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The Role of Law in the Promotion of a Language

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INTRODUCTION

1. Before going into the language legislation in Nunavut it is important to give a picture of Nunavut: who lives there, what languages are spoken, and also a bit about the geography.

1. PEOPLE, LANGUAGE AND GEOGRAPHY OF NUNAVUT

2. Nunavut is 1/5 of Canada's landmass. It is a very large jurisdiction with a population widely dispersed between 25 mostly small communities. You basically have more people living in Centretown, and Sandy Hill areas of Ottawa than Nunavut. The 2006 Canadian census showed Nunavut had a population of 29,474: 83% or 24,635 of the population being Inuit; about 4% reported the ability to speak French. Of the 1200 who can speak French in Nunavut, close to 800 are in Iqaluit, the capital of Nunavut.

3. The following table shows mother tongue, ability to speak and use of official languages in Nunavut.

		Mother Tongue	Ability to Speak	Use at Home
1.	Inuit Language	70%	77%	64%
2.	<u>English</u>	26.5%	88.1%	44%
3.	<u>French</u>	1.3%	4%	1%

(Data from the 2006 Census – Statistics Canada)

4. Also, 8% of the Inuit population only speak the Inuit language.

5. We have two languages in disadvantaged situations in Nunavut: the Inuit language and the French language. Each of these languages face unique challenges for maintaining language vitality.

6. The Francophone community with its long history of fighting for language rights, and having constitutional protected rights, have been able to attain a school, a community centre, a radio station, and other important programs aimed at protecting the French language.

2. LANGUAGE USE IN NUNAVUT

7. The languages used by government, media and industry are as follows :

- English is the predominate language of both the federal and territorial governments.
 - Government of Nunavut is at 46% employment of Inuit, and able to deliver many services in the Inuit language.
- English is also predominantly used in media.
 - There is Inuktitut on CBC radio and television, also local newspapers. These are mostly translations of English coverage.
 - There is also Inuit Broadcasting Corporation and Isuma Productions that create shows, documentaries and films in the Inuit language. They are constantly facing funding issues, and are only able to produce a limited number of works.
- English is the language of primary and secondary instruction. Although most district education authorities have instruction in the Inuit language up to grade 3, it is not yet mainstream.
- The French school delivers a daycare program, and kindergarten to grade 9 in the French language.
- The middle school for grades 6-8 in Iqaluit also now has French and Inuktitut immersion programs.
- English is the language of emergency services.
- English is the language of industry.

8. Both the Inuit language and the French language have declined in use in the last 10 years. The French language more minutely by 0.2% every five years, nonetheless declining, whereas the Inuit language has declined by a whopping 12% in 10 years.

3. LEGISLATIVE FRAMEWORK FOR LANGUAGE RIGHTS

9. The Federal *Nunavut Act*¹ which outlines territorial legislative powers includes the ability for Nunavut legislators to enact on :

s. 23 (1)(n) 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.

10. The result being two language acts in Nunavut : the *Official Languages Act* (O.L.A.)², and the *Inuit Language Protection Act* (I.L.P.A.)³.

11. The two language acts are co-dependent, they work together. The O.L.A. has equality provisions and I.L.P.A.'s purpose is ameliorating the Inuit language in Nunavut.

12. The *Official Languages Act* resembles those across the country. It creates language obligations for territorial institutions, including government, legislative assembly and Nunavut courts. The new O.L.A. goes as far as obligating municipalities to providing services in an official language, if there is a significant demand.

13. The word "promote" or "promotion" is not defined in either of the language acts. In contemplating whether the legislators should define it, they concluded that it is a developing term both nationally and internationally, so they opted not to define it, making it an evolving term.

1. *Nunavut Act*, S.C. 1993, c. 28.

2. *Official Languages Act*, S. Nun. 2008, c. 10. The O.L.A. has been approved by both houses of Parliament and is ready to be enforced.

3. *Inuit Language Protection Act*, S. Nun. 2008, c. 17.

14. My colleague Kate Darling in an article presented to the CBA last month states :

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.

15. So, “promote” or “promotion” entails positive obligations held by the Minister to protect minority or vulnerable languages from erosion.

16. The *Official Language Act* looks to preserve and protect each official language; in s. 13(2) it states :

The Minister shall,

(a) promote and advocate the equal status of the Official Languages, and the full realization and exercise of the rights and privileges as to the use of the Official Languages provided in this Act;

(b) promote the efficient and effective implementation of and compliance with this Act by territorial institutions and municipalities;

(c) coordinate the implementation, monitoring, management and evaluation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies; and

(d) undertake other duties and functions as required by the Commissioner in Executive Council.

17. The act obligates the Minister of Languages to “promote” or advance linguistic rights and interests of the official language communities. In promoting languages the Minister is also to consider the context and needs of each official language community, taking a substantive equality approach to language rights inspired by the Supreme Court of Canada.

18. In the *Inuit Language Protection Act*, as said the act responds to the need of the Inuit language to be preserved and protected. In “promoting” the Inuit language the Minister’s responsibilities include :

- Inuit language promotion and revitalization by :
 - bringing public awareness of history, use, status, importance of Inuit language;
 - identifying and developing technology for Inuit language media distribution and access that will enhance use or revitalization;
 - having public access to Inuit language resources;
 - bringing public awareness about language laws;
 - developing and maintaining an implementation plan for promotion and revitalization including measures for monitoring and evaluation of performance by public service.
- 19.** These are the minimum requirements of activities the Minister is responsible for in promoting the Inuit language.

4. ACCOUNTABILITY MEASURES

20. The Minister of Languages is to table a report annually that describes all activities, results achieved and performance of his or her obligations. This is to allow for transparency and accountability of what has been done to fulfill the positive obligations he or she holds.

CONCLUSION

21. Since it is too early to know if the approach to “promotion” by Nunavut is working, we can only look prospectively, and be aware of the pros and cons of the approach taken. The pro being the term “promotion” is expansive and will develop over time considering the context. The con is that by having minimum standards, there is risk for expectation that only the minimum will be done.

22. The biggest challenge to advancing language rights in Nunavut will be the competing bread and butter issues, the vast amount of social or resource problems with limited resources to deal with them. This risks putting language rights on the back burner. As an Office of the Languages Commissioner who advocates language rights we will have to be diligent in our work. We must stay ahead of the game in

knowing best practices for implementing language rights, if we are to be effective in our monitoring and advisory role for language rights.

23. It will be interesting to see how it all unfolds.

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