analysis would take. However, it should be observed that the Federal Government has stated its readiness to recognize the jurisdiction of Aboriginal groups over, *inter alia*, language and education. While this policy certainly falls short of a concession that Inuit Language constitutes a section 35 right, it does suggest a recognition that perhaps these things are integral to the distinctive culture of Aboriginal peoples.<sup>40</sup>

While the *Inuit Language Protection Act* does not conclude the question of the Inuit Language as section 35 Aboriginal right, recital 13 of the Act leaves that possibility alive. That recital states:

Understanding, because of the fundamental character of the values expressed and the important objectives of this Act, and on legal authority including sections 15, 25 to 27 and 35 of the *Constitution Act, 1982*, that the *Inuit Language Protection Act* shall enjoy quasi-constitutional status in law;

### **Section 15(2) of the *Charter***

The *Inuit Language Protection Act* is dedicated to protecting, promoting and revitalizing the Inuit Language in the face of the dominant presence of English. To overcome this subordinate position, this strategy involves treating the Inuit Language preferentially in some respects. This, theoretically, could attract a claim under section 15(1) of the *Charter* on the basis that the government is making a distinction on the basis of an analogous ground.

In *R. v. Kapp*,<sup>41</sup> the Supreme Court of Canada revisited section 15(2) of the *Charter*. Starting at paragraph 37, the Court explained the interpretive role that section 15(2) plays in the substantive equality analysis:

---

<sup>39</sup> 2007 BCSC 1700.

<sup>40</sup> See *Van der Peet* [1996] 2 S.C.R. 507 for discussion on "Aboriginal Rights" under section 35 of the *Constitution*.

<sup>41</sup> 2008 SCC 41.

The focus of section 15(1) is on preventing governments from making distinctions based on enumerated or analogous grounds that have the effect of perpetuating disadvantage or prejudice or imposing disadvantage on the basis of stereotyping. The focus of section 15(2) is on enabling governments to proactively combat discrimination. [...] “Under a substantive definition of equality, different treatment in service of equality for disadvantaged groups is an expression of equality, not an exception to it”: P.W. Hogg, *Constitutional Law of Canada* (5<sup>th</sup> ed. 2007) vol. 2, at p. 53-55.

Outlining the test under section 15(2), the Court continued at paragraph 41:

A program does not violate the s. 15 equality guarantee if the government can demonstrate that: (1) the program has an ameliorative or remedial purpose; and (2) the program targets a disadvantaged group identified by the enumerated or analogous grounds.

With respect to the first part of the test, the *Inuit Language Protection Act* sets-out the ameliorative purpose in its preamble:

Observing that positive action is necessary to ameliorate conditions of disadvantage and address systemic discrimination faced by those for whom the Inuit Language is a first, only or preferred language;

With respect to the first aspect of the second part of the test, arguably, the combination of Aboriginality and language<sup>42</sup> could satisfy the requirements of an analogous ground. Regarding the second aspect of this second part of the test, Inuit Language speakers constitute a vulnerable group that has been exposed to prejudice and negative social characterization. Further, the conditions of disadvantage are many and include cultural assimilation, pervasive poverty and poor mental and physical health, low levels of education, high rates of unemployment and underemployment, and under-representation in management positions. Interpreting the actions taken under the *Inuit Language Protection Act* as part of an ameliorative program constituted a source of authority for the Legislative Assembly.

### **Legislative Development**

The Nunavut Implementation Commission (NIC), the entity responsible for preparing official creation of Nunavut, anticipated that the inherited legislative scheme would not satisfy the interests of the Nunavut’s Inuit Language speakers. Further, NIC predicted that in the thrum of a new government, the development of a language policy for the new

---

<sup>42</sup> Providing precedence for this, the Supreme Court of Canada, in *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203, accepted Aboriginality-residence as an analogous ground.

territory may well lose against immediate practical tasks such as office space and staffing. NIC therefore sought to have a clear direction for Nunavut's new language policy underway and communicated to the public before division. In one of its recommendations, NIC took a first step towards this:

The NIC recommends that the three parties to the Nunavut Political Accord, with the assistance of the NIC, jointly convene, in the second half of 1997, a special *Developing a Language Policy for Nunavut Conference*, as a necessary step in pulling together an adequate societal consensus of the place of language in the future of Nunavut, with particular attention to the preservation and promotion of the Inuit Language. Such a conference should be organized so as to identify and evaluate critical choices in defining an appropriate set of language policies for Nunavut, mindful of practical limiting factors such as tight public sector finances. The conference should be planned with a view to maximizing public participation [... and should include reference] to the development of language policy in other parts of Canada and the world.<sup>43</sup>

The *Nunavut Language Policy Conference* was held in Iqaluit from March 24-26, 1998 and was co-chaired by John Amagoalik.<sup>44</sup> The sixty delegates to the conference were asked to provide information and make recommendations that would assist the new government create language policy and legislation for the new territory. Participants looked at a wide range of issues, from age-group specific language challenges to cross-dialect intelligibility to syllabics and Roman orthographic writing systems. 50 recommendations emerged from the conference, which were incorporated into later work on language.<sup>45</sup>

Following the establishment of Nunavut and after years of negotiations with the federal government on possible amendments to the Contribution Agreement for French and Aboriginal Languages, it was decided that Nunavut needed its own language legislation to achieve the protections for Inuit Language that it sought.<sup>46</sup>

---

<sup>43</sup> Nunavut Implementation Commission, *Footprints In New Snow II* (1996), page 208.

<sup>44</sup> John Amagoalik was one of the first and central negotiators of the *Nunavut Land Claim Agreement*. He is widely referred to as the "Father of Nunavut" out of respect for his contributions to this process. Such early skilled leadership on language policy development was fundamental to the ultimate creation of both the *Official Languages Act* and the *Inuit Language Protection Act*

<sup>45</sup> NIC, *Nunavut Language Policy Conference: Report and Recommendations* (Iqaluit, Nunavut, 1998).

<sup>46</sup> On January 18, 2002, then Languages Commissioner and now Premier, Eva Aariak, issued a report entitled, "Recommendations regarding changes to the Official Languages Act." This report argued the need for two language statutes – one to extend equal status to the Inuit Language on par with French and English and the other to extend special protection measures to the Inuit Language community in order to address pressures experienced by those speakers uniquely.

It is notable that the development of language policy in Nunavut has never been viewed as a purely legislator function of law-making. Those that were going to be affected by the new laws or programs were involved not only out of legal duties flowing from the NLCA, but also out of an understanding Inuit Language speakers carry inherently the best knowledge about the needs of their linguistic community. Exemplifying this, the Government of Nunavut engaged in extensive community consultations about the contents and protection measures of each proposed statute.<sup>47</sup> In March 2007, after both the proposed *Inuit Language Protection Act* and the *Official Languages Act* were tabled, the Legislative Assembly sought further public comment. After the First Reading in June 2007, the Standing Committee Ajautiit called for public hearings which were ultimately conducted November 2007.

One reason behind these enormous consultations was that for some, speaking ones own language was considered a frill rather than a right. As lead legislative counsel on language legislation, Susan Hardy, explains, some feel that there is something retrograde about going back to the Inuit Language when the chances for material success lay in the mastery of the English language.<sup>48</sup> In order for this legislative approach to work, people had to be part of the discussion to be part of the sea change.

### **Coming into force**

As explained above, before the *Nunavut Official Languages Act* could come into force in Nunavut, Parliament had to concur with it. Soon after the Nunavut Official Languages Act received assent in the Nunavut Legislative Assembly, it became obvious that Parliament would not be providing its concurrence forthwith. Drafters set to work to ensure that *Inuit Language Protection Act* could stand alone once enacted. Section 50 was added to *Inuit Language Protection Act* to ensure that the implementation, management, enforcement and promotion functions of the Minister of Languages would be in force. This amendment is one example of the desire to see this statute take effect.

A full year after it received assent in the Nunavut Legislative Assembly, on June 1, 2009, the Federal Legislature finally concurred with the passage of the statute. While it quickly passed through the lower chamber, the process stalled in the Senate over concerns regarding diminution of language protections to the Aboriginal language communities that were being removed and alleged diminution of rights of French speakers in Nunavut.

---

<sup>47</sup> From June until December 2004, the Department of Culture, Elders, Language and Youth held focus groups for Hivumuarut (Inuinnaqtun regions), Elders, Youth, Government of Nunavut employees, French, Businesses and Municipalities. The objective of holding the focus groups was to help identify the language needs particular to each group.

<sup>48</sup> Related to this sense among some Inuit, Stephen Tierney commented on the “cultural theme park” concept in his work, “Reflections on the Evolution of Language Rights” in Foucher et al., *Language Constitutionalism and Minorities* (Lexis Nexis: Canada, 2007) 13. The cultural theme park incorporates belief that the material interests of minority cultures would be better served by learning the dominant state language and assimilating into the state culture and that supporting minority language rights actually benefits the dominant community.

The matter was referred to the Senate Committee on Legal and Constitutional Affairs where several representatives from Nunavut appeared as witnesses.

From the point of view of a team that was involved in the extensive consultations leading to the development of the Act and that now works tirelessly on its implementation, the concerns of the Senate were somewhat disorienting. At its meeting, the Committee asked questions on technical points of legislative drafting, interpretation and theoretical postulation.

The apparent turning point of the meeting, though, seemed unrelated to any of these fine details. When the representative of the Association Francophone du Nunavut, sitting at the witness table, conveyed the essence of the legislation, what it meant for Nunavut and how much the francophone community supports it, the Committee seemed to understand. The following is a transcript of that portion transaction:

**Senator Joyal:** ... Comment pouvez-vous aujourd'hui nous rassurer que le phénomène qui est en cause actuellement, qui est en cours, d'une langue dominante inuit, va pouvoir vous ménager l'espace linguistique et culturel qui peut être le vôtre et pour lequel dans le passé vous sembliez relativement amer puisque les ententes de 1984 n'ont pas, je ne peux pas vous citer tel quel, livré la marchandise à laquelle on s'attendait.

**M. Cuerrier :** Je ne pense pas que je suis amer. Si cela a passé, ce n'était pas le bon sentiment que je voulais laisser passer. C'était un cliché sur l'état de la situation que je tentais de faire. Ce n'est pas de l'amertume.

Par contre, c'est presque une grande joie de voir qu'on peut faire les choses autrement. En quelque part, j'ai découvert cela parce que je vis au Nunavut. On sort du concept, on tient le fort et on ne veut pas qu'il rentre. On arrive plus dans un concept où on cherche la concertation, le consensus et faire en sorte que tout le monde sorte gagnant. Dans le domaine de l'entreprenariat, c'est une expression très courue. Cela prend des ententes gagnant gagnant. On a l'occasion de le vivre davantage chez nous qu'au sud du pays. En passant, je viens de Montréal.

Pour revenir à votre question, j'espère pour le peuple inuit que ce n'est pas qu'un rêve. Honnêtement, j'espère que pour ce peuple, qu'il va gagner son pari et que la langue inuktitut va devenir la langue usuelle sur le territoire. Il faut comprendre que les Inuits représentent 30 000 personnes, peut-être 50 000 au Canada, en comptant dans tous les recoins. Cela ne prend pas une grosse vague d'immigration pour annihiler cela. Cela ne prend pas non plus beaucoup de générations perdues pour perdre l'usage de la langue.

Déjà, on constate dans un centre comme Iqaluit, que nous on appelle un grand centre, pour vous c'est un petit village, que les jeunes de 15 ou 18 ans, ils sont incapables de communiquer avec leurs grands-parents parce

que le jeune est unilingue anglophone et le grand-parent est unilingue inuktitut. C'est un défi. C'est un véritable défi. Il faut mettre les énergies nécessaires pour relever ce défi et faire en sorte que l'inuktituk reprenne la place qui lui revient.

C'est sûr qu'on a des inquiétudes, un jour, quand ils vont être à la fois dominants en nombre et dans l'usage de leur langue, ils vont nous sacrer dehors. Cela se peut, mais c'est un risque à prendre, c'est un choix qu'on fait et c'est un choix éclairé qu'on fait. On n'est pas des gens démunis, dépourvus, qui se font abuser ici. On est en mesure de prendre des décisions intelligentes, de faire des partenariats, de travailler avec les Inuits et les anglophones.

Donc c'est sûr qu'il y a un risque. Mais est-ce que le risque ne vaut pas l'atteinte du rêve? Je pense que oui. Au bout de l'exercice, je pense que dans la mesure où nous aurons su contribuer à l'atteinte de ce rêve, on sera reconnu pour cela et on ne se retrouvera pas dans une situation de se faire varloper. C'est peut-être de l'utopie totale, mais c'est ma conviction profonde.

In her delivery of the Committee Report to the Senate,<sup>49</sup> Committee Chairperson, Senator Fraser, reflected on M. Cuerrier's statement and summarized its impact as follows:

No one spoke more eloquently or more movingly about this process than the representative of the francophones in Nunavut, who supports this bill with all the passion I can ask you to imagine [...] I think it is fair to say that every member of the committee was moved and impressed by that avowal.<sup>50</sup>

Following this, the Committee recommended to the Senate<sup>51</sup> that they move to concur with the Nunavut *Official Languages Act*, which the Senate ultimately did on June 11,

---

<sup>49</sup> Standing Senate Committee on Legal and Constitutional Affairs, "Language Rights in Canada's North: Nunavut's New Official Languages Act" (Committee Business – Senate – 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session).

<sup>50</sup> Transcript of the "Study on Motion for Concurrence in Legislative Assembly of Nunavut's Passage of the Official Language Act: Eighth Report of the Legal and Constitutional Affairs Committee Adopted." (June 12, 2009)

<sup>51</sup> The Senate Committee made 5 recommendations. They are as follows:

**Recommendation #1:** The committee recommends that the Senate adopt the following motion, moved by the Honourable Senator Comeau, seconded by the Honourable Senator Adams: "That, in accordance with section 38 of the *Nunavut Act*, chapter 28 of the Statutes of Canada, 1993, the Senate concur in the June 4, 2008 passage of the *Official Languages Act* by the Legislative Assembly of Nunavut."

**Recommendation #2:** That Statistics Canada monitor and report on the composition of Nunavut's population to identify the use of the five Aboriginal languages that will no longer be

2009. Before the delegates could throw their caps in celebration, the Committee further recommended that those seeking concurrence of Parliament ought also to obtain the endorsement of the Governor General. Whether that is indeed a requirement implied in the terms of the *Nunavut Act* remains to be determined.

### **Implementation**

Having taken note of the recent decisions of the Northwest Territories Supreme Court and Court of Appeal in *Fédération Franco-ténoise*,<sup>52</sup> the Legislative Assembly incorporated a rigorous implementation framework to ensure that the Government of Nunavut maintains its obligations to the three official languages under the *Official Languages Act* and to Inuit Language speakers under the *Inuit Language Protection Act*.

A guiding aspect of this, section 13(3) of the Nunavut *Official Languages Act* and section 25 of the *Inuit Language Protection Act* require the Minister of Languages to develop, and maintain a comprehensive plan for the implementation of language obligations, policies, programs and services owing from the departments and agencies of the Government of Nunavut. The Plan must cover the quality of services being offered in the Official Languages, the designation of staff positions, the review of Nunavut laws, must involve Inuit and English and French Language communities in its development. The Minister of Languages is currently engaging in extensive consultations with each Government of Nunavut Department and public agency in order to develop a workable plan. The Comprehensive Implementation Plan will be tabled, in accordance with the legislation, by March 31, 2010 along with the Minister of Languages' annual report.

In addition to the Comprehensive Implementation Plan, the Government of Nunavut is preparing to develop the regulations that will guide the execution of certain parts of each statute. The regulation making powers under section 38 of the *Official Languages Act* and section 44 of the *Inuit Language Protection Act* require the Minister of Languages to comply with Article 32 of the NLCA, which, as explained above, provides for the

---

considered official languages in Nunavut (Chipewyan, Cree, Dogrib, Gwich'in, and Slavey). **Recommendation 3:** That, upon request by the Government of Nunavut or Nunavut's Commissioner of Official Languages, the Office of the federal Commissioner of Official Languages continue to make its expertise and advice available to assist in the implementation of the Act and its objectives.

**Recommendation 4:** That, in light of Parliament's decision to concur in the passage of the *Official Languages Act* by the Legislative Assembly of Nunavut, the Government of Canada make adequate and sustained funding available to the Government of Nunavut for the continued protection and promotion of official languages in the territory, as is consistent with the government's legal obligations.

**Recommendation 5:** That, for greater certainty, the concurrence of the Governor General, as the representative of Her Majesty the Queen of Canada, in the passage of the *Official Languages Act* by the Legislative Assembly of Nunavut be sought in order to ensure unquestionably that section 38 of the *Nunavut Act* is complied with in full.

<sup>52</sup> *Supra* note 36 (Supreme Court) and 2008 NWTCA 6 (Court of Appeal)

participation of Inuit in the development of social programs. To that end, the Minister of Languages has begun to organize a series of roundtables to take place across Nunavut over the coming months. Stakeholders will have a chance to opine on proposed regulations as well as general questions of government policy. These consultations will culminate in a Languages Summit, which will serve to synthesize the findings of the roundtables for the purpose of drafting regulations.

As noted above, the Minister of Languages carries certain obligations relating to the Inuit Language. With respect to promotion in the international realm, recognizing the central importance of this dialogue the Minister of Languages has begun to carry out those responsibilities. In May 2009, Minister Tapardjuk appeared at the 8<sup>th</sup> Session of the United Nations Permanent Forum on Indigenous Issues, which convened a discussion on the Arctic.

### **Conclusion**

While negotiating their rights to lands, waters and land-fast ice in the Nunavut Settlement Area, Inuit also negotiated the condition of self-determination. It was through the form of public government that the participants believed the social and cultural well-being of Inuit would be achieved. Inuit are now able to make important decisions about central aspects to their lives – education, culture and language. Nunavut’s language legislation provides an example of that which can be achieved for minority languages when there is potent political and popular will.