



May 28, 2020

Prof. Fernand de Varennes
Special Rapporteur on Minority Issues
Office of the High Commissioner for Human Rights
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Dear, Professor Fernand de Varennes

Please accept this letter of allegations submitted by Nunavut Tunngavik Inc. (NTI) that by its actions and inactions, Canada has failed and continues to fail to fulfil its international obligations in relation to Inuit as an ethnic and linguistic minority under international instruments to which Canada is a party or signatory.

Nunavut Tunngavik Inc. (NTI) is a not-for-profit corporation organized under the laws of Canada, democratically controlled by and representing the Inuit of the Nunavut Settlement Area (hereafter Inuit, except where the context requires otherwise). Our mandate is to safeguard, administer and advance Inuit rights, benefits and opportunities under the *Nunavut Agreement*, and generally as an Indigenous people and an ethnic and linguistic minority within Canada, so as to promote our economic, social and cultural well-being through succeeding generations. ¹

The *Nunavut Agreement* is a treaty (lands claims agreement) under section 35 of Canada's *Constitution Act, 1982*,² prevailing against all other Canadian laws to the extent those laws are inconsistent. The *Agreement* is enforceable under both public and private law. It is based on and reflects the objective of encouraging self-reliance and the cultural and social well-being of Inuit.³

I. Inuit of Nunavut

Inuit of Nunavut are an Indigenous people of the Arctic. Approximately 150,000 Inuit live in the circumpolar Arctic, with over 65,000 in Canada, and 28,000 in Nunavut. Inuit and our predecessors, with our distinct language and culture, have used and occupied

¹ Nunavut Tunngavik Incorporated Consolidated By-Laws, Article 2.

<https://www.tunngavik.com/documents/staffdocs/29%20-%20NTI%20By-Laws.pdf>

² Section 35 of the *Constitution Act, 1982*. <https://laws-lois.justice.gc.ca/eng/const/page-16.html>

³ Preamble to the 1993 *Nunavut Agreement*. <https://nlca.tunngavik.com/?lang=en>



Nunavut since time immemorial, and still use and occupy it today.⁴ Canada's *Constitution Act, 1982*, recognizes Inuit as one of the Aboriginal peoples of Canada.⁵

Nunavut is a sub-national jurisdiction, created by division of the Northwest Territories on April 1, 1999, through the combined legal force of the *Nunavut Agreement*, the *Nunavut Land Claims Agreement Act*, and the *Nunavut Act*. According to the 2016 Canada Census, approximately 85% of the population of Nunavut are Inuit.⁶

The language of Inuit is Inuktitut.⁷

II. NTI's Allegations

NTI's allegations to the SRMI are as follows.

By its actions and inactions, Canada has failed and continues to fail to fulfil its international obligations in relation to Inuit as an ethnic and linguistic minority under international instruments to which Canada is a party or signatory. Without limitation, by its actions and inactions:

- Canada has been and is in breach of the duty to not discriminate against Inuit.⁸
- Canada has not taken and is not taking adequate action to ensure the recognition and realization of the Inuit right to receive public education in our Inuktitut language.⁹
- Canada has not taken and is not taking adequate action to ensure the recognition and implementation of the Inuit right to health services in Inuktitut.¹⁰
- Canada has not taken and is not taking adequate action to ensure the recognition and implementation of the Inuit right of the Inuit to administration of justice in Inuktitut.¹¹

Canada has also failed to uphold the standards set out under the 1992 *U.N. United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*,¹² (DRM):

⁴ Freeman, M., *Inuit Land-Use and Occupancy Project* (Ottawa: Thorn Press Ltd. 1976) (ILUOP). The ILUOP detailed the comprehensive, verifiable basis for the claim that Inuit used and occupied an area in excess of 2.8 million square kilometres at the time the ILUOP was completed.

⁵ *Supra*, note 2.

⁶ See <https://www150.statcan.gc.ca/n1/pub/89-656-x/89-656-x2016017-eng.htm>

⁷ 'Inuktitut' is a recently agreed upon term to describe all dialects of the Inuit language in Nunavut, including Inuktitut and Innuinaqtun. The term 'Inuktitut' was historically used in the same manner. Unless otherwise stated, citations using the term 'Inuktitut' should be considered to include all dialects of the Inuit language in the same manner as 'Inuktitut' is used now.

⁸ *E.g.*, *International Covenant on Economic, Social and Cultural Rights* (ICESCR) Art 2(2), Art. 14(1). *International Covenant on Civil and Political Rights* (ICCPR) Art. 5(e)(v); *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) Art. 26; and *Convention on the Rights of the Child* (CRC), Art 2.

⁹ *E.g.*, ICESCR Art 13; ICERD Art. 5(e)(v); CRC Arts 28-30.

¹⁰ *E.g.*, ICESCR Arts. 12, 15); ICERD Art. 5(e)(iv); CRC Arts. 29- 30.

¹¹ *E.g.*, ICCPR Art 14(1); ICERD. Art. 5(a).



- to protect the ethnic, cultural and linguistic identity of Inuit, and to encourage conditions for the promotion of that identity (Art.1(1));
- to protect the ethnic and linguistic rights of Inuit to enjoy our culture and use Inuktitut freely and without interference or any form of discrimination, and to participate effectively in cultural, social, economic and public life, and in decisions at the national and regional levels (Art.2); and
- to protect the exercise of the rights of Inuit set forth in the DRM without discrimination (Art.3).

Canada has also failed to take active measures to fulfill its obligations and to uphold standards under the DRM:

- to adopt appropriate legislative and other measures to achieve the ends of the DRM Art.1(2);
- to take measures to ensure that Inuit may fully and effectively exercise our human rights and fundamental freedoms without any discrimination and in full equality before the law (Art. 4(1));
- to take measures to create favourable conditions to enable Inuit to develop our culture, language, traditions and customs (Art. 4(2));
- to take appropriate measures so that Inuit may have adequate opportunities to learn, use, protect, and advance our mother tongue, to have instruction in schools in Inuktitut and to receive public services in Inuktitut (Art. 4(3)); and
- to take appropriate measures to encourage knowledge of the history, traditions, language and culture of Inuit in Nunavut, and to provide adequate opportunities for Inuit to gain knowledge of Canadian society as a whole (Art. 4(4)) and to participate fully in the economic progress and development of Nunavut and of Canada (Art. 4(5)).

Canada has also failed to uphold the standards set out in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP):

- to be free from any kind of discrimination, in the exercise of our rights, in particular those based in our indigenous origin or identity (Art. 2);
- to establish and control of all levels of our educational systems in our own language, in a manner appropriate to our cultural methods of teaching and learning (Art. 14(1));
- to determine and develop priorities and strategies for exercising our right to development and to be actively involved in developing, determining and administering through our own institutions' health, housing and other economic and social programs (Art. 23); and
- to access, without any discrimination, all social and health services (Art. 24(1)).

Canada has also not taken necessary and effective measures, in order for Inuit:

¹² UN General Assembly Res. 47/135, 18 Dec. 1992.

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>



- to have access to an education in our own culture and provided in our own language (UNDRIP Art. 14(3));
- to have continuing improvement of our economic and social conditions (Art. 21); and
- to have an equal right to the enjoyment of the highest attainable standard of physical and mental health (Art 24(2)).

More detail on Canada's violations of international law with respect to the Inuit as an ethnic and linguistic minority can be found in the recent report by Skutnabb-Kangas *et al.*, attached as Appendix I.¹³ In particular, the Human Rights Committee has observed that Article 27 of the 1976 *International Covenant on Civil and Political Rights* poses specific obligations on States to ensure the survival and continued development of the cultural and social identity of minorities. Canada has violated these obligations by failing to ensure, within Nunavut, the provision of Inuktitut language education, health care and administration of justice and other services.

As described in greater detail below, the above failures flow principally from three categories of action and inaction:

- the damage inflicted on Inuit language and culture by past discriminatory treatment of Inuit through various assimilationist colonial policies and measures, which continues to the present, and Canada's failure to take remedial action to correct this damage;
- Canada's failure to provide adequate Inuktitut-language education, health services, administration of justice, and other publicly available government programs and services, on an equal basis with that received by the vast majority of Canadians whose first language is one of Canada's official languages; and
- Canada's failure to adopt effective legislative and other measures to protect Inuit cultural and linguistic identity and to remedy discrimination and other injustices.

III. Damage to Inuit Language and Culture Attributable to Canada's Assimilationist Acts and Policies

Prior to the coerced movement of Inuit into settlements and residential schooling in the Arctic, Inuit societal educational goals included health, skills, survival, *isuma* (thoughtfulness), land-skills, gender-appropriate knowledge, interpersonal skills, stories,

¹³ Skutnabb-Kangas, T., Phillipson, R. and Dunbar, R., "*Is Nunavut education criminally inadequate? An analysis of current policies for Inuktitut and English in education, international and national law, linguistic and cultural genocide and crimes against humanity*," pp.55-59.

<https://www.tunngavik.com/files/2019/04/NuLinguicideReportFINAL.pdf>



and wisdom to understand the natural and human environment, as passed on by elders.¹⁴

Beginning in the early 1950s, Canada began to use residential schools¹⁵ in a colonialist and discriminatory effort to eradicate Inuktitut and Inuit culture, and assimilate the Inuit.¹⁶ Canada's Truth and Reconciliation Commission concluded that:

“[c]hildren were taken from their parents, often with little in the way of consultation or consent. They were educated in an alien language and setting. - They lived in institutions that were underfunded and understaffed, and were prey to harsh discipline, disease and abuse.”¹⁷

As a result, “[w]hen they returned to their communities, they were estranged from their parents, their language, and their culture.”¹⁸

Canada's harsh approach to Inuit children's education and use of their mother tongue was based in strong and discriminatory societal beliefs of the day that Indigenous languages should be eradicated. From 1945 to about 1970, Canada instituted “direct, sometimes brutal assimilation” under a Euro-Canadian approach, where success was “measured by how completely a child forgot their family, language culture and values.”¹⁹

The result was an intentional systemic and far-reaching loss of Inuit language and culture, which has affected subsequent generations and the entire Inuit society. Inuktitut speakers, whether they reside in Quebec, Nunavut, or elsewhere in Canada, endured and continue to endure similar systemic discrimination and assimilationist acts and policies.²⁰ Canada has an ongoing duty to end continuing unequal treatment of Inuit, and to remedy the current effects of past colonial acts.

¹⁴ Prof. Ian Martin, *Aajjiqatigiingniq. Language of Instruction Research Paper. A Report to the Government of Nunavut*, Department of Education, Iqaluit, Nunavut, pp.16-18, *citing* Tove Skutnabb-Kangas (Univ. of Roskilde, Den). <https://assembly.nu.ca/library/GNedocs/2000/000076-e.pdf>

¹⁵ The government-controlled residential school system for Inuit operated from 1951 until the 1990s.

¹⁶ See “*Canada's Residential Schools: The Inuit and Northern Experience*,” *The Final Report of the Truth and Reconciliation Commission of Canada*, vol. 2, Truth and Reconciliation Commission, McGill-Queen's Univ.Press, 2015.

¹⁷ *Ibid.*, p. 5.

¹⁸ *Ibid.*, p. 187. See also the conclusion of Pauktuutit, the Inuit Women's Association of Canada (“Inuit language, culture and spiritual beliefs were eroded because of the assimilation process. The effects on family and community have been numerous. Traditional Inuit education was passed on from adults to children and intertwined practical skills with cultural values. Traditional Inuit skills included hunting, meat and pelt preparation, sewing, building igloos and navigating the land and water. The rich tradition of oral storytelling, music, dance and craft and a respect for the environment that were an integral part of Inuit knowledge and way of life was eroded as a result of the Residential School experience.”)

<https://www.pauktuutit.ca/abuse-prevention/residential-schools/>

¹⁹ Martin, I., *supra* note 14, p.18.

²⁰ See, e.g., “*Final Report, Public Inquiry Commission on Relations between Indigenous Peoples and Certain Public Services in Québec: Listening, Reconciliation and Progress*” (the “Viens Commission”). https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Rapport/Final_report.pdf



IV. Ongoing Linguistically Inadequate and Discriminatory Education System

Beginning in the 1970s and continuing to the establishment of Nunavut in 1999, a softer, but still assimilative approach was purposely utilized in Nunavut schools in order to assimilate Inuit into “Euro-Canadian ‘modern life’ and ‘job opportunities.’” This consisted of English-dominant bilingualism, with the Inuktitut mother tongue utilized only inconsistently and in the early grades.²¹ As described below, by reason of Canada’s continuing inaction, this systemic educational discrimination continues today.

Today, 90 percent of Nunavut students are Inuit. In 2016, over 63% of the population of Nunavut reported Inuktitut as our mother tongue.²² Despite these central demographic and cultural realities, education is delivered in Kindergarten through Grade 12, and post-secondary schooling, primarily in English, rather than in the language of the majority. Skutnabb-Kangas, *et al.* have pointed out that, as of 2016, only seven schools deliver education up to Grade 4 in Inuktitut, and only one up to Grade 5.²³

At the root of this situation are insufficient measures by Canada to ensure enough Inuit teachers, teaching assistants and language specialists are trained and hired to teach in Inuktitut – a basic prerequisite to appropriate levels and quality of Inuktitut language of instruction. In November 2018, it was reported that at least 450 Inuktitut-speaking teachers are needed for bilingual (Inuktitut/English) education in Nunavut. However, there were only 140 Inuktitut-speaking teachers out of a total of 705 teachers.²⁴ The dominant characteristic of Nunavut education continues to be an overwhelming reliance on the use of monolingual English-speaking teachers recruited from southern Canada and then cycled back to southern Canada.

Professor Ian Martin states in a report attached as Appendix 2:

“English has become the default ‘majority’ language in all 42 schools in the territory, despite serving fewer than 400 ‘minority’ Anglophone students. It’s the 9300 Inuit students who are struggling to find their place and speak their language in what has become a southern oriented Anglo-dominant Nunavut school system.”²⁵

²¹ Martin, *supra* n.14.

²² This is down from previous censuses (71.7% in 2001). Jean-François Lepage and Stéphanie Langlois, with Martin Turcotte, “*Evolution of the Language Situation in Nunavut, 2001 to 2016*” for Stat.Canada, July 2019. Also reported in the *2018-2019 Annual Report of the Official Languages Commissioner of Nunavut*.

²³ Skutnabb *et al.*, *supra* n. 13, p. 26.

²⁴ *Ibid.* p. 36.

²⁵ Prof. Ian Martin, “*Inuit Language Loss in Nunavut: Analysis, Forecast, and Recommendations*” Glendon College, York Univ. Mar. 7, 2017, p. 2. <https://bill37.tunngavik.com/files/2017/03/Inuit-Language-Loss-in-Nunavut-Martin-status-report-Mar-7-2017-v3.pdf>.



Further, Nunavut is only adding an average of 2.4 Inuktitut-speaking educators a year. As a result, it would take Nunavut, in theory, 129 years to fill the minimum number of Inuktitut-speaking teachers needed. Even that does not account for teachers retiring or for population growth.²⁶

The effects on the Inuit language and culture are devastating. In 2015, UNESCO rated the Inuktitut dialect of Inuktitut (spoken in the Baffin and the Kivalliq regions) as 'vulnerable/unsafe', and the Inuinnaqtun dialect (spoken in the Kitikmeot region) as 'definitely endangered'.²⁷

Professor Martin reports that:

“[f]rom 1996 to 2011, the number of Inuktitut mother tongue speakers in Nunavut dropped from 88% to 80%. Over the same period, the use of Inuktitut in Inuit homes in Nunavut dropped from 76% in 1996 to a mere 61% in 2011. At the same time, English spoken mostly in the home has increased from 28.5% in 1991 to 46% in 2011.”²⁸

Professor Martin concludes that, even with the most optimistic forecast, “by 2051 [...] the Inuit Language will be spoken at home by only 4% of Inuit in Nunavut.”²⁹

Concerns about the state of Inuktitut in Nunavut have been repeatedly brought to Canada’s attention. Canada has declined, however, to take any effective action to reverse the trend.³⁰ Professor Martin reports that, despite detailed costings of funding requirements for Inuit teacher training and for Inuktitut curriculum development in the 1980s, only minimal and largely symbolic funding and action was taken. He concluded that:

“By not funding the delivery of Nunavut public services in the language of the Nunavut public, the federal government appears to have saved itself cumulatively over \$300 million (2016 dollars, over 18 years); however the costs to the Inuit language and culture may prove to be fatal.”³¹

The decision to not fund Inuktitut public services has not been one of omission. A 1990 Cabinet document shows Prime Minister Mulroney’s Cabinet expressly decided not to provide linguistic guarantees for the use of Inuktitut in government services in the future territory—singling out the legal and education systems as services for which Inuktitut

²⁶ *Ibid.* pp.36-37.

²⁷ UNESCO, Interactive Atlas of the World's Languages in Danger (www.unesco.org/languages-atlas) 2015.

²⁸ Martin, I., *supra* n.25.

²⁹ *Ibid.*

³⁰ *Ibid.*, pp. 3-6.

³¹ *Ibid.* p. 6.



language guarantees and protections would not be provided.³² The end result is an education system that meets the needs of the minority English-speaking and French speaking populations in Nunavut, but fails to meet the needs of the majority Inuit population. This discrimination is all the more striking in that the Canadian Constitution provides express linguistic guarantees to education of English or French speaking minority populations.

The current situation of Inuktitut education in Nunavut gives no confidence that the steady erosion in the viability of Inuktitut will be stabilized, let alone reversed. Canada continues to fail in its international duties to take appropriate measures to ensure the cultural and linguistic survival of Inuit. There can be no doubt that prolongation of the status quo will constitute a death sentence for Inuktitut. A predictable and avoidable death sentence.

V. Violation of Inuit Treaty Rights, Continuing Discrimination and Damage to Inuit Language and Culture

In 1976, when Inuit representatives tabled a Nunavut settlement proposal, our most important strategic objective was political self-determination. Inuit believed that having our own territory and government would lead to Inuktitut-language education, services, and workplaces, and pave the way for marked improvements in the material quality of life, to levels enjoyed by other Canadians.

In 1993, Canada agreed to these goals through two key promises made in the *Nunavut Agreement*:

- to create a Nunavut territory, with its own sub-national government, set out in Article 4.
- to bring about a fully Inuit representative public service in Nunavut, set out Article 23. Article 23's objective is "to increase Inuit participation in government employment in the Nunavut Settlement Area to a representative level." It contains the detail on how this is to be done, including the preparation of Inuit Employment Plans with a phased approach for achieving representative levels of Inuit throughout the civil service, and detailed recruitment, training and retention initiatives.

³² Government of Canada, Report of Committee Decision, Cabinet Committee on Human Resources, Income Support and Health, Meeting of March 13, 1990, Annex B, Mandate for Negotiation of Final Agreement, p.31. Link at: <https://www.tunngavik.com/news/inuit-are-maintaining-inuktitut-despite-mulroney-cabinet-secret-instructions-to-block-its-use/>



Article 23 is consistent with broader employment equity planning principles, including those contained in the federal *Employment Equity Act* (EEA), which also applies to Inuit.³³ To ensure employment equity and full Inuit workforce representativeness, the measures required by Article 23 are qualitatively more comprehensive and specific than those in the EEA.

On April 1, 1999, the Nunavut territory became a reality. The new Nunavut Government adopted its *Bathurst Mandate, Vision of a Bilingual Society*, described as a hope for “regeneration, reculturing self-esteem, self-determined individuals and communities, grounded in traditional values and open to the world for cultural negotiations toward (degrees of) biculturalism” and “the best of both worlds.”³⁴

From 1993 to the present, however, in violation of Articles 1 through 4 of the DRM, the Governments of Canada and Nunavut have failed to comply with the requirement of Article 23 to develop and implement comprehensive Article 23 training and employment for Inuit, in order to remedy current federal and territorial inequitable employment practices in Nunavut.

In addition, the Government of Nunavut has failed to adopt employment equity legislation to better implement Article 23 at the territorial level. The Government of Canada has also failed to implement the EEA with respect to the Inuit and has failed to amend the EEA to more effectively implement Article 23’s Constitutional obligations. All of this is in violation of the DRM’s requirement on States to adopt appropriate legislative and other measures to achieve the DRM’s ends. It should be noted that the Parliament of Canada is legislatively competent to make any federal laws necessary in Nunavut to meet the treaty obligations of the Crown and the international law responsibilities of Canada.

In 2006, NTI initiated a lawsuit challenging Article 23 violations by the Crown in right of Canada, and other treaty contraventions. This resulted in a May 2015 out-of-court Settlement Agreement. The Settlement Agreement provided, among other things, for payment to Inuit of \$255 Million and Canada’s reaffirmation of its duties to implement Article 23.³⁵

³³ The EEA has the purpose of achieving equality in the workplace and correcting conditions of disadvantage in employment. *Employment Equity Act*, S.C. 1995, c.44, s.2.

³⁴ Martin, I., *supra*, note 14, p.18.

³⁵ *Moving Forward in Nunavut: An Agreement Relating to Settlement of Litigation and Certain Implementation Matters*, May 2015, paras. 9-27. <https://www.tunngavik.com/files/2015/05/2015-05-Settlement-Agreement-Federal-Gov-Implementation.pdf>



Since 2015, the governments in Nunavut have continued to fail to take the steps necessary to bring about Inuit representative workforces, resulting in further violation of the Nunavut Agreement. Article 23 Inuit employment plans that have been drafted are largely meaningless – with no priorities, no assessment of training needs, no timelines, and no resources. Pre-employment training plans, an additional treaty requirement, have never been prepared. As a result, no significant progress has been made in correcting the stark disadvantage in employment experienced by Inuit in Nunavut.³⁶ Inuit employment levels have stagnated at or below 50% overall. Inuit fill only about 20% of management positions, and fewer professional positions.³⁷

If Article 23's obligations had been kept, we could expect that Inuit children would today be taught by close to 85% Inuit and Inuktitut speaking teachers, and that our language and culture would be visibly vibrant in the schools, government, and other workplaces. Instead, the curriculum is still imported from southern Canada. Only 25% of the teachers are Inuit. Some 75% of teachers are monolingual English-speaking non-Inuit, teaching a student population composed of about 90% Inuit schoolchildren. The inevitable and glaring cultural disconnect between teachers and Inuit students and their parents leaves many Nunavut youth alienated and disillusioned with school. Approximately 70% of youth leave school by Grade 10 with obvious and lasting negative effects on employment prospects and a host of other economic, social and cultural indicators.³⁸

³⁶These are revealed in Government of Nunavut quarterly reports containing Nunavut employment statistics, entitled *Toward a Representative Public Service*. See, e.g., <https://www.gov.nu.ca/finance/documents/toward-representative-public-service-statistics-public-service-within-government>

³⁷ *Ibid.*

³⁸ Inuit do not enjoy the same living standards as most Canadians. The 2016 Census of Canada reveals that:

- 52% of Inuit live in over-crowded homes;
- income is much lower than the Canadian average;
- life expectancy is 10 years lower;
- infant mortality is three times higher;
- suicide rates are 10 times the national average;
- 70% of Inuit homes are 'food insecure';
- there rates of tuberculosis are 290 times higher than among Canadian-born non-Indigenous people;
- only 32% of Nunavut Inuit have a high-school diploma or equivalent, and
- the population growth rate is much higher than in Canada as a whole.

Nunavut reportedly has the highest child poverty rate in the country, at 31.2 per cent as compared to 18.6 per cent for children in Canada overall. Inuit also suffer from much higher levels of unemployment as compared to non-Inuit and have much lower rates of labour force participation. See <https://www.canada.ca/en/public-health/services/reports-publications/canada-communicable-disease-report-ccdr/monthly-issue/2018-44/issue-3-4-march-1-2018/article-3-tuberculosis-among-inuit.html>; 2106 Census. See also *Skuttnab Report Card on Child and Family Poverty in Canada*,



The failure of Canada to keep its promise to Inuit to ensure that the public service workforce of Nunavut, including in schools and other government workplaces, is representative of the Inuit population, in a territory where we are an 85% majority, is a clear failure to ensure that Inuit are treated on an equal basis with other Canadians. Nowhere else in Canada is a majority provincial or territorial population served by public servants, including front-line health and justice workers and educators, who do not speak the same mother tongue as the population served. As detailed further below, this state of affairs has resulted in tremendous damage to Inuit language, culture, physical, mental and emotional health, with social and economic and other consequences, all in violation of the DRM and other international instruments.

VI. Linguistically Inadequate and Discriminatory Health Care Services

In Nunavut, health care services are delivered primarily in English, by unilingual English-speaking doctors, nurses and other health care providers.

The inability of Inuit to be able to communicate adequately with health care providers in our first language, whether it be in describing symptoms, understanding medication dosages and warnings, or the myriad other ways that Canadians take for granted in communicating with their doctors, nurses, pharmacists and others, is a discriminatory practice. Moreover, it can and does compromise Inuit health and costs Inuit lives. Some of the impacts of this discriminatory health care are described in detail by NTI President Aluki Kotierk in her remarks at an Indigenous Health Conference, attached as Appendix 3.³⁹

As reported in the 2007-2008 Annual Report on the State of Inuit Culture and Society entitled Nunavut's Health System:

“Inuit are emerging from a period when health care priorities and most aspects of health care practice and delivery were set by non-Inuit. Inuit wish to improve upon the conventional medical system in Nunavut. It does not engage Inuit, does not operate in Inuit language, does not employ Inuit at a representational level, and does not adequately acknowledge Inuit healers or healing practices. Poorly adapted and chronically under-funded health care services and programs based

<https://campaign2000.ca/wp-content/uploads/2020/01/campaign-2000-report-setting-the-stage-for-a-poverty-free-canada-updated-january-24-2020.pdf>; and “*Inuit participation in the wage and land-based economies in Inuit Nunangat*,” Stat.Canada, June 13, 2019. <https://www150.statcan.gc.ca/n1/pub/89-653-x/89-653-x2019003-eng.html>.

³⁹ Aluki Kotierk, President of NTI, Opening Remarks at the Indigenous Health Conference, May 24, 2018, Mississauga, Ontario.



in Southern Canada and delivered primarily in English are no longer acceptable.”⁴⁰

In October 2015, the Languages Commissioner of Nunavut reported on a systemic investigation of the Qikiqtani General Hospital, attached as Appendix 4, stating:

“ [...] language barriers have negative effects on service quality and on the efficiency and effectiveness of the health care system. Language barriers create risks for patients, because they jeopardize their safety.”⁴¹

As reported by the Nunavut Coroner in a recent example, the lack of adequate Inuktitut health services was a direct contributing cause in the death of a tuberculosis patient in 2017.⁴²

That same year, Stephen Lewis, a previous United Nations’ Special Envoy for HIV/AIDS in Africa, as co-director of the organization AIDS-Free World, conducted a fact-finding mission on tuberculosis in Nunavut. His third finding is as follows:

“Third, the colonial inheritance ... the fevered destruction of language and culture lies at the root of every contemporary Inuit struggle. It’s seen vividly in healthcare; it’s seen vividly in education. With the best will in the world on the part of the nursing profession, how do you keep track of the subtleties and complications of a disease like tuberculosis if you can’t speak the language of the people? And how is it possible that the Federal Government, knowing fully the legacy and poisoned chalice of colonialism in this part of Canada, has failed at providing massive support for the Government of Nunavut to create and sustain a human infrastructure at every level, in every occupation, of Indigenous Inuit leadership and personnel?”⁴³

The lack of Inuktitut-language health care services in Nunavut is also a direct function of the failure to train, hire, employ and maintain a representative level of Inuit health care workers in Nunavut, in contravention of its Constitutionally-protected Article 23 obligations, described in Section V. above.

In sum, Inuit suffer from discriminatory provision of health care programs and services, delivered in a language that is not the first language of the majority of the population of

⁴⁰ <https://www.yumpu.com/en/document/read/30446922/annual-report-on-the-state-of-inuit-culture-and-society-2007-2008> p. 5.

⁴¹ *Systemic Investigation Report on The Investigation Into the Qikiqtani General Hospital’s Compliance with The Official Languages Act* by the Languages Commissioner of Nunavut, 2015, at p.41.

⁴² See <https://www.cbc.ca/news/canada/north/iqaluit-annie-kootoo-coroner-report-liver-failure-1.3991685> and Coroner Report:

https://nunatsiaq.com/stories/article/65674gn_health_care_failures_led_to_mothers_death_nunavut_couple_says/

⁴³Statement by Stephen Lewis, Co-Director, AIDS-Free World, Iqaluit, Nunavut, September 9th, 2017. <https://aidsfreeworld.org/statements/2017/9/9/statement>



Nunavut, but rather of the minority English-speaking population. This is contrary to Canada's international duties to minorities within Canada as a whole.

VII. Linguistically Inadequate and Discriminatory Administration of Justice

The administration of justice and related services in Nunavut – the courts, the police, child apprehension, emergency domestic responders, prisons -- is dominated by and delivered in a language, English, which is not the first language spoken by the vast majority in the Territory. The Nunavut justice system and related government services are regularly unable to provide services to its mother-tongue Inuktitut population in our own language, which can and does result in physical and emotional injury and trauma, and death.

As just one example, in 2019, a lawsuit was launched by a family in Pond Inlet alleging the failure of the Royal Canadian Mounted Police to invest in recruiting Inuktitut-speaking officers is partly to blame for their son's death.⁴⁴

In findings that are directly referable to Nunavut, the recently released Viens Commission Report⁴⁵ concluded that in Quebec, "Inuit are victims of systemic discrimination in their relations with public services," and that "[m]any current institutional practices, standards, laws and policies remain a source of discrimination and inequality."⁴⁶ The Commission found that obstacles to quality policing services to Indigenous peoples are often centered in difficulties relating to language, low Indigenous representation among public services employees, and a lack of knowledge of Indigenous cultures among police authorities.⁴⁷

Directly on point is a recent article on police-related deaths in Nunavut⁴⁸ – Inuit who die in RCMP custody or after an interaction with the RCMP -- which reported that the use of an outside police force and unfamiliarity among police officers with the culture and language of Inuit leads to a lack of public confidence, and misunderstandings in tense life-threatening situations. A member of the Nunavut Legislative Assembly noted that one of the biggest issues facing Inuit during police interactions is a language barrier, stating that "[w]hen English is their second language, it's difficult for Inuit to make themselves understood to RCMP."

⁴⁴ See CBC news report at <https://www.cbc.ca/news/canada/north/pond-inlet-family-suing-rcmp-1.5070726>.

⁴⁵ *Supra* note 20.

⁴⁶ <https://coco-net.org/about-the-viens-commission-indigenous-quebec/> at p.3.

⁴⁷ *Supra* note 20 at p. 264.

⁴⁸ <https://www.thestar.com/news/investigations/2018/11/05/police-related-deaths-in-nunavut-nine-times-higher-than-in-ontario.html>



There are numerous major gaps in access to Inuktitut policing and justice programs and services ranging from diversion programs, to incarceration both within and outside Nunavut, to rehabilitation and re-integration options and efforts.⁴⁹

Even translation and interpretation services are inconsistent, spotty and unavailable, resulting in injustice and discrimination against those mother-tongue Inuktitut speakers who come in contact with the justice system.⁵⁰

⁴⁹ See *R. v. Shappa*, 2015 NUCJ 26 at para. 24 (“ Remedial processes to assist very young victims are further complicated for unilingual Inuk children who must participate in the process through an interpreter. The special expertise necessary to address the victimization of very young Inuit is not available in Inuktitut.”)

<https://www.canlii.org/en/nu/nucj/doc/2015/2015nucj26/2015nucj26.html?searchUrlHash=AAAAAQAZmFtaWx5IGludWt0aXR1dAAAAAAB&resultIndex=21>

According to the *2019-2021 Government of Nunavut Business Plan for the Department of Justice*, at pp 80-81, most recent Inuit staffing levels have been at only 46% of filled positions and only 31% of all positions (the vacancy rate is 31%) At https://www.gov.nu.ca/sites/default/files/gn_business_plan_2019-2022_-_english.pdf

⁵⁰ See, e.g., *R. v. J.N.*, 2015 NUCJ 22 at para. 128 (“Remedial processes to assist victims are further complicated for unilingual Inuk children who must participate in the process through an interpreter. The expertise necessary to address sexual victimization of very young Inuit is not available in Inuktitut.”); <https://www.canlii.org/en/nu/nucj/doc/2015/2015nucj22/2015nucj22.html?searchUrlHash=AAAAQAJaW51a3RpdHV0AAAAAAE&resultIndex=24> ; *R v. Shaa*, 2011 NUCJ 26 (defence counsel conducting trial without having had access to interpreter for client, discovers mid-trial that he does not have information from the client that is vital to his defence).

<https://www.canlii.org/en/nu/nucj/doc/2011/2011nucj26/2011nucj26.html?searchUrlHash=AAAAQAJaW51a3RpdHV0AAAAAAE&resultIndex=20>; *R. v. Qrunngnut*, 2013 NUCJ 08:

[30] The applicant has a grade two education and has a history of employment as a mechanic. He has limited abilities to read and comprehend English. Although the applicant is not part of a minority in Nunavut he is a minority when it comes to dealing with the R.C.M.P. He dealt with an officer who did not speak his language and who did not offer interpretation of anything he said to the applicant. The officer also did not ask the applicant if he understood English and did not inquire about his first language when he read the Consent to him.

[31] The applicant is a 49-year old Inuk of small to medium build who has lived his entire life in Igloolik. Allen is a young Caucasian man who is 6 feet, two inches tall. Most of the contact time was spent in a small room with one table and one chair. The applicant did not have any previous experience with the police in any capacity. He testified that he complied with the requests of the police because he was scared about what would happen if he refused.

[32] The applicant has only a limited knowledge of “legalese” and did not understand most of the Consent that was read to him. He understood the words indicating he did not have to consent to the search as “I have to search”. He did not understand the meaning of withdrawing his consent and believed the police had to do the search. He did not know the meaning of “voluntary”, “coerced” or “advantage”. In answering a question from the Crown about why he signed the Consent, the applicant testified that Inuit feel obligated to sign papers presented to them by others and that he did not know what he was signing.”)

<https://www.canlii.org/en/nu/nucj/doc/2013/2013nucj8/2013nucj8.html?searchUrlHash=AAAAQAJaW51a3RpdHV0AAAAAAE&resultIndex=13>.



The creation of a territory and government in Nunavut with a 85% Inuit majority underscores the pressing need to bring about a cohort of Inuktitut mother-tongue lawyers, judges, court workers, police, first responders, and others, to play an active part in both the public practice of law, particularly for Inuit clients, in the realms of both criminal and civil law and social services generally.⁵¹

Inuit lawyers are also very much needed to serve as in-house counsel within both government and non-governmental organizations as part of the practical dimensions of enhanced Inuit self-determination. While there have been two special Inuit law school initiatives that have successfully graduated a number of Inuit graduates, there is as of yet no wider project that would, at some predictable date, offer Inuktitut speakers in Nunavut an option to have Inuktitut used as the primary language in a full set of criminal or civil proceedings.

As is the case with health care, the lack of an Inuktitut-language justice system in Nunavut is also a direct function of the Government's failure to train, hire, employ and maintain a representative level of Inuit lawyers, police and other justice and social workers in Nunavut, in violation of its Article 23 obligations, described in Section V above.

VIII. The Inadequacy of the *Indigenous Languages Act*

In 2019, the Parliament of Canada adopted the *Indigenous Languages Act*.⁵² The Preamble to the Act proclaims Canada's commitment to implement the *United Nations Declaration on the Rights of Indigenous Peoples*, stating that this Declaration "affirms rights related to indigenous languages." However, the substantive provisions of the Act do not enact enforceable language rights, obligations or such measures as international obligations require to remedy the discriminatory practices described above, including funding requirements. The new law does not ensure "the education of Indigenous children in their ancestral languages at public expense" or "the delivery of federal public

Private communication with legal counsel confirms that such issues are a regular occurrence. Interpreters are often not available for client interviews during court circuits, and, if available, generally have little to no familiarity with the court system or terminology.

⁵¹ Thomas Rohner, "*Future of Nunavut's justice system written in Inuktitut, says former judge*," Nunatsiaq News, June 29, 2016. ("I can't focus enough on language. When people are speaking about emotional issues, it's a different story in English than in Inuktitut. Court workers and interpreters, they do a great job, but that's a band-aid solution to make it work," [Judge Brown] said.)

https://nunatsiaq.com/stories/article/65674future_justice_in_nunavut_is_written_in_inuktitut_says_former_judge/

⁵² S.C. 2019, c. 23.



services in the Indigenous languages of the local or regional Indian, Inuit and Métis populations.”⁵³

Canada’s national Inuit organization, the Inuit Tapariit Kanatami, proposed a number of amendments to the Indigenous Languages Bill C-91, attached as Appendix 5, which would have gone a considerable way towards ensuring the provision of health, education and the administration of justice services in Inuktitut at the same level as enjoyed by other Canadians.⁵⁴ NTI’s President’s made presentations to the House of Commons and Senate Standing Committees on these amendments, attached as Appendices 6 and 7, which relay their importance to equality for Inuit.

In a thoughtful report, attached as Appendix 8, the Senate Standing Committee on Aboriginal Languages expressed its deep discomfort with the Government’s failure to address the basic right of Inuit to provision of essential services in one’s first language, which should be available to all Canadians.

Nonetheless, Canada did not accept any of ITK’s suggested amendments, thereby failing in its duties under the DRM to take necessary measures to ensure that Inuit may fully and effectively exercise our human rights and fundamental freedoms without any discrimination and in full equality before the law.

IX. Conclusion and Recommendations

Based on all the above, the Inuit of Nunavut seek the intervention of the Special Rapporteur for Minority Issues to address the injustices and discrimination described herein, through recommendations including these below

1. As discussed above, the lack of Inuktitut-language education, health and justice systems – as well as the failure of Government to provide many other public services in Inuktitut in Nunavut -- is a direct function of the Government of Canada and Nunavut’s failure to train, hire, employ and maintain a representative level of Inuit employees, including educators, health care workers, lawyers, police, justice and social workers and many others, all in violation of the Governments of Canada and Nunavut’s Article 23 obligations under the Nunavut

⁵³ Lorena Fontaine, David Leitch, Andrea Bear Nicholas and Fernand de Varennes, “*What Canada’s New Indigenous Languages Law Needs to Say and Say Urgently*,” September 15, 2017 at Observatoire des droits linguistiques at <https://www.droitslinguistiques.ca/blogue/6-blogue/458-what-canadas-new-indigenous-languages-law-needs-to-say-and-say-urgently?lang=es>

⁵⁴ See ITK Submission to the House of Commons Standing Committee on Canadian Heritage, Bill C-91: An Act respecting Indigenous Languages, February 21, 2019 (Attached as Appendix 2); Amendments to Bill C-91 Presentation by NTI President, Aluki Kotierk House of Commons Standing Committee on Canadian Heritage on Amendments to Bill C-91, February 26, 2019 (Attached as Appendix 3) Presentation of Aluki Kotierk, President of Nunavut Tunngavik Incorporated (NTI) to Senate Standing Committee on Aboriginal Peoples on Bill C-91 (Indigenous Languages Act) April 2, 2019 (Attached as Appendix 4).



Agreement. NTI urges the SRMI to recommend that these Governments immediately develop and implement Inuit Employment Plans and Pre-employment Training Plans with a focus on the achievement of the objective of employment of Inuit at a representative level in Nunavut.

2. As was sought by the Inuit in connection with the Indigenous Languages Act, the Government of Canada should immediately take steps to recognize Inuktitut as an Official Language within Nunavut, and to provide public services within Nunavut in the language of the majority, Inuktitut. NTI urges the SRMI to make this recommendation to the Government of Canada.

3. The 2010 Qikiqtani Truth Commission⁵⁵ recommended specific steps to redress the Government of Canada's colonial policies and educational initiatives from 1950 to 1975, which threatened and continue to threaten Inuit language and cultural practices. NTI urges the SRMI to adopt three of these recommendations in particular, which would contribute significantly to correcting the injustices described in this Letter of Allegations:
 - 15. The Government of Nunavut Department of Education should develop and distribute an Inuktitut and Inuit-based curriculum to all communities and direct school officials to implement it as soon as possible.
 - 18. The Governments of Canada and Nunavut should work together to develop and fund Inuit Language programs that will ensure that all Inuit and Qallunaat in Nunavut have the opportunity to learn the Inuit language.
 - 22. The Governments of Canada and Nunavut should ensure that government health, social and education programs and services are available to the people of Nunavut on a basis equivalent to those taken for granted by Canadians in the South.

4. The Final Report of the Missing and Murdered Indigenous Women and Girls⁵⁶ contains Calls to Action, which make it clear that the Government of Canada is well aware of the inequities that exist between Indigenous peoples and other Canadians, and the steps that need to be taken to address them. Specifically, NTI urges the SRMI to recommend that the Government of Canada implement the following Call to Action:

⁵⁵ Qikiqtani Truth Commission Final Report: Achieving Saimaqatigiingniq (2010).

<https://www.gtcommission.ca/en/news/qia-releases-action-qikiqtani-truth-commission-report>

⁵⁶ Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. <https://www.mmiwg-ffada.ca/final-report/>



- 2.2 We call upon all governments to recognize Indigenous languages as official languages, with the same status, recognition, and protection provided to French and English. This includes the directives that:
 - i. Federal, provincial, and territorial governments must legislate Indigenous languages in the respective territory as official languages.
 - ii. All governments must make funds available to Indigenous Peoples to support the work required to revitalize and restore Indigenous cultures and languages.

In closing, we thank you for your attention to this matter, which is of critical importance to Inuit of Nunavut.

Respectfully submitted,

Aluki Kotierk
President, NTI



Appendices

1. Tove Skutnabb-Kangas, Robert Phillipson and Robert Dunbar, *“Is Nunavut education criminally inadequate? An analysis of current policies for Inuktitut and English in education, international and national law, linguistic and cultural genocide and crimes against humanity.”*
2. Ian Martin, *“Inuit Language Loss in Nunavut: Analysis, Forecast, and Recommendations”* Glendon College, York University, Mar. 7, 2017.
3. Aluki Kotierk, *“Inuktitut: A Public Health Issue,”* Opening Remarks at the Indigenous Health Conference, Mississauga, Ontario, May 24, 2018.
4. *Systemic Investigation Report on the Investigation into the Qikiqtani General Hospital’s Compliance with The Official Languages Act*, Languages Commissioner of Nunavut, 2015.
5. Inuit Tapiriit Kanatami’s Proposed Amendments to Bill C-91 (Indigenous Languages Act).
6. Presentation by Aluki Kotierk, President of Nunavut Tunngavik Incorporated, to House of Commons Standing Committee on Canadian Heritage, on Amendments to Bill C-91, February 26, 2019.
7. Presentation by Aluki Kotierk, President of Nunavut Tunngavik Incorporated, to Senate Standing Committee on Aboriginal Peoples on Bill C-91 (Indigenous Languages Act), April 2, 2019.
8. Standing Senate Committee on Aboriginal Peoples, Sixteenth Report, April 30, 2019.

APPENDIX 1

**Is Nunavut education criminally inadequate?
An analysis of current policies for Inuktitut and English in education,
international and national law,
linguistic and cultural genocide and crimes against humanity¹**

Tove Skutnabb-Kangas, Robert Phillipson and Robert Dunbar²

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Abbreviations and Acronyms

CO ₂	Carbon dioxide (emissions)
CRC	[the] <i>Convention on the Rights of the Child</i>
CSCE	see OSCE
DEA	District Education Authority
EATEP	Eastern Arctic Teacher Education Program
FTE	Full time equivalent
Genocide Convention	the <i>United Nations Convention on the Prevention and Punishment of the Crime of Genocide</i> 1948
GPE	Global Partnership in Education
ICSU	International Council for Science
ILPA	<i>Inuit Language Protection Act</i>
ICCPR	[the] <i>International Covenant on Civil and Political Rights</i>
ICESCR	[the] <i>International Covenant on Economic, Social and Cultural Rights</i>
ICERD	[the] <i>International Convention on the Elimination of all forms of Racial Discrimination</i>
ILO	International Labour Organization
IQ	Inuit Qaujimagatuqangit
ITM	Indigenous/Tribal, Minority and Minoritised/Marginalised languages/people/children
K-3	from Kindergarten to Grade 3; K-12 – from Kindergarten to Grade 12
L1	First language (mother tongue)
L2	Second language (or foreign language)
LHRs	Linguistic Human Rights
LOI	Language of Instruction (the teaching language)
LWC	Language of wider communication, e.g. English
MAJ	Majority
MIN	Minority (or Minimum, in the Nunavut Immersion Min education model)
MLE	Multilingual Education; Mother-Tongue-Based Multilingual Education (sometimes abbreviated as MTB-MLE)
MT	Mother tongue
NILFA	Nunavut Inuit Labour Force Analysis
NTI	Nunavut Tunngavik Incorporated
OECD	Organisation for Economic Co-operation and Development
OLA	<i>Official Languages Act</i>
OSCE	Organisation for Security and Cooperation in Europe (earlier Conference for Security and Cooperation in Europe)
PISA tests	The Programme for International Student Assessment
TEK	Traditional Ecological Knowledge
TESOL	Teachers of English to Speakers of Other Languages
TRC Report	Truth and Reconciliation Commission of Canada (2015). <i>Honouring the Truth. Reconciling for the Future</i>
UNDRIP	[the] <i>United Nations [General Assembly] Declaration on the Rights of Indigenous Peoples</i>
UNESCO	United Nations Educational, Scientific and Cultural Organization

We are saying we have the right to determine our own lives. This right derives from the fact that we were here first. We are saying we are a distinct people, a nation of people, and we must have a special right within Canada. We are distinct in that it will not be an easy matter for us to be brought into your system because we are different. We have our own system, our own way of life, our own cultures and traditions. We have our own languages, our own laws, and a system of justice (Andre 1987a).

Chapter 1. Introduction: the task, and how it has been approached

This report is a result of an approach by the President of Nunavut Tunngavik Incorporated (NTI), Aluki Kotierk. In September 2018 she asked Tove Skutnabb-Kangas whether she would be able to undertake an assessment of Nunavut education. Ms. Kotierk was familiar with expert reports written by Tove Skutnabb-Kangas and Robert Dunbar for the United Nations Permanent Forum on Indigenous Issues in 2008. These reports were expanded into a study entitled *Indigenous children's education as linguistic genocide and a crime against humanity? A global view*, which was published in 2010 by Gáldu, the Resource Centre for the Rights of Indigenous People in Guovdageaidnu/ Kautokeino, Norway. Aluki Kotierk had read that subjecting Indigenous children to 'forms of subtractive education ...results in very serious and often permanent harmful mental and physical consequences' and that 'such education is...in clear violation of a range of human rights standards...'. This report assessed to what extent the evidence in Nunavut of how education functions can be considered as constituting a crime against humanity or as constituting cultural and linguistic genocide.

The present report has been written by Tove Skutnabb-Kangas and Robert Phillipson, who have co-authored and edited many books on Linguistic Human Rights worldwide, multilingual education policy, including mother-tongue-based multilingual education, the role of English in the modern world, and related topics (see our home pages), and Robert Dunbar, a lawyer who specialises in minority rights and particularly in minority language and related human rights.

In the 2016 census, 1.6 million Canadians reported having an Indigenous identity, with only 260,000 reporting the ability to conduct a conversation in an Indigenous language. There are currently 58 distinct Indigenous languages in Canada, comprising more than 90 distinct dialects. Six of the languages had more than 10,000 people who reported that it was a mother tongue: the Cree languages, Dene, Innu, Inuktitut, Ojibway and Oji-Cree. Since at least the 1940s, serious concerns have been expressed by Indigenous organisations in Canada about the decline in the use of their languages.³ Many Indigenous individuals did so as early as in the 18th century (see Chapter 3). A large number of general old and new studies from several disciplines have described the linguistic and cultural decline (e.g. Clark 1996; Chuffart 2017). This decline is continuing to this day (2019), despite many attempts to counter it.

Formal education, earlier and today, is one of the main contributors worldwide to the decline of most marginalised languages. These are called ITM languages: Indigenous/Tribal, Minority, and Minoritized/Marginalised languages.⁴ Of the world's over 7000 spoken languages (<https://www.ethnologue.com/statistics>), roughly 85 per cent are Indigenous/tribal (Loh & Harmon 2018, 678). They will become endangered⁵, unless formal education is organised so that it supports both maintenance and the revitalisation of these ITM languages, using them as the primary languages of instruction in schools. Many if not most of these languages might cease

to exist, or at least not be learned by children any longer by the year 2100⁶. Support for these languages in formal education is even more urgent in situations where there is a high proportion of young people, as in Nunavut (and in many African and Asian countries).⁷

It appears that in Nunavut, despite many good intentions and plans, the formal education of Inuit students is not achieving good results, nor does it live up to the wishes of most parents, or follow principles that research has identified as necessary for good results, as explained in Chapter 3

This worry was the background for Nunavut Tunngavik approaching us to explore this issue.

This **Chapter One** is a general introductory chapter on the task assigned to us and how we have addressed it.

Chapter Two, Social conditions in Nunavut and their impact on educational language policy, presents demographic data, social conditions in Nunavut, educational and linguistic facts and figures, and some of the myths that serve to maintain the dominance of English, and the consequences of this.

Chapter Three, Language and education discusses econocide and historicide, where Indigenous peoples and minorities are seriously harmed through economic means or by excluding them from history. Ecocide harms their environment and the Arctic bears the brunt of it much more than other regions of the world. Linguistic and cultural genocide are presented from a multidisciplinary point of view, drawing on the social sciences rather than law, which is covered in Chapter 4. Also covered are language-related misconceptions, fallacies, and myths, and those results of education which are based on these and other false beliefs. Some research results, old and recent, are discussed: how should Indigenous education be organised for positive results? How can one address the threat for our planet that today's ITM education causes when it is failing to transmit Traditional Ecological Knowledge? Unmet challenges, and reasons for the lack of implementation of what has been proposed in Nunavut are considered. We then discuss some so far unmet prerequisites for full Inuktitut-medium education from kindergarten to grade 12.

Chapter Four, Domestic and international legal obligations, summarises national law in Canada and in Nunavut, and relevant international law and declarations on the rights of minorities and Indigenous peoples.

A concluding **Chapter Five, Conclusions** assesses to what extent a case can be made for conclusions on whether the functioning of education in Nunavut can be considered as constituting a crime against humanity and cultural and linguistic genocide. We also consider the extent to which the functioning of education in Nunavut is consistent with Canada's broader international legal commitments and with domestic law, both of Canada and of Nunavut.

There is an Appendix with the **References** used. Initially there is a list of the abbreviations and acronyms used in the report.

Notes:

¹ Our warmest thanks to Aluki Kotierk, Kilikvak Kabloona, Janine Lightfoot, Qajaaq Ellsworth, and Lizzie Aliqatuqtuq from Nunavut Tunngavik Inc; Derek Rasmussen; Ian Martin, Lorena Sekwan Fontaine, Andrea Bear Nicolas, Davit Leitch and Fernand de Varennes; and all (other) researchers who sent us materials. We need to stress that we alone are responsible for what has been written in the report.

² Professor Robert Dunbar, University of Edinburgh, home page <https://www.ed.ac.uk/profile/rob-dunbar>; Professor emeritus Robert Phillipson, Copenhagen Business School, Denmark, <http://www.cbs.dk/en/staff/rpmssc>; Dr.Phil. Tove Skutnabb-Kangas, Åbo Akademi University, Finland (emerita), <http://www.Tove-Skutnabb-Kangas.org>.

³<https://www.ourcommons.ca/Content/Committee/421/PROC/Reports/RP9993063/procrp66/procrp66-e.pdf>.

⁴ We use the abbreviation ITM throughout the report. It stands for Indigenous/Tribal, Minority, and Minoritized/Marginalised languages and people/s. There are many terms for what is here called Indigenous/Tribal peoples (e.g. First Nations, Aboriginal peoples, etc), but we follow the custom in several international Conventions and Declarations. Minoritized is not a demographic term (for instance Inuit in Nunavut are a demographic majority). It is a relational term about power relations, as is Marginalised. For more, see Annamalai & Skutnabb-Kangas, in press.

⁵ See Grenoble (2018), Hinton et al. (eds) (2018), Aikio-Puoskari & Skutnabb-Kangas (2007).

⁶ Michael Krauss (1992) started the discussion with the first prognoses. UNESCO uses the figures of both 50% and 90% in various publications. See also Krauss, Maffi & Yamamoto 2004.

⁷ In Nunavut the median age was 24,8, compared to Canada's 39,9 (quoted from Nunavut Bureau of Statistics: Nunavut population, October 2015, by Inutic 2016, 4). Statistics Canada, in their latest update, December 20, 2018, estimated Nunavut's population to have increased during the third quarter of 2018 by 0,7, as compared to Canada's 0,5.

<http://www.stats.gov.nu.ca/Publications/Popest/Population/Nunavut%20and%20Canada%20Population%20Estimates%20StatsUpdate,%20Third%20Quarter%202018.pdf>

CHAPTER TWO. SOCIAL CONDITIONS IN NUNAVUT AND THEIR IMPACT ON EDUCATIONAL LANGUAGE POLICY

2.1 Demographic and social welfare data in the Nunavut context

Canada has experienced a substantial increase in its immigrant population over several centuries, to a land of over 60 Aboriginal (Indigenous) languages. Two immigrant languages have been consolidated as languages of power. Most Aboriginal languages in Canada have succumbed to massive assimilationist pressures. They either no longer exist or are seriously endangered. This is the case even if census data as recently as in 1991 indicated that the linguistic vitality of Inuktitut, with 88 per cent reporting mother tongue use in the home, was uniquely high (Drapeau 1998, 149).

However, *the survival of Inuktitut is at risk* for many reasons: 'Native-language groups form linguistic enclaves, scattered over an immense territory and encapsulated within white society. Geographic isolation no longer protects them and lack of geolinguistic strongholds is a powerful drawback. Likewise, the dearth of written corpora in most aboriginal languages has a profound impact on their survival, and on the types of effort that can be made to strengthen their position. ... Even with increasing control and self-government, aboriginal people nevertheless make up a small minority with only minimal power' (Drapeau 1998, 157).

In Nunavut there is *an increasing shift into English*, corresponding to the pressure on all Canadians to assimilate into one of 'two equally ethnocentric societies', Anglo-Canadian or French-Canadian, in the spirit of the racist myth of two 'founding peoples', whose history dominates the curriculum in schools (Mackey 1998, 25). The progressive shift into English in provinces other than Québec is striking. 'By 1980, for example only 55 per cent of the population of French origin in the provinces of Saskatchewan and Alberta could still claim French as their mother tongue. For other minorities – Ukrainian, German, Italian – the proportion was even less. Most grandchildren of the first settlers from Germany, Italy, the Ukraine and other countries did not preserve their ethnic tongue as their home language' (Mackey 1998, 23). These pressures are also in force and increasingly prevalent in Nunavut.

In the *Annual Report of the Nunavut Languages Commissioner for 2017-2018* the Commissioner, Helen Klengenbergs⁸, states that in Nunavut the use of English is increasing at the expense of both Inuktitut and French.⁹ The Languages Commissioner is dissatisfied that Inuktitut is not more widely used throughout the territory. The Commissioner's mandate on language issues - as an advisor, monitor, ombud and advocate - does not explicitly exclude education. However she does not appear to have covered education in detail in this report. The Conclusion of the Executive Summary states:

While respecting the equality of official languages, the *Inuit Language Protection Act* was designed specifically to ensure respect for unilingual Inuit, to reverse language shift among youth, and to strengthen the use of Inuktitut among all Nunavummiut. In order to respond to the pressures confronting Inuktitut, and to ensure that its quality and prevalence are protected and promoted in Nunavut, we intend to place emphasis on the implementation of the Inuit Language Protection Act and the respect of Inuit language rights. Inuktitut should be a language in the day- to-day services provided by governments (territorial and federal), municipalities and private sector bodies to the public in Nunavut.¹⁰

Census data from Statistics Canada in 2016 reveal that

- 52% of Inuit live in crowded homes;
- income is much lower than the Canadian average;
- life expectancy is 10 years lower;
- infant mortality is three times higher;
- suicide rates are 10 times the national average;
- 70% of Inuit homes are ‘food insecure’;
- 63% of Inuit adults smoke;
- there are high rates of tuberculosis;
- 32% of Nunavut Inuit have a high-school diploma or equivalent, and
- the population growth rate is much higher than in Canada as a whole.¹¹

An additional factor is that a high proportion of Inuit children are hard of hearing as a result of vulnerability to chronic otitis media, which adversely affects learning, especially if it is in an unfamiliar language. A similar situation is reported for Australian Aboriginal children.¹²

This stark picture of *inequality and appalling social conditions* is far from comprehensive because ‘there are no recent, national level sources of data for Inuit children. Most indicators included here are not developed by Inuit and do not adequately measure the reality of our people, communities, cultures and histories’ according to the Inuit Tapiriit Kanatami.¹³

Canada is a product of imperialism by both the French and the British. Colonisation imposed territorial dispossession and rapid cultural change, including forced population resettlement schemes and the invidious residential schools for Indigenous children. In addition, recent decades have seen a substantial ecological transformation of the Arctic region due to climate change (see ecocide in subchapter 3.9). Pollution means that Inuit in Canada are ‘identified as having the highest concentrations of heavy metal contamination of any population on the planet ... higher rates of cancer and neurological damage in children’ (Greaves 2016, 43). 85% of suicides are by young men, at a rate that has more than doubled in the past decade’ (Greaves 2016, 47). While there are multiple causes, it is evident that young people have been traumatically wrenched away from the nomadic hunter life of their ancestors, and its cultural norms, social practices, customary diets, and belief systems. The Inuit have been forcibly adapted to urban, capitalist lifestyles that the young cannot readily identify with and that they see no viable future in.

The figures for *language use in Nunavut* are

- 89% are able to converse in Inuktitut
- 58% have Inuktitut as the most used language in the home
- 77% declare Inuktitut as their mother tongue.

A technical note on these figures adds that ‘Language information is based on self-assessment, rather than a formal assessment tool. While information on the percentage of Inuit who can speak Inuktitut well enough to have a conversation is useful, it can hide some important changes. For example, due to ongoing language erosion, it is likely that many younger Inuit who report being conversant in Inuktitut cannot speak the language to the same level of proficiency as older Inuit in either Inuktitut or Inuinnaqtun.¹⁴

The Languages Commissioner of Nunavut in the Annual Report for 2017-2018, page 174, states:

Out of a population of 35,695 Inuktitut, (including Inuktitut and Inuinnaqtun) is the mother tongue of 22,565 people (63.2%). The number of Inuktitut mother tongue speakers has increased by 1,050 speakers from 2011, although the overall percentage has decreased by 4.5% throughout the years. Inuktitut is the language spoken most often at home for 25,405 people; this is a 6.7% growth from 2011 to 2016. Inuktitut is the mother tongue of 22,070 Nunavummiut (61.8%) and is the language spoken most often at home of 17,600 Nunavummiut (49.3). It is the mother tongue of 70.9% of Nunavummiut in the Qikiqtaaluk region, of 70.4% in the Kivalliq region and of 22.2% in the Kitikmeot region. Inuinnaqtun is the mother tongue of 495 Nunavummiut (1.4%). Speakers are mostly in Cambridge Bay and in Kugluktuk. It is the language most spoken at home for 110 people.

Being conversant in Inuktitut does not necessarily mean knowing the language well enough for success in the higher grades in school, nor for being able to work in Government jobs in Inuktitut, nor does it indicate high-level literacy in the language.

Statistics for the school population in Nunavut are as follows:

On 30 September 2017, there were 10,041 students enrolled in Nunavut public schools.¹⁵ The numbers (including full- and part-time students) were as follows:

Kindergarten: 802

Grade 1: 832

Grade 2: 806

Grade 3: 849

Grade 4: 788

Grade 5: 788

Grade 6: 737

Grade 7: 693

Grade 8: 694

Grade 9: 712

Grade 10: 912

Grade 11: 728

Grade 12: 776

Total: 10,829.

There were 291 graduates from Nunavut public schools, an increase of 39 or 15.5% from the 2016/2017 school year¹⁶.

Nunavut is home to about 90 French-speaking students, and 430 English mother-tongue students, mostly non-Inuit. Of the 43 schools across Nunavut, one in Iqaluit operates in French.

A minority of schools in Nunavut identify an ability/capacity to use Inuktitut as the medium of instruction in kindergartens and in the first three grades of schooling. To have claimed the capacity does not necessarily mean that the schools in fact use Inuktitut. Far fewer schools claim the capacity to use Inuktitut in higher grades. Chapter 3 presents more details of the policy on language in education. There is considerable regional variation, but the overall picture is that the system cannot live up to the requirements in the laws. This is partly due to the dramatic shortage of qualified teachers. This will be even greater as current Inuktitut speaking teachers retire. A population increase also means that more teachers are needed.

The Canadian federal government ‘delivers \$8,189 per francophone for language programs in Nunavut, while providing \$186 per Inuktitut speaker, meaning the federal government spends 44 times more on French in Nunavut than it does on Inuktitut’, reports Aluki Kotierk, the President of Nunavut Tunngavik Inc., and the Inuit signatory to the Nunavut Land Claim, in a speech to the Inuit Circumpolar Council Education Summit in Nuuk, Greenland, on February 15, 2018.¹⁷

In international comparative studies of educational achievement undertaken by the OECD, the PISA tests, which evaluate capacity to contribute to the modern economy, Canada is ranked among the ten best countries (Hanushek & Woessmann 2015). However, the tests are monolingual, meaning that the bilingual and bicultural needs of Nunavut are ignored in such tests. This reduces their relevance.

2.2 The geostrategic and economic context

The subsistence economy of Nunavut has been radically changed by policies that federal Canada has determined and by climate change. The holistic Inuit understanding of cultural maintenance is in marked contrast to the government of Canada’s approach to the Arctic. The Inuit are up against a federal government focus on defence and resource extraction, in a perpetuation of colonial insensitivity to local cosmologies, ecology, cultures and practices. The Inuit are ‘primarily concerned over threats to the Arctic environment, their Indigenous identity, and their political autonomy, but emphasize the interrelated nature of these security issues’, but ‘Canada’s Arctic security discourse and its current Arctic policy framework remain fundamentally colonial’ (Greaves 2016, 53).

This study, by a scholar based at the Trudeau Centre for Peace, Conflict and Justice at the University of Toronto, states that wealthy countries like Canada have ‘strong legal frameworks respecting certain Indigenous rights; certain social benefits including public welfare, employment insurance, health services, and support for Indigenous language and education’. What is notably absent from the study is any consideration of the role of inappropriate education and language policies, and their importance in perpetuating cultural colonisation. It states that as compared with Indigenous peoples elsewhere, ‘Arctic Indigenous peoples enjoy relatively good qualities of life, relatively benign relationships with the settler-colonial governments under whose sovereign authority they live’ (Greaves 2016, 39), a conclusion that does not fit with the realities of Nunavut life, as described earlier.

A second study, by Heather Exner-Pirot on human security in the Arctic, stresses the importance of economic factors in causing poverty, insecurity, and anomie, and potentially in counteracting them (Exner-Pirot 2016.). In this assessment, based on the experience of Alaska, Greenland, and the Canadian Arctic, what is important is to strike a balance between environmental concerns and economic security. This entails, in her view, that Nunavut should be open to investment and resource exploitation and thereby more ecocide, rather than resisting it.

There is detailed statistical information on employment in Nunavut, in all categories, in the quarterly report *Toward a Representative Public Service*, as of 31 December 2018, published by the Minister of Finance for the Government of Nunavut,¹⁸ At present there are major problems of Inuit under-employment, one cause of which is lack of formal qualifications. Of the 16,485 adults aged 25 to 64 in Nunavut, 41% had not completed high school in 2016 (the Canadian average was 8%). If the education system has been insensitive to local needs, and is mainly conducted through the medium of English, it is arguable that Inuit are pushed out rather than drop out. They opt out of what is seen as irrelevant education. 49% of non-

Inuit adults in Nunavut had a university degree, compared with 3% of Inuit. In Canada as a whole the unemployment rate in 2016 was 7.7%. ‘In Nunavut it was the highest in the country and increased from 17.9% in 2011 to 21.5% in 2016. Inuit had an employment rate much lower than non-Inuit, with 45.0% compared to 88.7%. In Nunavut, Inuit aged 15 and over comprised 80% of the working-age population in 2016, but represented only 67% of the employed people in the territory.’

Analysis of economics, poverty, and resource exploitation is explored in depth by Amartya Sen (see chapter 3 of this report) and Vandana Shiva (1997, 2005).

2.3 Residential schools

The definitive history of residential schools by John Milloy records that the fundamental purpose of Canadian residential school education from 1879 onwards was ‘to “kill the Indian” in the child for the sake of Christian civilization’ (Milloy 1999, xv). This entailed a direct attack on Aboriginal languages and cultures. One reason why First Nations children were treated so abominably throughout the entire lifetime of the schools until the 1980s was underfunding by the Canadian government. As early as 1922, the appalling conditions in them were described as ‘*a national crime*’ by the Chief Medical Officer of the Indian Department. The authorities were informed about many children dying from tuberculosis, under-nourishment, insanitary living conditions, as well as humiliating corporal punishment, under-qualified teachers, sexual abuse, all of which resulted in poor academic achievements. These conditions were allowed to continue.

In addition to the indefensibly poor physical conditions, the assault on Aboriginal culture, worldviews and spirituality was devastating, as admitted retrospectively in 1992 by the church organizations that were responsible for the schools: ‘they “shared responsibility with government for the consequences of residential schools,” which included not only individual cases of physical and sexual abuse but also “the broader issues of cultural impacts: ... the loss of language through forced English speaking, the loss of traditional ways of being on the land, the loss of parenting skills through the absence of four or five generations of children from Native communities, and the learned behaviour of despising Native identity” ’.

Schools for Inuit were developed later than elsewhere in Canada. They were supposed to be more culturally sensitive to the way of life in the far north. However, the reality was that ‘the impact of residential education in the north was the same as in the south’. Despite some concern for Inuit languages and work on Inuit orthography, in the 1960s ‘the schools were not bilingual and the language of instruction was certainly not Aboriginal’. The teachers saw their mission as to ‘make the children “white” and able only to take their place in the outside system’, using textbooks that served this purpose. The Canadian authorities were warned by Bishop Marsh, an Anglican, that despite a rhetoric of good intentions, the key institutions, ‘all of them – church, state and industry – were part of a colonizing project that had been “thrust” on Aboriginal communities of the north. ... “We as a nation are responsible for having done this” and we will indeed ‘rue the day to our sorrow and in turn to the sorrow of the Eskimo people” and all Aboriginal people’.

The Truth and Reconciliation Commission Report shed some light on these historical scandals (see subchapter 3.1). If Reconciliation is to become a present-day reality, then there needs to be an end to the inequitable treatment of Inuit, their culture and languages.

Change in the organisation of education is an important way of realizing this, as is recognised in some legislation and in the strong recommendations in the Final Report of the Conciliator, Thomas Berger, in 2006.

2.4 Professional development for Nunavut

The *Nunavut Inuit Labour Force Analysis* (NILFA) contains over a thousand pages of statistics about the Nunavut population, education, labour force status, training, skills, government job requirements, vacancies, and a profile of Inuit government employees.¹⁹ The overall goal of the analysis is to assess the extent to which governments are moving towards a level of 85% Inuit employees within Nunavut, corresponding to the ethnic demographical profile of the territory. A thorough report on highlights of the NILFA and of preconditions and needs for greater Inuit participation was prepared by Nunavut Tunngavik Inc. in October 2018.

The NILFA presents a comprehensive survey of further education, with facts and figures about participation in a wide range of professional areas. The lengthy chapter 7 describes where Nunavut Inuit have gone for further education, all over Canada, and for what sorts of specialisation. While there is plenty of activity, it is clear that a great deal more remains to be done in efforts to ensure better-qualified Inuit for employment in Nunavut. The system itself needs to be radically changed so as to better meet the needs of Nunavut and to eliminate barriers to access to relevant training. The Analysis reveals that the proportion of Inuit in existing schemes is too low, too few are in teacher training, and even fewer in translation and interpretation. It also indicates that all of the training is being done in English. Even if a reasonable number declare that after getting qualified, they use Inuktitut in their work, and even if the Inuit identity of participants is strengthened in such programmes, the fact that the entire system functions in English strengthens competence in English massively, and not technical or professional operational competence in Inuktitut. This is bound to mean that students internalise English as the language of skills, jobs, success, modernity, and increased opportunities nation-wide. It is difficult to avoid the conclusion that current training represents assimilation to ‘white’ norms.

2.5 The power of English

The traumatic dispossession of the Indigenous peoples of their lands and cultures also entailed linguistic dispossession. Monolingual residential schools played a key role in achieving this linguistic dispossession. This policy can be traced back to the policy of *terra nullius* and the doctrine of ‘discovery’.

The English philosopher John Locke in 1690 provided a rationalisation for Europeans arrogating to themselves a God-given right to occupy territory elsewhere. Land in what became named the Americas was seen as *terra nullius*, land belonging to no-one, to which its benighted inhabitants had no claim or rights (Locke 1988).

The doctrine of discovery has its origins in common law in the United States (*Johnson v M’Intosh*, 21 US (8 Wheat) 543 (1823)) and can also be seen in Canadian law (*St Catherine’s Milling and Lumber Co v R*, [1888] UKPC 70, 14 App Cas 46). The effect of the doctrine is that upon ‘discovery’ of North America by Europeans, they gained absolute right to the lands, as explained by James (Sa’ke’j) Youngblood Henderson (2017). Europeans thereby acquired sovereignty, legislative power and underlying title, which left Indigenous peoples as occupants on the land, with only some rights of possession and use that could be unilaterally revoked. Underlying the doctrine’s foundation were papal bulls from the fifteenth century that gave Christian explorers the right to claim lands they had discovered on behalf of their monarchs.

Non-Christian inhabitants of those lands were treated as ‘savages’ who could be converted, or killed.

Linguistic dispossession was widely practiced throughout the British and French Empires. This language policy was already in force in the UK and France, with deliberate attempts to eliminate Welsh, Scots Gaelic, Breton, Basque, and other languages. Banning languages in education, as in residential schools, is *linguicism*²⁰, discrimination on the basis of language and their replacement by another. Linguicism combines with racism in installing and reproducing a hierarchical, unequal social structure.

The *structural* processes in linguicism involve the assignment of fewer material resources to marginalised languages. The Inuit languages and their speakers receive less than speakers of English or French. This means smaller school budgets for Inuit children, and less time in the curriculum for Inuktitut languages, cultural history, and functional use. Since English is the dominant language of the administration of Nunavut, of politics, the modern economy, and education, the use of Inuktitut is constrained. It is weakened rather than strengthened.

In addition to structural discrimination, linguicism is established and maintained through *ideological* processes, affecting attitudes to languages, and beliefs about the value and relevance of particular languages. Assumptions about the purported superiority of English, and why it can be seen as ‘natural’ to use it are often internalised subconsciously in a hierarchical ordering of languages. This affects people as much in Ottawa as in Cambridge Bay.

Granting minority or minoritised languages some space in schools, but in a subordinate position to English and French, perpetuates discrimination. Granting no space constitutes linguicide. Linguicist language policy supports the political economy of the dominant group while ensuring control of the mental and intellectual resources of colonised peoples. The structural and ideological force of English can be internalised as inevitable and desirable, and something one should accept voluntarily. This is how oppression and subordination function.

The power of English worldwide is a result of the extent of the British Empire in the 19th and 20th centuries, and military defeat of the French in Canada, Europe, and India. British power has been eclipsed by American power globally, in military, economic and political affairs. The power of English in Canada is due to its continued membership of the British Commonwealth, and the country’s proximity to the United States, and the influence of US corporations in many spheres of Canadian life, including in education. The impact of English is also boosted by its widespread use in the media, television and radio, the internet, social networks, and youth culture.

2.6 The myths of the universal relevance of English

The globalisation of American culture in a vast set of domains and through McDonaldisation processes – the influence of Hollywood, media products, consumerism, clothing, business practices, business schools, the privatisation of public goods and services, etc. – can be seen as a development from *terra nullius* to a global *cultura nullius*. One interlocking element of this is the expansion of English to most parts of the world (Phillipson 2017, 2019).

English is fraudulently marketed as a universal need, a *lingua nullius* that can be used for all purposes everywhere. This doctrinal myth is that it should be used in all education systems, irrespective of the cultural and linguistic backgrounds of learners, and as though it is equally necessary for the entire globe’s population and ought to replace other languages. English is promoted as though it is the only language you

need in international affairs, an argument that falsely makes other languages invisible. This pernicious myth is energetically promoted in the UK and USA, and has probably been internalised in all parts of Canada, including in Nunavut, with the exception of Québec, which, as a province in Canada, has rejected the myth.

The myths are unscientific. English is ascribed pride of place in education because it is supposedly needed for ‘development’, as if other languages cannot serve such purposes. Needs should be determined locally. Another common myth is that the professional training in English as a second or foreign language is apolitical, and not connected to the political, economic, and techno-military forces that underpin the dominance of the language.

This is also related to the tests of language proficiency that are in widespread use internationally, as though these are culturally neutral, objective and valid worldwide. Additional myths are that textbooks produced by British and American publishers are universally appropriate, whereas what is essential in education is that textbooks relate to local cultures and needs.

A further myth is that all or most relevant scholarship is written in English, whereas knowledge is embedded and expressed in many languages. Publication is important not only in demographically or politically important languages – including French, Spanish, and Portuguese in the Americas – but it has been and is increasingly being undertaken in minority languages, also because the content is of local importance. Thus in the Saami Arctic areas in northern Europe, academic studies are being written in, or translated into Saami languages. Popularisation for a wider audience, and an international readership, can be undertaken in other languages.

English has even been projected as ‘*the* language of human rights’, in much the same way as the superiority of French was marketed earlier, as though human rights should be intrinsically related to a specific language. In fact, human rights are by definition universal and are being formulated, discussed in, and realized in a very wide range of languages (including Sign languages).

All these examples demonstrate ethnocentricity and Westerncentricity that unjustly privilege certain languages and value systems, while stigmatising and degrading others, and rationalising this unequal relationship as ‘natural’ and ‘beneficial for the ITMs and their languages and cultures’.

Notes:

⁸ Helen Klengenber was appointed as Nunavut Language Commissioner for a five-year period on 15 June 2017.

⁹ <http://langcom.nu.ca/2017-2018-annual-report>.

¹⁰ ‘During the 2018–2019 fiscal year, we will continue to inform the public and obligated bodies of their language rights and obligations, respond to concerns received, monitor and examine the progress of obligated bodies in meeting their obligations under the *Official Languages Act* and the *Inuit Language Protection Act*. The official languages need to be considered consistently and the Languages Commissioner will scrutinize and work to influence policies by prioritising territorial issues which will have the most impact on the official languages’ (pp. 166-167).

¹¹ This information is on *Social and Economic Inequity in Inuit Nunangat*, reported in the *Inuit Statistical Profile 2018* produced by Inuit Tapiriit Kanatami. <https://www.itk.ca/wp-content/uploads/2018/08/Inuit-Statistical-Profile.pdf>.

¹² Reported in *Australia Health 2018*, a report of the Australian Institute of Health and Welfare, <https://www.aihw.gov.au/getmedia/12c11184-0c0a-43ad-8386-975c42c38105/aihw-aus-221-chapter-6-4.pdf.aspx>.

¹³ It might be useful to compare these with the Arctic Social Indicators in Larsen et al. 2014, especially the article by Schweitzer.

¹⁴ *Inuit Statistical Profile 2018* produced by Inuit Tapiriit Kanatami.

¹⁵ Elementary-Secondary Education Survey for Canada, the Provinces and Territories in the school year 2016/2017, released by Statistics Canada, November 2, 2018.

¹⁶ <http://www.stats.gov.nu.ca/en/Social%20education.aspx>

¹⁷ <https://www.macleans.ca/opinion/on-the-inuktitut-language-the-inuit-may-have-been-too-welcoming/>.

¹⁸ <https://www.gov.nu.ca/finance/documents/toward-representative-public-service-statistics-public-service-within-government>.

¹⁹ <https://www.canada.ca/en/employment-social-development/corporate/reports/research/nunavut-inuit-labour-force-analysis-summary.html>.

²⁰ Linguicism: 'ideologies, structures and practices which are used to legitimate, effectuate, regulate and reproduce an unequal division of power and resources (both material and immaterial) between groups which are defined on the basis of language' (Skutnabb-Kangas 1988: 13). Most education systems worldwide for Indigenous/tribal peoples and minorities reflect linguicism (Skutnabb-Kangas 2000, Skutnabb-Kangas & Dunbar 2010).

CHAPTER 3. LANGUAGE AND EDUCATION

That's the whole reason why the land claims took place, because we were losing our language... a lot of us who went to school, who were the first Inuit going to school, practically lost out on this because we were told not to speak our language and ... I think that that's part of the whole land claims process. Once you have the language the culture is strong.

(Paul Quassa, in Robinson & Power 2013, 3).

*As long as we have the language,
we have the culture.*

*As long as we have the culture,
we can hold on to the land.*

(Manu Metekingi, from Whanganui iwi, Aotearoa/New Zealand)²¹,

Grandmothers and Grandfathers

*Thank you for our language
that you have saved for us.*

*It is now our turn to save it
for the ones who are not yet born.*

May that be the truth.

(from Maliseet Honour Code, written by Imelda Perley, quoted in Kirkness 2002: 23)

Elders sometimes say that their children have had to learn the Canadian way in order to fight for the peoples' rights, and to resist the expropriation of their lands and culture. Sometimes these elders speak as if it has been necessary to sacrifice much, including their relationships with their own children, to secure the kind of life and future in which they believe. Discontinuity is accepted as a price for continuity. For people who love their children with such passion, and treat them with respect that is underpinned by so many fundamental beliefs, this has been a terrible price to pay (Brody 1987, 146-7).

How long does it take to kill a language, in a context where the absolute majority of the population speaks it, in an area which is relatively separate from the dominant language speakers? One example is Manx on the Isle of Man,

a self-governing British Crown Dependency with a population of some 88,000. Manx began to decline for three reasons: from 1765 under the rule by the British Crown and its English-only government administration, the rise of English tourism in the 1830s, and the enactment of the 1870 Westminster Elementary Education Act, making primary education through the medium of English compulsory for the island's children. By 1974, the last first-language Manx speaker reportedly had died. After around 100 years of English-medium education, despite the self-governing status, there were no speakers of Manx left... Today, Manx has been reclaimed, and is again used by 1,800 speakers', Robert Teare (in press) reports.

How long have Inuit in Nunavut had English-medium education? They have resisted assimilation for longer than most other ITM people. Resilience!

3.1. Introduction

In this Chapter, we discuss the role of language in education, relating it to linguistic and cultural genocide from a historical, sociological, linguistic, psychological, economic, cultural anthropology and political science point of view, i.e. NOT from a legal point of view as in Chapter 4.

Educating a child always happens in a holistic social context, and understanding that context is vital for any educational changes. Unless the explicit and only intention in writing a report is to take a state to court (where a much more ‘technical’ report is required), there is no reason to restrict a discussion of genocide to the discipline of law – genocide has been described and discussed in many scientific disciplines. We start with a short historical summary of Aboriginal education in Canada and relate it to how cultural (including linguistic) genocide in relation to education has been understood in some disciplines.

The Summary of the final report of the *Truth and Reconciliation Commission of Canada* (2015). *Honouring the Truth. Reconciling for the Future* (TRC) shows throughout its almost 400 pages in detailed ways how the Linguistic Human Rights (LHRs) of Inuit and First Nations were constantly and intentionally violated, and uses the concept ‘cultural genocide’ for it. The report does not mention linguistic genocide; ‘language’ seems to be subsumed under ‘culture’.²² The Report starts (p. 1):

For over a century, the central goals of Canada’s Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as ‘cultural genocide.’ *Physical genocide* is the mass killing of the members of a targeted group, and *biological genocide* is the destruction of the group’s reproductive capacity. *Cultural genocide* is the destruction of those structures and practices that allow the group to continue as a group. States that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted. *Languages are banned* [our emphasis]. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly for the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next.

In its dealing with Aboriginal people, Canada did all these things.²³

Many Indigenous peoples have experienced and continue to experience (linguistic and) cultural genocide in the sense that the Summary above uses the concept. *Linguistic* genocide/linguicide, and the denial of genocide in general have mostly been completely avoided in official reports in most if not all countries.²⁴ This is the case even when what is described qualifies as linguistic genocide sociologically, educationally, psychologically, linguistically and from the point of view of political sciences. If linguistic genocide has been mentioned at all in reports and legal articles, it has mostly been subsumed under cultural genocide, just as in the Canadian report above. At Rafael Lemkin’s suggestion, both linguistic and cultural genocide were

separately defined, and forbidden, in Article III.1. of the final draft of what became the *UN Convention on the Prevention and Punishment of the Crime of Genocide* (see e.g. Gromacky 1992/1997). Linguistic and cultural genocide were voted down in the final UN General Assembly meeting and are not part of the final Convention (see Chapter 4).

But this was not the last attempt to include linguistic genocide into the UN system.²⁵ In a ‘Separate Statement to the Report’ (*Report of the Royal Commission on Bilingualism and Biculturalism, Vol II, Education* (1968), Commissioner Jaroslav Rudnyckyj – a respected professor and linguist – suggested the need for much more far-going recognition and provisions for Canada’s Indigenous languages. He writes (p. 164) ‘In some cases the public discriminatory attitudes toward languages other than English led to "linguicidal" measures which resulted in the constant decline of the minority languages in Canada’. In a footnote he writes:

The term "linguicide" was defined by a *Special Committee on Linguicide* to be presented to the United Nations on the occasion of the International Year for Human Rights, 1968, as follows:

Any of the following acts committed with intent to destroy in whole or in part or to prevent the natural development of a language or dialect should be considered as a linguicidal act:

- a) killing members of a community speaking a respective language or dialect (genocide);
- b) imposing repressive measures intended to prevent the natural, organic, development of a language or dialect;
- c) forcibly inflicting on a bilingual community conditions of cultural development calculated to transform it into a unilingual group;
- d) against the will of an ethno-lingual group denying the right of a language to be taught in public schools, to be used in mass media (press, radio, television, etc.);
- e) against the demand of an ethno-lingual group refusing moral and material support for its language maintenance efforts and cultural endeavours.

It seems to us that the definitions from b) to e) have applied and may still apply to Inuit in today’s educational system. What happened to the suggestion by the Special Committee on Linguicide, we do not know.

A few countries that have committed large-scale violations of human rights, including (but not restricted to) the linguistic, cultural and educational rights of Indigenous peoples (and also of minoritised people, as in South Africa) have now started to reconsider past policies. Some apologies have been forthcoming (e.g. in Australia, Aotearoa/New Zealand, Canada and South Africa) while other countries (e.g. Denmark in relation to Greenland) refuse to apologise. Many others deny the factuality of genocides altogether (e.g. Turkey, against Kurds, and Armenians a century ago). It remains to be seen to what extent these apologies result in real policy changes, and in a type of compensation that could also contribute to revitalisation in practice.²⁶

3.2. The role of language in education: econocide

Econocide as a political science and economic concept has been described, for instance, in relation to slavery (Drescher, 2010, Baugh 1999) and ‘eliminating the

urban poor' (Skirtz, 2012). Donald Trump's policies of cuts in most allowances to the poor and marginalized people, especially people of colour, and other ITMs, have also been seen as econocide. The concept is especially relevant in relation to Indigenous peoples, also in education. Most ITMs belong to the poorest people in their countries, and the (non-)education that they receive (if they attend school at all) keeps them powerless and promotes their poverty (Mohanty & Skutnabb-Kangas 2013). Often, just like in Nunavut, the funds used for ITM's formal education are much smaller than what schools for non-ITM children receive. An example was differential funding for 'racial' groups in South Africa under apartheid.

Mark Curtis (1995) analyses the intent in how the world's powerful states have *knowingly* pursued policies that *promote* poverty:

One basic fact [is] that the mass poverty and destitution that exist in much of the Third World are direct products of the structure of the international system. Moreover, an elementary truth is that the world's powerful states have *pursued policies* with regard to the Third World *which knowingly promote poverty*. It is clear that the policies they have encouraged or imposed on the Third World - in the earlier postwar period following military intervention and in the later period through the international financial institutions - have betrayed no institutional interest in eradicating poverty or in promoting a form of economic development meaningful to the poor. Rather, policies have been imposed with the understanding that they will not contribute to these ends (Curtis 1995: 236; emphasis added).

Amartya Sen, economics Nobel laureate, has together with Jean Drèze (Drèze & Sen 2014) shown that successive Indian governments also knowingly promote extreme poverty in India - econocide.

Poverty ... lies not merely in the impoverished state in which the person actually lives, but also in the lack of real opportunity - given by social constraints as well as personal circumstances - to choose other types of living. Even the relevance of low incomes, meagre possessions, and other aspects of what are standardly seen as economic poverty relates ultimately to their role in curtailing capabilities (that is, their role in severely restricting the choices people have). Poverty is, ultimately a matter of 'capability deprivation' (Drèze & Sen 1996: 10-11).

The main task of formal education should be to promote children's capabilities. Not teaching tribal/Indigenous children through the medium of their mother tongues is capability deprivation. The capabilities of children to be able to have choices in life are not supported; their potential is not fully developed (see Chapter 4).

Econocide in the above sense can also be applied to Inuit education in Nunavut, both earlier and today. We quote Milloy for stressing that one reason why the residential schools treated First Nations children so abominably throughout the entire lifetime of the schools until the 1980s was underfunding by the Canadian government. This was continuously the case, despite repeated reporting that the schools were seriously dysfunctional. It is also one of the important reasons for Inuit education in Nunavut today not having reached the goals set for it. It can be seen in the resources per child from the federal government for French-speaking pupils as compared to Inuit pupils, and likewise in (lack of) resources for Inuktitut-medium teacher training. The conciliator Judge Thomas Berger stated that the main reason for the Government of Nunavut not providing appropriate education is that the Government '*cannot afford*

it' (2006, viii). By contrast, in relation to French, '...the Government of Canada has acknowledged that such expenditures are a federal responsibility' (ibid.) The same should apply for Inuktitut, which he recommended.

3.3. The role of language in education: historicide

Historicide, as the Maliseet scholar Andrea Bear Nicholas writes (2003, 2017) is a valid term to categorise what many Indigenous peoples have experienced. The phenomenon itself has been well known, but crystallising it in a term akin to other forms of extermination seems to make it easier to recognise and describe, and to resist it.²⁷

Historicide makes a group invisible, nullifies them, just as their language(s) are stigmatized, constructed as useless, irrelevant, not fit for a modern world, even non-existent; a people is said not to have any culture, they are primitive, backward, uncivilized.²⁸ This parallels the way that colonisation was legitimated, by calling Indigenous lands *terra nullius*, an uninhabited space that was there for the taking. In similar processes, a dominant language and culture can replace the invisibilised and nullified languages and cultures. Missionaries saw themselves as 'giving' the dominated what they 'did not have', a language and a culture, and, today 'an education'.²⁹

Henry Huttenbach, who, among other achievements, founded the journals *Genocide Forum* and *Journal of Genocide Research*, described historicide (even if he did not use the term) as part of genocide as follows (2003, 15):

There is increasing consensus that conceptually, at its central core, genocide is the thought and act to nullify, to erase absolutely a segment of the human population. In essence it is the act of terminating the existence – to the fullest extent possible – the presence of a targeted population. This can range from the destruction of group-life to the total annihilation of *memory, history* [emphasis added] and culture. Not only can genocide destroy a group's present and future, but it can also erase any sign of its past. Hence the term nullification, the rendering into nothing in all three dimensions of time. It is a return to a *tabula rasa*.

One goal in unearthing historicide, which is complementary to linguicide has also been to develop arguments for strong resistance to genocidal policies in general. Many have learned that their ancestors did not just accept injustice passively. Instead, many resisted, some successfully, and attempted to create alternatives to historicide and its physical, legal and mental consequences.

For many ITMs, a vital moment, often a turning-point in their lives, is experienced when they discover and understand, not only cognitively but also emotionally, what has happened to them and their people (see, e.g. Fontaine, forthcoming).

3.4. The role of language in education: linguistic and cultural genocide

Skutnabb-Kangas & Dunbar (2010) describe in detail what from an educational, psychological, linguistic and sociological point of view can be seen as linguistic and cultural genocide. It has occurred, and continues to occur in Indigenous/tribal children's education, when the dominant languages are used as the languages of teaching and learning, instead of the children's mother tongues (however these are defined).³⁰ The results are often disastrous at a group level. Those ITM children who 'succeed' in school, mostly do it not because of how their education is organised, but despite it. We demonstrate how Articles 2b and 2e in the present Genocide

Convention might be interpreted so as to show in court that these crimes against humanity occur, despite the final formulation of the Genocide Convention that deleted the concepts linguistic and cultural genocide. These were in fact included in final draft of what became the UN Genocide Convention, in its Article III ['Cultural' genocide]. It reads:

In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or the religious belief of its members such as:

1. Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;
2. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group". <http://www.preventgenocide.org/law/convention/drafts/>

But the draft Article III above, with both linguistic and cultural genocide was voted down by the UN when the final Convention was approved by the UN General Assembly. One obvious reason for many Europeanised states (states colonised from Europe, by Europeans) was that they were concerned to escape conviction for such crimes (and the resulting responsibility for redress). Thus these two types of genocide are not *directly* mentioned in the present Convention.

Chapter 4 of this report looks at linguistic and cultural genocide and crimes against humanity in Inuit education from a legal point of view.

First Nations, Métis and Inuit children in Canada share much experience with other ITM children worldwide. Historically, it is clear that the educational 'treatment' of Indigenous, Métis and Inuit children, mainly in residential schools but also in non-residential day schools in Canada, tried and in many cases succeeded in 'forcibly transferring children of the group to another group' (meaning the schools tried to assimilate them linguistically and culturally to a dominant often colonising group). All this is well documented and includes Inuit. 'The Government of Canada sought to eradicate Inuktitut and culturally assimilate Inuit through the imposition of federal day and residential schooling on our people.'³¹

'Forcibly' above means earlier physical force when children were physically taken away from their parents, often by force. But it also means that attending schools where the teaching language was and is not the children's mother tongue, was not voluntarily chosen by the parents, for at least three reasons. First, attending school was (and is) mandatory by law. Parents (and children) were (and are) punished if the children did/do not attend (including withholding social assistance payments). Secondly, parents did not (and probably do not today either) have enough *research and evidence-based* knowledge about the negative *long-term* consequences of 'choosing' a dominant-language-medium school that often deprived the children of good formal education and high-level knowledge of both languages. And thirdly, there were and still are no alternatives, meaning schools with the children's mother tongues as the main teaching languages from pre-school to grade 12, and further. Of course this kind of mother-tongue-based multilingual schools also teach a dominant language as a second or foreign language, with bilingual teachers responsible for the teaching.

The kind of ‘education’, using the dominant language as the language of instruction, especially in residential schools, caused serious *physical harm* (tuberculosis, suicides, dying when trying to escape, stunted physical development because of insufficient nutrition, sexual abuse, harsh physical punishment, hard labour, etc). It also often caused long-lasting *mental harm*, including deprivation of the development of high-level cognitive and linguistic capabilities and grave difficulties in intergenerational cultural and linguistic transfer of knowledge.³² This resulted and may still result in low-level school achievement, low self-confidence, identity problems, and other negative psychological consequences of an unjust society and concomitant education, including loss of in-depth knowledge of language and culture. All this then, together with urbanization and other structural changes often led (and may lead today too) to later negative socio-economic and other consequences, such as unemployment, inadequate housing, suicides, alcoholism, incest, family violence; see Chapter 2). These consequences influenced ITM’s life-chances and often aggravated them for several generations (see Skutnabb-Kangas & Dunbar 2010 for examples from all over the world).

The assimilationist³³ intentions of this kind of education were also clearly expressed. The negative consequences for Indigenous peoples of education of this kind were identified in many North American contexts by educational authorities, including the churches responsible for this education as long as 150 years ago. Econocide aggravated them. Even if there were vague plans, or in some cases regulations to alleviate the worst treatment and/or consequences, almost nothing was done. Where the plans were not implemented or where some attempts at legitimating the lack of implementation were made, the lack of financial resources was almost always referred to, i.e. econocide.³⁴

3.5. Language-related ideologies and fallacies/myths in education: the maximum exposure fallacy and the subtractive fallacy

Sandra Inutiq, a former Nunavut Languages Commissioner, wrote (2016, 3) that the first challenge to the language situation in Nunavut seemed to be:

our internalized colonialism and the belief our language is inferior and not worth saving. This is evident in policy directions Nunavut takes on issues related to language, such as education. The sense of urgency of needing to act in Nunavut seems minimal.

Language-related ideologies vis-à-vis ITMs are often guided by beliefs such as described by Inutiq in relation to the Inuit language, and equally dangerous beliefs in relation to a dominant language, such as English. English as a second language teaching worldwide has been influenced by five key tenets. These are

- English is best taught monolingually;
- the ideal teacher of English is a native speaker;
- the more English is taught, the better the results;
- if other languages are used much, standards of English will drop;
- the earlier English is introduced, the better the results;

Research has shown that these ideological tenets are scientifically false and should rather be seen as fallacies:³⁵

- the monolingual fallacy;
- the native speaker fallacy;

-
- the maximum exposure fallacy;
 - the subtractive fallacy.
 - the early start fallacy;

It is more than likely that these fallacies have to a large extent guided the approach to education in Nunavut too. The *monolingual fallacy* and the *native speaker fallacy* are often used to legitimate using monolingual English-speaking teachers in schools, also in Nunavut. The *maximum exposure fallacy* claims that the more the ITM child uses L2 (meaning English for Inuit children), the better she learns it. It may be the intuitively most understandable of the fallacies; for many other skills it is true. If you want to learn to cook or bicycle or play a violin or skin an animal, the more you train, the better you become. But in ITM language learning it has been shown to be a complete fallacy. If the quality of the instruction is the same in two educational models, one with maximum exposure (for instance English medium education for ITMs), and the other with much less exposure to a dominant language, but where ITM children instead receive high quality mother tongue medium instruction (and the teaching of English as a foreign language subject, given by a bilingual teacher), research has shown two types of outcomes.

1. Either there is no relationship between time-on-task and results in the dominant language, meaning both groups perform equally well in the second language, L2, despite the fact that the mother tongue medium group has had much less exposure to English.

2. Alternatively, there is a reverse relationship: the *less* time is used on instruction through the medium of the dominant language, the *better* the results in that language, again provided that the time is instead used on both good mother tongue medium teaching and good subject teaching of L2, given by bilingual teachers. Many publications by Jim Cummins contain overviews of the research findings in relation to maximum exposure.³⁶

The *subtractive fallacy* has been explicitly formulated in regulations about ITM education all over the world. We take an Arctic Indigenous example – similar regulations might have guided Inuit education. In the example from Norway that follows, exchange Lappish/Saami and Finnish to Inuktitut, and Norwegian to English. The Norwegian School Law of 1880 (which has been called the 'Magna Carta of Norwegianisation'), paragraph 3, says: 'Instruction in the school is in the Norwegian language. The Lappish [as Saami was called earlier] or Finnish languages are used only as a means of helping to explain what is impossible to understand for the children'. Every paragraph after this contains detailed instructions on how to restrain the use of the children's mother tongues, Saami or Finnish.

Even if the majority of the children in a group do not understand Norwegian, the teacher must always keep the above regulations in mind and remember that it is imperative that the Lappish and Finnish languages are not used more than absolutely necessary ... When the teacher converses with the children to make them understand, use of the Lappish or Finnish language must be avoided as much as possible; it should be noted in particular that whole sentences and continuous passages of the Norwegian text must not be translated into Lappish or Finnish unless it has been shown that this cannot be avoided without harm to comprehension.' (quoted in Lind Meløy 1981: 122-123).

It is instructive to compare this with the policy offered to children in Africa and Asia some 80 years later, in the pedagogical tradition which still dominates English teaching: 'The teaching of vocabulary should be mainly through demonstration in situations. When, however, a very brief explanation in the mother tongue is sufficient to ensure that the meaning is fully and accurately understood, such explanation may be given.' (Makerere Report 1961: 13). This was a report of a Commonwealth Conference on the Teaching of English as a Second Language, probably the most influential document on policy and methods for teaching English in former British colonies.

It was important for the central and local authorities in Norway to control in a more detailed manner whether the teachers really refrained from the use of Saami and Finnish. According to Karl Aas, Superintendent for Schools, in a communication to the Department of Education in 1899, there were many people who thought that the time had come to completely forbid the use of Saami and Finnish as auxiliary languages. One of the Heads of Department in the Ministry had suggested in 1877 that only 'Norwegian' teachers should be appointed, because 'experience seems to have shown that teachers of pure or mixed Saami or Finnish ancestry are not capable of advancing the Norwegianisation among their compatriots with the success hoped for' (ibid., 21). In 1931 the then Superintendent wrote that it was 'completely unnecessary for teachers in Finnmark to have any education in Saami or Finnish' (Lind Meløy 1981: 27).

These examples demonstrate that all five fallacies have been in force in second language teaching in many contexts for years. That they have been internalized and perpetuated by many teachers or school administrators in Nunavut seems very probable. In most colonised countries and situation (including Nunavut) the speaking of the children's mother tongue in schools, even during breaks, has been not only forbidden but often punished in the most vicious, stigmatizing and shaming ways (Skutnabb-Kangas & Phillipson 1989 has examples from many countries).

3.6. Language-related ideologies and fallacies in education: the early start fallacy in models of bilingual education

The *early start fallacy* is closely connected to the *subtractive fallacy*. Several types of programme have shown, *firstly*, that one can start the teaching of a *foreign language as a subject* early to dominant language speakers, as early foreign language teaching in 'mainstream' programmes shows (for instance teaching French as a subject to English-speaking children in Canada). On the other hand, a large longitudinal Swedish study (Holmstrand 1980, 1982) showed that the gains of starting the teaching of English as a subject for Swedish children early were minimal. If the total number of teaching hours was the same, those who started studying English later got better results in English (see also Curzon's recommendations below). Arlene Stairs showed in empirical studies already over 35 years ago that at both individual and community levels, those students in grade 4 who had higher levels of writing Inuktitut (because Inuktitut was the main teaching language) also had higher levels in writing English. On the other hand, more English medium education 'did not lead to any superiority in either spoken or written English' (1987). The international association of Teachers of English to Speakers of Other Languages, TESOL, has in its *English Language Bulletin* also recently started to report similar results.

Secondly, if teaching *through the medium of a second or foreign language is additive*, it can start early. Additive teaching/learning adds to a student's linguistic

repertoire. In *subtractive* teaching/learning, the new language is learned at the cost of the mother tongue (subtractively), instead of in addition to the mother tongue.

Table 1 shows five teaching models/programmes. The first, submersion (see Note 22), is subtractive for ITMs (called MINorities in the Table; politically dominant groups are called MAJorities). For the purposes of this Table, we call English the dominant language, MAJ, even if in Nunavut Inuit speakers are demographically a majority. Submersion can also be called a *non-model of bilingual education* – it does not lead to (high levels of) bilingualism. The other three are additive, *strong models of bilingual education*:³⁷ these often lead to high levels of bi- or multilingualism.

Table 1 Models of bilingual education programmes³⁸

Programme	Submersion	Immersion for majorities	MIN language maintenance	MIN revital. Immersion
Child's lg	MAJ + MIN	MAJ	MIN	Min? Maj?
Teaching lg	MAJ	Min + bil.later	MIN	MIN
Teacher	Monolingual	Bilingual	Bilingual	Bilingual
Does child know teaching language?	MAJ yes MIN no	MAJ no	MIN yes	MIN? No, or a little
Programme chosen voluntarily?	MIN no	MAJ yes	MIN yes	MIN yes
Are there alternatives?	MIN no	MAJ yes	MIN yes	MIN yes
Results	MIN poor	Good	Good	Good

There are some other programme models too, most importantly a *two-way or dual language model*, with both MAJ and MIN children in the same classroom. The goal is that both become bilingual. Initially, the minority language is the main teaching language, for instance 80% of the time. Ideally, both groups study their mother tongue as a subject, and are taught the other language also, as a (foreign language) subject. The percentage of using the minority language as the language of instruction decreases, and in grade 6 it might only be 50%. The longer the minority language is being used as the main medium of education, the better the results (e.g. Thomas & Collier 2002). A dual language model combines, in the same classroom, a language maintenance programme for the minorities, and an immersion programme for the dominant-language children.

In a Nunavut context, those Inuit children who have more or less lost their Inuit mother tongue, can be labelled 'English-speakers' for the purposes of a dual-language programme, especially in situations where there are not enough of them to form a *revitalisation minority immersion* class. These Inuit children would then be paired in the same dual-language classroom with Inuit children whose mother tongue is Inuktitut, and all of them would be taught through the medium of Inuktitut. This kind of programme can function as a *late-exit transitional model for the minorities*, i.e. the minority children are exited to a majority-language medium education late, preferably not before grade 6, but the later the better.

Early-exit transitional programmes where the dominant language becomes the teaching language after the first 2-3 years may psychologically be a bit less harsh than

clear submersion models, but the results are linguistically and cognitively far from satisfactory, as Inuit experience shows. The early-exit transitional models are called *weak bilingual education* models.

Now we compare these models with what is used in Nunavut. 'Currently, bilingual education in Nunavut is delivered through three different models: the Qulliq, Immersion and Dual models. The 2008 Nunavut Education Act gives the responsibility to each locally elected District Education Authority (DEA) to choose the language of instruction (Inuit language plus either French or English) and the bilingual education model for the delivery of instruction in both languages for their community. The model must be chosen through public consultation'.³⁹ Four communities have selected the 'Immersion' model, two the 'Dual' model, and 20 the 'Qulliq' model.

The ideal '*Immersion*' model is supposed to use 85-90% Inuktitut-medium during K-3 and 80-85% during grades 4-6. During grades 7-9 'Immersion Max' is supposed to have 70% in Inuktitut, and 'Immersion Min' 30%. Looking at various regions' capacity to deliver shows that the system cannot/does not provide for human and other resources to enable DEA's and schools to deliver on chosen model. Especially, there is very little capacity after the first three grades. The corresponding percentages for the ideal *Qulliq* model are 85-90% in K-3, 70-75% in 4-6, 65-30% in grade 7-9. 'The *Dual* model allows parents the choice between two sub-streams within the same school, with one stream prioritizing instruction in the Inuit language, and the other in the non-Inuit second language.' We have no information about which sub-streams the parents have chosen in the 'Dual' model.

In 2016 (this is the latest information we have received, in April 2019) there were 11 schools that had the capacity to deliver Inuktitut-medium education from kindergarten to Grade 3; seven schools that could deliver it up to grade 4, and one up to grade 5.⁴⁰ The rest of the schools were not even delivering the minimum K-3 Inuktitut-medium education required by the Nunavut Education Act.

Looking at the three Nunavut models and the factual situation, we have two observations. Nunavut uses the term 'Immersion' for a late-exit transitional programme and 'Qulliq' also for a late-exit transitional programme where the exiting happens somewhat earlier. Secondly, looking at the regional capacity to deliver, and the factual situation (unless it has improved massively for the 2018-2019 school year), it seems that most Inuit children are either in submersion programmes, or early-exit transitional programmes (which are weak bilingual education programmes). This means that there are no strong bilingual education models in use in Nunavut.

The Annual Report of the Nunavut Languages Commissioner 2015-2016 describes in Section 8 of the Inuit Language Protection Act the right to 'receive Inuit language instruction' as 'quasi-constitutional' (p. 181). It also states:

Over the last few years, it was noted on many occasions that the Department of Education was not fulfilling its obligations in terms of the provision of Inuit language instruction as set out in the ILPA and the Education Act, particularly upon the release of the Auditor General of Canada's report of 2013 and the work of the Special Committee to Review the Education Act in 2014-2015. (ibid.)

The conciliator Judge Berger's 2006 accurate description of what happens in school when the Inuit children are, after Grade 3, transitioned to an all-English-medium education is similar to literally thousands of sad descriptions from all over the world of early-exit transitional programmes. These 'reinforce the colonial message of

inferiority’. The language is eroded. The ‘drop out is linked to Nunavut’s unhappy incidence of crime, drugs and family violence’. Berger calls this ‘social pathology’: schools were ‘... failing. They are not producing graduates truly competent in Inuktitut; moreover, the Inuit of Nunavut have the lowest rate of literacy in English in the country’. Berger states ‘that the status quo is unacceptable’ and ‘a strong program of bilingual education must be adopted’.

This too is what we see all over the world, among many Indigenous children and adults: an overrepresentation of most or all symptoms of gross societal inequality. These are reported in great detail in a 1991 doctoral thesis by Leila Seitamo, *Psychological development in Arctic Cultures*, which analyses multidisciplinary research in the Arctic areas and elsewhere about the consequences of submersion education. She followed all Indigenous Skolt Saami children in Finland for many years, with masses of both statistical test-based and ethnographic data, and interviewed every Skolt Saami adult in the country. Her conclusions were similar to those drawn by Martin and Berger on Nunavut education. In addition, Seitamo showed clearly that those Skolt children whose home language continued to be Skolt did much better in school than those where the parents accepted the use of Finnish in the home.

The strong bilingual models show that additive early start with a ‘foreign’ medium is perfectly possible – for dominant language children, and also in revitalisation immersion programs for ITM children. This is true for *immersion for dominant group children* (for instance the French immersion in Canada for English-speaking children), and *revitalisation immersion for ITM children who have (more or less) lost their mother tongue*. It is also shown in those *dual-language programmes* where the exiting from the minority language happens very late. One can conclude that all English-mother-tongue children in Nunavut could be taught through the medium of Inuktit (an immersion programme for majorities in Table 1). So could Inuit children who no longer know Inuktit (a minority revitalisation immersion in Table 1). Both these groups of children would learn English well anyway; Inuktit would be added to their English instead of replacing English.

On the other hand, if the learning of another language is *subtractive*, as it is in all the non-forms and weak forms of bilingual education, the earlier it starts the worse.

The Nunavut Languages Commissioner’s *Annual Report 2015-2016* shows in its Education section (pp. 181-202) that the knowledge of what should be done has been offered to the education authorities. Despite the serious criticism of what is happening that the Report presents, it also lists many positive attempts that have been made to follow the recommendations from research.

3.7. Results of education based on false prerequisites: forced assimilation and serious harm

What we are seeing in Nunavut today, in 2019, is in fact very much what the earlier education (with negative results, criticised by the Truth and Reconciliation Commission) did, with partially similar results, only with other means. Above we have traced some of the historical evidence for ‘intention to harm’ in the education of ITM children. It is a fact in many countries and areas, including in Nunavut, that the main harmful causal factor in this education, namely the wrong medium of education, has not changed. This is despite strong empirical and research evidence that using the dominant language and excluding the ITM languages, has not worked. Often the wrong medium is used despite declarations and plans to change the educational models. The figures (total numbers and proportions) for children who no longer speak

Inuktitut either as the main language or at all at home have been growing during recent decades (see Chapter 2). This can be seen as a result of the ongoing forced assimilation that not having had full Inuit-medium education entails.

The negative results apply not only to today's Inuit children but also their parents. The old colonial ideology has often made parents think that the most important language for the children's future to learn is English. There is strong evidence worldwide showing this kind of parental 'preference' for English. The belief is also connected with the mistaken conviction that learning English has to be at the cost of learning the mother tongue well and using it maximally. This is an *either-or ideology*, instead of both-and-and. The myths/fallacies about English learning which are already more than a century old, are very much alive also in Nunavut. The perpetuation of these myths are, as efficiently as in residential schools, attempting, with some success, to forcibly transfer Inuit children to another, mainly English-speaking group, linguistically and culturally, and causing serious harm.⁴¹

Educational and other authorities have been informed about negative educational results. These have been pointed out in report after report for decades, together with sound, evidence-based recommendations for how to reform the education to produce more positive results. Today, in Nunavut, this has not resulted in changing the system except superficially. In addition, neither the Canadian government nor the Nunavut government (even if there is a majority of Inuit) have ever 'found' or committed the financial means to change the system properly (see Econocide above).

Are today's politicians and other authorities, at both federal and territorial level, 'evil people' then, wanting to harm children? Of course not. There are many positive goals in laws and plans and with the people who make them. If we want to understand the challenges and difficulties when trying to really protect Inuktitut, and to live up to declared goals, it might be helpful to introduce the Finnish lawyer Päivi Gynther concepts of '*evil motive discrimination*' and '*effects discrimination*'. She summarises in her 2003 article the development from more sociologically oriented discussions to more legally oriented clarifications, mainly from the USA and Canada. Structural and ideological factors from these discussions have started to appear also in some other lawyers' interpretations of, for instance, the concept of discrimination in education.⁴² Gynther pleads for cooperation between lawyers, sociologists and educationists, and for a broadened analytical framework, in clarifying some of the basic concepts that are used when subjugated minorities are denied access to education. She traces a trend in academic discourses 'from a concern with *evil motive discrimination* (actions *intended* to have a harmful effect on minority group members) to *effects discrimination*' (actions have a harmful effect whatever their motivation)' (Gynther 2003: 48; emphases added). However, she also points to 'a trend from the deconstructive social criticism of the 1960s and 1970s to a watering down of the conceptual framework of systemic discrimination towards the 1990s' (ibid.: 48). When discrimination and racism, including linguisticism

permeate society not only at the individual but also at the institutional level, covertly and overtly ... racial control has become so well institutionalized that the individual generally does not have to exercise a choice to operate in a racist manner.

Individuals merely have to conform to the operating norms of the organization, and *the institution will do the discrimination for them*' (ibid, 47; emphases added).

Despite the knowledge in the educational systems of what should and should *not* be done, the lack of real change shows that the linguisticist ideology described above

permeates parts of educational decision-making bodies. This ideology has for several decades been so well institutionalised in educational structures that no *conscious* intention to harm needs to be overtly or even covertly expressed. The intention is still there, embedded in the way the institution - educational authorities and schools - functions. The institution of formal education will over time do the 'harm' and the 'transfer'. Might this be labelled linguicist/ racialised/ hierarchised discriminatory attitudes, resulting in malpractice and miseducation?⁴³ Educational **effects-genocide/crime against humanity?** (i.e. not evil-motive genocide/crime).⁴⁴

Other societal factors, such as cramped housing conditions (factors listed in Chapter 2) increase the challenges for Inuit students in the educational system. Being pushed out early from school (see Truancy below) results in the short term in little or no further formal education, often low self-confidence and identity problems and suicides. It may in the longer-term result in alcoholism, unemployment, and other symptoms of deeply unequal societies. These can also be seen as symptoms of serious mental harm for which the educational system can be a vital causal factor.⁴⁵ Some of these can still be seen as long-term consequences of how the grandparents were treated; not learning parenting in either Inuit or 'white' ways.

Our conclusion would thus be that what is happening today in Inuit education in Nunavut can be seen as both linguistic and cultural genocide from a historical, sociological, linguistic, psychological, economic, cultural anthropology and political science point of view. To what extent this can be clarified in law is discussed in Chapter 4.

3.8. Older and recent research results about how Indigenous education SHOULD be organised for positive results

The negative results of subtractive teaching through the medium of a dominant language have in fact been known by Indigenous peoples for a long time, and documented at least since the mid-1700s. For instance, Handsome Lake, a Seneca in the USA born in 1735, knew the devastating results of submersion programmes. He recommended that children should be educated in their own language and culture (Chief Jacob Thomas, 2001). The churches and educational authorities in Canada likewise knew the negative results.⁴⁶ Colonial educational authorities (including churches) in most parts of the world have also had the knowledge about positive results of mother tongue medium teaching at the latest since the end of the 1800s. An example from India: Curzon, the British Viceroy in India, wrote in a government resolution in 1904:

As a general rule the child should not be allowed to learn English *as a language* [i.e. as a subject] until he has made some progress in the primary stages of instruction and has received a thorough grounding in his mother-tongue. It is equally important that when the teaching of English has begun, it should not be prematurely employed as the medium of instruction in other subjects. Much of the practice, too prevalent in Indian schools, of committing to memory ill-understood phrases and extracts from text-books or notes, may be traced to the scholars' having received instruction through the medium of English before their knowledge of the language was sufficient for them to understand what they were taught. The line of division between the use of the vernacular and of English as a medium of instruction should, broadly speaking, be drawn at a minimum age of 13. No scholar in a secondary school should, even then, be allowed to abandon the study of his

vernacular, which should be kept up until the end of the school course.” (quoted in Skutnabb-Kangas 2009, 42-43).

‘Modern’ research results about how ITM education should be organised have been available for over 60 years, since the UNESCO expert group book *The use of vernacular languages in education*:

On educational grounds we recommend that the use of the mother tongue be extended to as late as possible. In particular, pupils should begin their schooling through the medium of the mother tongue, because they understand it best and because to begin their school life in the mother tongue will make the break between home and school as small as possible (UNESCO 1953, 47).

UNESCO's latest recommendations⁴⁷ strongly recommend mother-tongue-based multilingual education. There has for several decades been a consensus in academic circles, that has been confirmed in many studies, including in Arctic regions, about what works.⁴⁸ Large-scale overviews and studies (e.g. May & Hill 2003, Ramirez et al., 1991, Thomas & Collier 2002) show the importance of mother tongue medium teaching, and the disastrous results when it is not done. In both Ramirez' and Thomas & Collier's studies, **the duration of mother tongue medium education was more important than any other factor in predicting the educational success of bilingual students**. It was also much more important than socio-economic status, something extremely vital in relation to dominated/oppressed ITM students. **The worst results were with students in regular submersion programmes where the students' mother tongues (L1s) were either not supported at all or where they only had some mother-tongue-as-a-subject instruction** (as is the case in most of Nunavut). **This is a subtractive learning situation where the learning of a dominant language subtracts from the child's linguistic repertoire**, i.e. the dominant language is learned at the cost of learning the mother tongue, instead of learning it in addition to the mother tongue, as in MLE. Dominant-language-only submersion programmes “are widely attested as the least effective educationally for minority language students” (May & Hill 2003: 14, study commissioned by the Māori Section of the Aotearoa/New Zealand Ministry of Education).

In Thomas & Collier's longitudinal study with some 210,000 students (2002), they found that ‘the strongest predictor of L2 student achievement is the amount of formal L1 schooling. The more L1 grade-level schooling, the higher L2 achievement.’ So, the number of years the minority child with English as the second language was taught through the medium of the mother tongue, the better the results both in the English language, and in school achievement in general that was measured through English. In terms of both general school achievement and the learning of the dominant language, those students were best who had the longest number of years of learning content in their mother tongue, taught by bilingual teachers and with a good curriculum. This is what MLE can do.

The model programmes in Table 1 above are based on large-scale empirical evidence from all continents. Of course there is no ‘one-model-fits-all’ – local circumstances decide. Still, it is impossible to claim that educational authorities and politicians did not or do not know what to do, and what *not* to do.

Nunavut decision makers have in fact tried to become better informed, much more so than decision makers in many other countries. The Government of Nunavut asked Professor Ian Martin from York University, Glendon College, Canada, to write a

research report about the language of instruction for Nunavut (see his reports 2000a, 2000b; see also his 2003 and 2017). Building on massive research evidence and applying it to the situation in Nunavut schools at the beginning of the 2000s, he showed very clearly what the consequences would be if the language of instruction did not change from mainly English for Inuit pupils to mainly using Inuk(tit)uk, and if Inuk(tit)uk did not get proper legal protection. We quote extensively from Martin's Executive summary:

This Discussion Paper has been commissioned to offer Education Nunavut a number of options for discussion on the topic of language of instruction (LOI) in Nunavut schools. The main option which the paper advocates is a major twenty-year effort to develop a strong bilingual (Inuktitut/Inuinnaqtun - English) education system for the territory [...] In our judgement, the main option facing the Department is to evolve beyond the weak bilingual model inherited from the NWT - a model which almost by definition cannot produce confident bilingual, biliterate speakers, which seriously infringes on young people's linguistic human rights (which we define), and which fails to respond to the present and future human development needs of Nunavut.

The present model - an early-exit transitional model - requires Inuit students to become English-speakers if they wish to continue their education beyond the Grade 4-5 "transition point", since the only language of instruction in Nunavut schools thereafter is English. In our judgement, the ideological orientation of this system is seriously flawed, for four main reasons:

1. It is not a true bilingual system; it replaces the child's first language with an imperfectly learned second language, and rather than allowing both languages to develop to a high level, too often neither language develops to its full potential. This is typically the case for "weak models" of bilingual education, including the "early-L1 exit" type dominant in Nunavut schools.⁴⁹
2. It is an infringement upon the individual and collective linguistic human rights of the Inuit people. Many other rights are accessible only through the guarantee of linguistic rights. The right, for example, of access to the cultural resources of one's group – the heritage of Inuit Qaujimaqatuqangit is primarily accessible only to those who command a sophisticated knowledge of Inuit language.
3. It does not respond to the present and future human resource needs of Nunavut, which will require an educated, bilingual population able to exercise all available means of self-determination, both in Nunavut, and in Nunavut's relations with Canada and the outside world.
4. Language loss is connected to a whole web of social and economic problems, and language promotion and revitalization are as much a part of a holistic community wellness strategy as health, economic development, self-esteem and identity, and a clean environment - to which language and education are intimately connected [...]

Consequently, the Discussion Paper offers the following options for discussion:

- that the Government re-affirm and clarify for the field of education the commitment made in the Bathurst Mandate, that by 2020 Nunavut will be a "fully functional bilingual society, in Inuktitut and English".
- and that, recognizing that Nunavut schools have an important role to play in building this bilingual society, the Government mandate, through a new Education Act, that the schools put in place a "strong" model of bilingual

education, the only model which is likely to ensure that the 2020 goal be reached.

- that the Department engage in a consultation process on a limited set of “strong” options (we offer four, and propose Nunavut applications of each). Since there are a variety of community language situations, there won’t be a single model for every situation. Yet, the long-term outcome of every model would be comparable in terms of preparing young people for a bilingual society, where Inuktitut in all its forms would be the main working language of government (and consequently the main language between the government and its citizens). [...]

Our strong bilingual education system option would go through these stages:

Stage I: (2000-2003) Preparation period. Consultations, community planning, promotion and information campaign on community-based bilingual education, focus on teacher development and other infrastructural components.

Stage II: (2003-2010) Selection of a community-appropriate model and building toward implementation and first delivery of strong model in elementary school (K-7) by 2005; in Grades 8-12 by 2007. The strong model would be in place, properly staffed, and with infrastructural support no later than 2010.

Stage III: (2010-2020) Ten-year stable implementation of the strong bilingual system, with assessment procedures at territory and community levels, evolution of a Nunavut high school matriculation programme.

Martin’s paper ‘offers options for new language in the Education Act with respect to language of instruction, which would set out in a preamble the vision for a bilingual society; state the joint responsibility of schools, with other elements in society to build toward that bilingual society and to preserve and promote the Inuit language for future generations.’

But this is not going to happen. ‘Nunavut’s celebrated 2008 Education Act promised to deliver fully bilingual education to students by 2019. Due to the fact that we have been short of Inuktitut teachers and [a] lack of resources, this is something that we have not been able to meet’, Education Minister Paul Quassa told reporters shortly after introducing a bill to update the act in the legislature [November 2017]. The proposed changes would push the deadline for offering bilingual education forward to 2029 for Grades 4 to 9, and postpone the deadline for Grades 10 to 12 indefinitely. Inuit parents are angry, and worried about this.⁵⁰

Another important actor with recommendations was the Conciliator Thomas Berger whose final report was published in 2006. The last 20 years have considerably strengthened the research base that Martin and Berger used for their proposals. There is no serious research that would in any way have faulted their suggestions (or those in Skutnabb-Kangas & Dunbar 2010, pp. 99-103).⁵¹ The quotation from Curzon in 1904 above is likewise fully relevant today, and ‘perhaps suggests that postcolonial education and most minority education *has failed to learn from earlier experience*’ (Phillipson 2006).

3.9. Transmission of Traditional Ecological Knowledge (TEK) to the next generations is necessary in fighting ecocide

There is only one detail in Berger’s 2006 report that we might question. He suggests (p. vi) that English may be the best choice for teaching science and mathematics in higher grades. This reflects an underlying, maybe unconscious belief that only scientific concepts that are expressed in English are valid. Today’s research has

shown that many Indigenous people have their own counting systems and mathematical structures⁵² which may be better adapted to traditional hunting, gathering and trapping lives. Many Australian Aboriginal peoples differentiate between “white knowledge” (which could, later on in school, be taught in English) and their own knowledge that should be taught in their own languages and be transmitted to the new generations. And it is exactly this transmission process that is at grave risk as soon as Indigenous children attend schools where their languages are not the main teaching languages and where their cultural practices do not permeate the learning processes.

At an important Symposium in 2002⁵³, the representatives of the International Council for Science, ICSU - see www.icsu.org) and ICSU's 2002 report, *Science, Traditional Knowledge and Sustainable Development* showed clearly that Traditional Ecological Knowledge, TEK, contains a great deal of knowledge unknown to and of the utmost importance for (Western) science. This knowledge may be vital for our whole planet when biodiversity and linguistic diversity decrease at alarming rates (Loh & Harmon 2018) and the climate crisis worsens.⁵⁴ Scientists are worried about the diminishing intergenerational transmission of TEK⁵⁵ Inuit parents are also worried about possible partial ‘removal of traditional knowledge, Inuit Qaujimaqatunqangit (IQ), from the new [Education] act.’⁵⁶ Likewise, people are worried about many of the either/or paradigms where they are told that they ‘must be one or the other... This imposition of a traditional-modern dichotomy is irrational’, Hugh Brody writes (1987, 175).

George Monbiot writes in *The Guardian* of 28 March 2019⁵⁷ about attempts to include ecocide in the Rome Statute on Crimes Against Humanity.⁵⁸ ‘Until 1996, drafts of the Rome Statute which lists international crimes against humanity, included [the crime of ecocide](#).⁵⁹ But it was dropped at a late stage at the behest of three states: the UK, France and the Netherlands’. As we (TSK and RD) wrote in our 2010 book with respect to genocide, international law is made by states, and until such time as the international community can be convinced to make ecocide an international crime, it is not one *from a legal perspective*. If something appears at one stage in the drafting process (as ecocide did many times), and is then eliminated because of the opposition of some states, it does not form part of the treaty, just as happened with linguistic and cultural genocide in 1948.

Much of Indigenous knowledge about how to live sustainably, without harming the environment, is necessarily encoded into the local languages of the peoples whose knowledge it is. ‘Hunting and trapping depends on technology, wisdom and experience that are carried in the brain’, Brody writes (1987,183). When the languages are killed off, the knowledge also disappears – it is not transferred to the replacing dominant languages.⁶⁰ Partly the dominant languages do not have the vocabulary needed, partly this knowledge is not learned in ‘modern’ formal classrooms. Earlier it was learned in the education that children got in their communities, but it can still be learned if formal education is saturated by the Indigenous people’s culture. Some of this is starting to happen in Nunavut⁶¹ - but it is impossible in English-medium classrooms.⁶²

The learning of the natural sciences in Nunavut should ideally combine local and Western knowledge in ways that only mother-tongue-based bilingual, bicultural education can facilitate.

The melting of the ice in the Arctic happens fast; much of it is caused by human action. A study in the journal *Environmental Research Letters* in April 2019, based on 47 years of data reports about the fast increasing temperatures (the average

temperature has increased by 2,7 degrees since 1971; 2,4 times more than in the northern part of the globe). The ecocide is described as follows: there are fundamental changes among nine key elements of the Arctic system. We find that, coherent with increasing air temperature, there is an intensification of the hydrological cycle, evident from increases in humidity, precipitation, river discharge, glacier equilibrium line altitude and land ice wastage. Downward trends continue in sea ice thickness (and extent) and spring snow cover extent and duration, while near-surface permafrost continues to warm.... We find a correspondence between air temperature and biophysical indicators such as tundra biomass and identify numerous biophysical disruptions with cascading effects throughout the trophic levels. These include: increased delivery of organic matter and nutrients to Arctic near-coastal zones; condensed flowering and pollination plant species periods; timing mismatch between plant flowering and pollinators; increased plant vulnerability to insect disturbance; increased shrub biomass; increased ignition of wildfires; increased growing season CO₂ uptake, with counterbalancing increases in shoulder season and winter CO₂ emissions; increased carbon cycling, regulated by local hydrology and permafrost thaw; conversion between terrestrial and aquatic ecosystems; and shifting animal distribution and demographics. The Arctic biophysical system is now clearly trending away from its 20th Century state and into an unprecedented state, with implications not only within but beyond the Arctic (Box et al. 8 April 2019).

Arctic cultures are adapting (have to adapt) to this ecocidal climate crisis; education has to change too. Traditional knowledge and skills need to be maintained, and extended so that Inuit are qualified to address the dramatic changes in their environment. Today's education is not equipping them for this.

3.10. Unmet challenges and reasons for lack of implementation

We have in earlier sections already analysed many of the reasons for the lack of success in reaching the goals that Nunavut has set for Inuit in formal education. The use of either submersion programmes where all formal education is in English, or early-exit transitional programmes where the children are transitioned from mother tongue medium to English medium education at the latest after grade 3 is one of the worst culprits, as evidence from all over the world shows. Many social and cultural factors that are not conducive to school achievement in Western-type schools also play a major role. Relative poverty, a long-term result of colonisation and its ideological non-power-sharing concomitants; complete change of lifestyle connected to 'urbanisation'; the climate crisis, etc (see Chapter 2) are other factors.⁶³

It is difficult for outsiders, though, to touch on the issues about the lack of implementation of the many good plans. Why are there so many challenges that have so far been unmet? Inuktitut has progressively been weakened. What are the other causal factors for this, in addition to the language policy in education?

One problem is the *shortfall of Inuit school principals*. 'Thirty-seven out of 42 school principals are English-speaking non-Inuit; almost all of them are from southern Canada. Nunavut has 452 English-speaking teachers, so there are actually more English teachers than there are English students in our schools' (Kotierk 2018). In

2006, only 35% of teachers spoke Inuktitut (Berger 2006, vii). By 2016, that percentage dropped to only 22% of Nunavut teachers (125 out of a total 579) capable of teaching in Inuktitut, all of whom were only instructing in the early primary grades (Nunavut Dept. of Education, 2016).⁶⁴ The *shortfall of teachers* and some of challenges Inuit teachers face are discussed further in 3.11.

A second problem is *truancy*. Truancy is defined as the percentage of school days with pupils staying out of school without an acceptable excuse. The latest statistics for truancy for all grades, including kindergarten are from 2001/2002 until 2010/2011. The total has grown during this period from 16.3 to 22.4 per cent. Hall Beach is the community with the highest percentage, 41.8. The absolutely lowest, far lower than any other community (0.9 percent), is the French-medium school, *Commission scolaire francophone du Nunavut*.

Aluki Kotierk (2018), analyses the reasons for the truancy:

So the reality is that our children do not see themselves reflected in the majority of the curriculum. Our children do not see themselves reflected in the majority of the teachers. Our children do not hear their language in the majority of their classrooms.

Our parents are being punished and not given enough money for food if they don't ensure their children attend a school system that does not recognize who they are as Inuit: Last month, the government cut off an Inuit family's food allowance because the daughter wasn't attending at least 80 per cent of school classes. Our parents get painted as bad parents for not waking up their kids and sending them off to a school where for the most part they will be indoctrinated into English. And if a parent does go into the school to speak to the principal, they will most likely be spoken to in English. Is it any wonder Inuit parents resist sending their kids to these schools?

The hope is expressed that 'addressing the Inuit education deficit will fulfill the goal of graduating bilingual Inuit students, grounded in Inuit culture, history and world view who have the skills and knowledge to contribute to Inuit Nunangat, Canada and the world with pride and confidence.' (<https://www.itk.ca/wp-content/uploads/2018/08/Inuit-Statistical-Profile.pdf>, p. 18).

3.11. Prerequisites for full Inuktitut-medium education

What are the prerequisites for full Inuktitut-medium education - or rather, mother-tongue-based bi/multilingual education - in 2019?⁶⁵

Many *Inuit parents* are aware of the long-term consequences of English-medium education, even if access to more detailed information about causal factors might still be helpful, both for them and for teachers – and politicians (see 3.4. above). So are many researchers, Indigenous or not.⁶⁶

In Martin's view 'the most critical constraint of all is the development of a strong new generation of *Inuit teachers*', in order to meet NIC hiring targets of 85% Inuit staff in the schools by 2020. The 'strong model' presented in this report is entirely in harmony with this goal. 'In order to deliver an increased presence of Inuit language teaching and subject teaching through the medium of Inuktitut/Inuinnaqtun, major reform and significantly increased funding will be needed'.

Today's situation was described at a consultation meeting in November 2018 as follows: 'The deputy minister of Education, Pujjuut Kusugak, said at least 450 Inuktitut-speaking teachers are needed for bilingual education. Currently, there are 140,

out of the 705 teachers in the territory. NTI says 450 Inuktitut teachers is too low of a goal, and noted that at the moment Nunavut is only adding about 2.4 Inuktitut-speaking educators a year. That's a lower rate than when Nunavut became a territory. At that rate, it would take Nunavut about 129 years to fill the number of Inuktitut speaking teachers it needs, not accounting for teachers retiring or population growth'.⁶⁷ It seems it is difficult to get the exact numbers, though.

Table 2. A breakdown of the number of teachers, by teaching category, as of November 2018⁶⁸.

Title	Inuit	Non-Inuit	Total
Principals	7	36	43
Vice Principals	4	28	32
Language Specialists	84	0	84
Teachers	181	429	610
Learning Coaches	2	40	42
Student Support Teachers	4	35	39
Total	282	568	850

Karla Jessen Williamson describes in her 1995 article the history of Inuit teacher training in great detail, including the Eastern Arctic Teacher Education Program (EATEP), with course descriptions etc. Most of the training was supposed to be through the medium of Inuktitut. In light of this, it seems surprising that there are no more trained teachers. We can also compare this with the very large numbers of people who have graduated between 1959 and 1995 from the teacher training seminar Ilinniarfissuaq in Nuuk, Kalaallit Nunaat (Greenland) (see Ilinniarfissuaq 1995; just the list of the graduates is 16 pages, 451-468).

Stephen Walter (see below) concludes from his many studies that even if the language of instruction is the most important factor in explaining student school achievement, it cannot by itself make poor teachers into good teachers. And 'poor' here means not only teachers who are not well trained, but, most importantly, teachers who do not speak the children's language and know their culture, even if they might be otherwise well trained.⁶⁹ In addition, as Dawn Fyn sums up in her empirical PhD (2014), Inuit teachers have to struggle with the consequences of 'a "master narrative" that frames them in a deficit perspective... a Eurocentric focus on education (bound within a goal of English or French competence in Canada) has eroded the educational, cultural, and linguistic roles that Inuit educators play within the schooling of Inuit students in Nunavik. These factors, coupled with pervasive systemic racism, create a challenging environment for Inuit educators.'

A different, urgent plan is needed to ensure more qualified Inuit teachers.⁷⁰ Likewise, culturally appropriate teaching materials in all subjects in Inuktitut are vital. Some work has been done in this area.

Appropriate *funding* for Inuktitut-medium education has never been allocated in the same way as it is met for other Canadian children. The Federal government must meet this need. Inadequate funding has served to impose - and legitimate - English-medium education for ITMs in Canada for more than 150 years. This raises the question of whether the costs would be excessive.

Stephen Walter studied the consequences and costs of mother-tongue based multilingual education in several countries.⁷¹ In a large-scale study, based on national education statistics from 1991-1999 in Guatemala, Walter compared over 200,000 Indigenous Mayan background students, with half of them having a Mayan language as the language of instruction in the *first 6 grades*, whereas the other half had Spanish. The push-out was larger in the Spanish-medium classes, i.e. fewer children graduated from grade 6; they left school earlier. Comparing the cost per student for the first 6 years, it was cheaper to get a student up to graduation in the Mayan medium schools; the cost per student was higher in Spanish-medium schools (Walter & Benson 2012).

Another smaller-scale study among Mayan *secondary* school students showed that many more of them had had Mayan-medium rather than Spanish-medium education. The numbers of each group were also compared with the statistical probability of each group attending secondary education. The students who had earlier had Mayan-medium education were doing much better, i.e. they attended secondary education more than the statistical probability would have predicted.

François Grin, among many others, has shown that the *costs of good minority education* are either marginal, or even lower than for submersion education. Grin asks both what the costs and benefits are if minority languages *are* maintained and promoted, and what the costs (and benefits) are if they are neither maintained nor promoted. Some of Grin's conclusions are as follows:

- diversity seems to be positively, rather than negatively, correlated with welfare
- available evidence indicates that the monetary costs of maintaining diversity are remarkably modest;
- devoting resources to the protection and promotion of minority cultures [and this includes languages] may help to stave off political crises whose costs would be considerably higher than that of the policies considered;
- therefore, there are strong grounds to suppose that protecting and promoting regional and minority languages is a sound idea from a welfare standpoint, not even taking into consideration any moral argument (Grin 2003: 26).

Annamalai & Skutnabb-Kangas (in press) summarise Grin's economic arguments:⁷²

... simulation results comparing education through MT versus education through some LWC [language of wider communication, e.g. English] show that under plausible assumptions (which would also be testable with suitable data), offering MT-medium education "pays for itself", because it tends to result in lower class *repetition* rates, thus reducing the average per-student cost [as shown by Walter above] – and thus freeing up communal resources. ...The positive net effect of offering MT education is further reinforced if one takes into account higher average skills, which gives people access to better jobs – and better jobs, which usually are not just more interesting and more empowering for individuals, but also tend to generate higher market value, which in turns gives rise to higher tax revenue. In other words, through this channel too, offering MT-medium education is a sound economic investment, even if you put aside linguistic human rights (LHR) considerations. Putting it another way still, a properly conducted economic analysis of MT education would generally dovetail with, and reinforce LHR-based recommendations.

In addition, the global wastage when children do not attend school or are pushed out early is enormous, also economically.⁷³ All these arguments are relevant for Nunavut.

3.12. To conclude

In Eritrea, the two main challenges when attempting to use the various mother tongues as teaching languages were very similar to Nunavut:

When the government of Eritrea is determined that all children should receive their elementary education in their mother tongue, there was a lack of qualified teachers, and of textbooks in the local languages. Teachers also lacked the pedagogy training to teach in local languages or were not familiar with the orthography system of the ethnic languages. Global Partnership in Education (GPE) supported the country's efforts with a US\$25.3 million grant, and helped train 186 teachers on mother tongue education to enhance their competencies. GPE also financed ... the reprinting and distribution of over 1 million textbooks and teachers' guides; these included materials for math, science, English, and mother tongue studies in nine languages. Nearly 214,000 children have benefitted from this initiative, which also contributed to reducing the high student-textbook ratio.⁷⁴

Eritrea, one of the poorest countries in the world, succeeded, in a very short time, in having over 200,000 children benefit from mother-tongue-medium education. Compare this to the number of Inuit children in Nunavut. If Norway has succeeded in organising North Saami medium education up to and including university education⁷⁵, and Finland has succeeded in organising mainly Aanaar Saami medium education up to grade 9 (when the Aanaar Saami population total is under 400)⁷⁶, it should have been possible for Nunavut to organise Inuktitut medium education for all Inuit children who wished to have it, throughout their whole formal education by 2020. In Kalaallit Nunaat (Greenland) the first two teacher training seminaries were started in 1845 and they used from the beginning the Greenlandic language as the medium of education (Petersen 1995). Several textbooks in Greenlandic, especially for use in educating Greenlandic teachers were published, including a geography book (1858), a world history (1859) and a zoology book (1863) (Kleivan 1995). There are no convincing educational or economic arguments in Nunavut for not having succeeded to train enough Inuit medium teachers over the last 20 years, and then claiming that Inuit medium education throughout the whole schooling cannot be organised for all today because of a lack of trained teachers. Could it be that the political will has been lacking, at both federal and territorial Nunavut levels?

Notes:

²¹ Manu Metekingi, a Māori man from the Whanganui iwi (tribe), said this in a film shown at the Whanganui Iwi Exhibition, at Te Papa Tongarewa Museum of New Zealand, Wellington, 29 November 2003 - May 2006. The Exhibition told about 'our heartland, the Whanganui River, and our place within it'. The Whanganui iwi write: 'The well-being of our river is intertwined with its people's well-being' (from the brochure describing the exhibition, with the theme: 'Ko au te awa, ko te awa ko au. I am the river, the river is me'. Thanks to the staff at Te Papa for identifying the person for me - neither the quote nor his name is in the brochure, only in the film.

²² The UNESCO Universal Declaration on Cultural Diversity 2002 considers multilingualism as an aspect of cultural diversity.

²³ http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf

²⁴ Fur 2016 gives examples for Sweden. See Skutnabb-Kangas, in press, for more

²⁵ Thanks to Derek Rasmussen for finding the quotes below. We were not aware of the Separate Statement.

- ²⁶ See Skutnabb-Kangas & Phillipson, eds, 2017, volume 3. See also McCarty et al., eds, 2019, and McCarty et al.'s introduction in the book.
- ²⁷ See also Chrisjohn et al., 2001, 2008, Skutnabb-Kangas, Bear Nicholas & Reyhner 2017.
- ²⁸ These terms are still used in the Constitution of India. (http://www.india.gov.in/govt/constitution_of_india.php).
- ²⁹ İsmail Beşikçi's articles, e.g. 2017, from all parts of Kurdistan (now occupied by Turkey, Iran, Iraq and Syria) about the language(s) and culture(s) of the Kurds show historicide very clearly. In addition to forbidding the use of Kurdish in all official contexts, including schools, several professors also claimed that Kurdish (an Indo-European language, unlike Turkish) was 'mountain Turkish'; see Skutnabb-Kangas & Fernandes 2008 for examples. Kathleen Heugh provides examples of historicide, historical amnesia, Africa 'forgetting' its past, for instance the fact that African languages were used for educational and scientific purposes already from the 12th century onwards, as the rediscovery of the thousands of manuscripts in Timbuktu has shown (Heugh 2009: 95-96). There are hundreds of examples in Massad (2016) of historicide from European writings about the 'Arab world'.
- ³⁰ See Kontra, Lewis & Skutnabb-Kangas 2016 for the latest definitions; these include a language that one identifies with, even if one no longer knows it; very relevant for some Inuit children.
- ³¹ *ITK Submission to the House of Commons Standing Committee on Canadian Heritage, Bill C-91: An Act respecting Indigenous Languages*, February 21, 2019, quoting *We were so far away: The Inuit experience of residential schools* (Ottawa, ON: Legacy of Hope Foundation, 2010).
- ³² Capabilities in Amartya Sen's sense, see above; see also Misra & Mohanty 2000.
- ³³ See Milloy 1999, Chapter 11, for assimilation of Northern and Arctic children through education. Even when schools in these areas started much later than in the southern parts, many Inuit children were from early on sent to southern schools.
- ³⁴ See e.g. Milloy 1999, pp. 55-56, 62-67, 75, 103-105, 192-193, 241-242, 269-272.
- ³⁵ Skutnabb-Kangas and Phillipson 1989, Phillipson 1992, chapter 6
- ³⁶ The concept maximum exposure fallacy comes from Jim Cummins; go to <http://www.tove-skutnabb-kangas.org/en/Tove-Skutnabb-Kangas-Bibliography.html> and search for Cummins.
- ³⁷ See Colin Baker's various editions (the latest is from 2011) of his book *Foundations of Bilingualism and Bilingual Education*.
- ³⁸ Skutnabb-Kangas has used this Table in dozens of lectures since the early 1990s.
- ³⁹ Nunavut Department of Education Language of Instruction: *Territorial capacity. Executive summary*. 6.07.2016. The description of the models is based on Government of Nunavut, Dept of Education, November, 2018, provided by Nikki Egeesiak, from the Coalition of Nunavut DEAs.
- ⁴⁰ Nunavut Department of Education Language of Instruction: *Office of the Languages Commissioner Request*, 6.6.2016, pp. 1-2.
- ⁴¹ See Phillipson 2019 on the myths of English, Professionalism and myths in TESOL. Video presentation at TESOL 2019 in Atlanta. <https://www.youtube.com/watch?v=KPwUVhE0XKE>.
- ⁴² See also Gynther 2007.
- ⁴³ See Baugh 1999, 2000, 2018.
- ⁴⁴ Since the 1970s, when ecocide – see subsection 3.9 – has been discussed in various UN contexts, there have been several suggestions that 'intent' should not necessarily be part of a definition of the crime of ecocide. See <https://eradicatingecocide.com/summary/> for a summary of the discussions.
- ⁴⁵ Inuitq 2016, Kotierk 2018. In fact, most of those items in the References list that are about Inuit and other Arctic people/s testify to this; likewise, there are several medical studies.
- ⁴⁶ See Milloy 1999, TRC 2015; for 'international' results, including conclusions for how the educational system should be organised, see Skutnabb-Kangas 1984, 2000, Skutnabb-Kangas & Dunbar 2010.
- ⁴⁷ See UNESCO 2003a, b.
- ⁴⁸ This is what Cummins, and Skutnabb-Kangas & Toukomaa did in the 1970s, Thomas & Collier, Snow, etc, in the 1990s, and Martin and Berger in the 2000s (see below). There are thousands of research articles and books about all this, including results from the Arctic areas.
- ⁴⁹ See Skutnabb-Kangas & McCarty 2008 for definitions.
- ⁵⁰ <https://www.cbc.ca/news/canada/north/bill-37-nunavut-education-act-language-protection-act-1.4020945>.
- ⁵¹ See also the literature review by Abele & Graham 2010.
- ⁵² See, e.g. Panda 2006, 2007, Panda & Mohanty 2009 for India.
- ⁵³ Full-day symposium, August 2002, at the Johannesburg World Summit on Sustainable Development (WSSD) *Linking Traditional and Scientific Knowledge for Sustainable Development* organised by International Council for Science (ICSU - www.icsu.org) together with UNESCO's Local and Indigenous Knowledge Systems Project (LINKS).

⁵⁴ For an example, see https://www.yesmagazine.org/people-power/after-thousands-of-years-western-science-is-slowly-catching-up-to-indigenous-knowledge-20180226?fbclid=IwAR0vWpybBx_Yy40RYJqCCAt3gTLhYFYlr3YfB3FBn9MrkIP2W30CJFVO-GM.

⁵⁵ ‘Universal education programs provide important tools for human development, but they may also compromise the transmission of indigenous language and knowledge. Inadvertently, they may contribute to the erosion of cultural diversity, a loss of social cohesion and the alienation and disorientation of youth. [...] In short, when indigenous children are taught in science class that the natural world is ordered as scientists believe it functions, then the validity and authority of their parents’ and grandparents’ knowledge is denied. While their parents may possess an extensive and sophisticated understanding of the local environment, classroom instruction implicitly informs that science is the ultimate authority for interpreting ‘reality’ and by extension local indigenous knowledge is second rate and obsolete. [...] Actions are urgently needed to enhance the intergenerational transmission of local and indigenous knowledge. [...] Traditional knowledge conservation therefore must pass through the pathways of conserving language (as language is an essential tool for culturally-appropriate encoding of knowledge)’ (from various pages in ICSU 24).

⁵⁶ <https://www.cbc.ca/news/canada/north/education-act-consultations-nunavut-1.4928172>

⁵⁷ https://www.theguardian.com/commentisfree/2019/mar/28/destruction-earth-crime-polly-higgins-ecocide-george-monbiot?utm_term=RWRpdG9yaWFsX0Jlc3RPZkd1YXJkaWFnT3BpbmlvblVLLTE5MDMyOA%3D%3D&utm_source=esp&utm_medium=Email&utm_campaign=BestOfGuardianOpinionUK&CMP=opinionuk_email

⁵⁸ http://legal.un.org/icc/statute/99_corr/cstatute.htm

⁵⁹ See <https://eradicatingecocide.com/summary/> for the various phases of attempts to include ecocide in the Genocide Convention, including definitions of ecocide.

⁶⁰ See, e.g. www.Terralingua.org.

⁶¹ Sandra Inuitiq (2016) gives some encouraging examples in her subchapter Language Revitalization and Protection. Likewise, Lees et al. 2010 and Walton & O’Leary have many examples and suggestions. There are many others, also internationally – see, e.g. Person 2018.

⁶² For some suggestions, see, for instance, <https://www.cbc.ca/news/indigenous/first-nations-canada-education-aboriginal-language-1.3636675>.

⁶³ Hugh Brody (1987) describes all of this elegantly.

⁶⁴ Nunavut Department of Education (2016); Language of Instruction, PowerPoint Presentation, Jesse Jacobs, July 2016. Thanks to Derek Rasmussen for this reference.

⁶⁵ Capacity building has been discussed in many reports, e.g. Lees et al. 2010.

⁶⁶ See Fontaine 2017, Fontaine et al. 2017; see also Stairs 1987, 1988.

⁶⁷ <https://www.cbc.ca/news/canada/north/education-act-consultations-nunavut-1.4928172>

⁶⁸ ‘The numbers presented in the Table are the headcount, and not the full time equivalent (FTE) for staffed positions. This means every staff member is counted as one position even if their position is half-time. Individuals who are on leave from their position (maternity leave, education leave, etc.) are included in these figures. In addition, some Principals and Vice Principals are also Student Support Teachers. Those individuals have been counted in their more senior role’.

⁶⁹ Many teachers know themselves what should be done (see, e.g. Aylward 2010).

⁷⁰ Bear Nicolas 2017 describes a Maliseet teacher training programme.

⁷¹ E.g. Eritrea, the Philippines, Guatemala, and Cameroon; Walter 2008, 2010, Walter & Chuo 2013a,b.

⁷² These are partially presented in Grin 2006; here they come from Grin’s email to TSK 15 January 2019.

⁷³ George Monbiot (2018), discussing Universal Basic Income trials in several countries notes that in ‘Madhya Pradesh, India – whose levels of poverty ensure that even small payments can make a big difference - strong improvements were seen after six months in health, nutrition and school attendance’ (p. 109; see SEWA Bharat). *If parents can afford it (“small payments”) and if they see that children understand what is said in schools and can participate, ITM children attend school and stay there.* (emphases added).

⁷⁴ In addition, a *peoples’ language committee* or respective native languages was established to ensure the effective application of mother tongue instruction. The committee is in charge of conducting public campaigns to raise awareness on the importance of learning in mother-tongue languages; gathering technical terminology, vernacular sayings, grammar and new words, as well as studying differences in dialects in the languages to name a few. <https://www.globalpartnership.org/blog/3-examples-mother-tongue-education-improve-learning?audience-profile=international-organization>.

⁷⁵ See Allaskuvla, the Sámi University College, sammas.no/en and references to Aikio-Puoskari in <http://www.tove-skutnabb-kangas.org/en/Tove-Skutnabb-Kangas-Bibliography.html>

⁷⁶ See Olthuis, Kivelä & Skutnabb-Kangas 2013. A follow-up book is forthcoming. See <https://casle.fi/>

CHAPTER 4. DOMESTIC AND INTERNATIONAL LEGAL OBLIGATIONS

4.1 DOMESTIC LEGAL OBLIGATIONS

4.1.1 Constitution of Canada and Canadian Federal Legislation

The most significant provision in domestic law, aside from the provisions in the law of Nunavut, described in Part 1.2, below, is set out in section 35, in Part II of the Constitution Act 1982, entitled 'Aboriginal and Treaty Rights'. Section 35(1) provides that the 'existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed', section 35(2) makes clear that the term 'aboriginal peoples of Canada' includes the Inuit. Although section 35 has generated a large amount of important case law, there have not yet been any cases in which the issue of whether language is covered by aboriginal or treaty right, although this issue has been considered by legal scholars. David Leitch (2006: 108) notes that education of Aboriginal children has generally not been mentioned at all or mentioned only in the vaguest terms in the various treaties between Canada and Aboriginal people, and therefore any right to education in an Aboriginal language would have to be based on the concept of aboriginal rights rather than treaty rights.

With regard to aboriginal rights under section 35, Leitch notes the leading case on the definition of 'Aboriginal rights' is the decision of the Supreme Court of Canada in *R. v. Van Peef*⁷⁷. He notes that the Supreme Court defined 'Aboriginal rights' as 'the practices, traditions and customs central to the Aboriginal societies that existed in North America prior to contact with Europeans',⁷⁸ and that the activity had to be integral to the distinctive culture of the Aboriginal society.⁷⁹ Furthermore, the pre-contact practice, custom, and tradition had to have continuity with present-day practice, custom and tradition.⁸⁰ Leitch argues that Aboriginal societies certainly 'educated their children in their own languages in their own ways, successfully transmitting those languages from generation to generation prior to European contact'; although the methods that are now employed to do so differ, Leitch notes (2006: 112) that the decision in *Van Peet* recognised that Aboriginal societies were entitled to adapt such practices, customs and traditions without losing their Aboriginal rights. Leitch argues that therefore Aboriginal rights under section 35 include language rights, including the right of Aboriginal peoples to educate their children in their Aboriginal languages. It has also been noted that the Supreme Court has indicated that the purpose of section 35 is to promote reconciliation between Aboriginal and non-Aboriginal people in Canada (Drake 2016), and that the Truth and Reconciliation Commission of Canada concluded that reconciliation requires the preservation and revitalisation of Aboriginal languages, and issued numerous calls to action on this matter, including the assertion that the federal government has a responsibility to provide sufficient funds for Aboriginal language preservation and revitalisation (ibid.).

These arguments in support of the notion that section 35 Aboriginal rights include language rights, and specifically a right to state-supported Aboriginal language education, are interesting, but have not been tested in the courts. Therefore, it is difficult to say whether such rights would be sustained by the courts. Even if they were, it is unlikely that the courts would specify what sorts of Aboriginal language education would flow from any such rights. As just noted, the Truth and Reconciliation Commission of Canada stressed the importance of preservation and

revitalisation of Aboriginal languages as part of the process of reconciliation. In particular, the Commission noted that in interpreting Aboriginal and Treaty rights under section 35(1) of the *Constitution Act, 1982* (just referred to), the Supreme Court of Canada has stressed the relation of those rights to the preservation of distinct Aboriginal cultures, and the Commission stressed that the preservation of Aboriginal languages is essential to this and must be recognised as a right. Therefore, one of its ‘calls to action’ was that the federal government of Canada must acknowledge that Aboriginal rights include Aboriginal language rights. Another ‘call to action’ was for the federal government to enact an Aboriginal Languages Act.⁸¹ Yet another ‘call to action’, in relation to Aboriginal education, was for the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples, incorporating a number of principles, including ‘[p]rotecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses. (ibid., 149).

While in opposition, Justin Trudeau’s Liberal Party of Canada committed themselves to fully implementing the calls to action of the Truth and Reconciliation Commission.⁸² On 5 February 2019, Trudeau’s Liberal government introduced Bill C-91 into the Canadian House of Commons, ‘An Act respecting Indigenous languages’. In section 6 of the Bill, the Government of Canada ‘recognizes that the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982* include rights related to Indigenous languages’. However, the Bill does not go on to set out what these rights might include, and makes no provision for any rights or, indeed, any substantive obligations of the state, including in relation to Aboriginal language education. The most significant aspect of the Bill is that it proposes the establishment of an Office of Commissioner of Indigenous Languages; it remains unclear what the proposed Commissioner is meant to enforce.

Aside from these provisions, there is relatively little in Canadian federal law with respect to Aboriginal languages or Aboriginal language education. The main federal legislation on Aboriginal peoples—and under Canada’s federal system, Aboriginal peoples are within the jurisdiction of the federal government, not the provinces—the *Indian Act* is essentially silent. The *Official Languages Act, 1988* only applies in respect of English and French. In June 2018, the Standing Committee on Procedure and House Affairs of the House of Commons produced a report on the use of Indigenous languages in proceedings of the House of Commons and its Committees in which it recommended that the use of Indigenous languages be recognised in the House of Commons; however, the report did not touch on broader questions of Indigenous rights or Indigenous education rights.

4.1.2 Nunavut Legal Jurisdiction

Nunavut was created in 1999 as a result of the Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada of 25 May 1993 (the ‘Nunavut Agreement’). The Preamble to the Nunavut Agreement sets out four objectives on which the agreement is based, including the objective of encouraging ‘self-reliance and the cultural and social well-being of the Inuit’. Part 1 of Article 2 of the Nunavut Agreement formally recognises that the agreement as a whole is based on and reflects the principles and objectives set out in the Preamble, and in Article 37 of the Nunavut Agreement, Part 1, the ‘Guiding Principles’—the principles which are required to guide the implementation of the agreement as well as the implementation plan to be developed under Article 37 by the Tunngavik

Federation of Nunavut, the Canadian Federal Government, and the Territorial Government. Given that, as demonstrated elsewhere in this report, cultural and social well-being are intimately linked to the state of the languages of aboriginal peoples, it follows that the well-being of the languages of the Inuit are a fundamental aspect of the creation of Nunavut which should be considered, as part of the Nunavut Agreement, in understanding and interpreting all other obligations which flow from the creation of the Territory of Nunavut. Indeed, as we shall see, the Nunavut *Official Languages Act, 2008* explicitly recognises the link between language and cultural and social well-being.

The Territory of Nunavut was formally created by the *Nunavut Act, 1993*⁸³. Amongst the legislative powers conferred on the Legislature of Nunavut is included the power to make laws in relation to ‘the preservation, use and promotion of the Inuktitut language’, to the extent that such laws do not diminish the legal status of or any rights in respect of the English and French languages.⁸⁴ While this provision does not require the Legislature of Nunavut to make such laws, it anticipates that where the Legislature does make such laws, they will aim at the ‘preservation, use and promotion’ of the Inuktitut language. Once again, this provision forms part of the context of any legislation relating to the Inuktitut language, and should be considered when interpreting any such legislation.

The *Nunavut Act, 1993* provided that laws of the Northwest Territories became laws of Nunavut, with the result that the *Official Languages Act, 1988*⁸⁵ of the Northwest Territories became part of the law of Nunavut; the *Nunavut Act, 1993* specifically provided that this legislation could not be repealed, amended or otherwise rendered inoperable by the Legislature of Nunavut without the concurrence of the Parliament of Canada.⁸⁶ Under the *Official Languages Act, 1988*, English, French, and nine aboriginal languages, including Inuktitut, Inuinnaqtun, and Inuvialuktun, were designated official languages,⁸⁷ although under the legislation, English and French enjoy a privileged position.⁸⁸ In 2008, the Nunavut Legislature passed the *Official Languages Act, 2008* (‘OLA 2008’)⁸⁹, which received the required approval of the federal Parliament in 2009 and came into force on 1 April 2013.

The preamble to the OLA 2008 is very significant. It affirms that, ‘contrary to past practice in which the Inuit Language was legally, socially and culturally subordinated in government and elsewhere,’ it is desirable that the Inuit Language be recognised as the Indigenous language of Nunavut, ‘the spoken and preferred language of a majority of Nunavummiut’, and ‘a defining characteristic of the history and people of Nunavut, and of the Inuit as a people of the wider circumpolar world.’ Significantly, the preamble also affirms that it is desirable that the Inuit Language be recognised as a necessary element in ‘(i) the improvement of Inuit social, economic and cultural well-being, as contemplated by the Nunavut Land Claims Agreement’ and ‘(ii) the development of the public service, and of government policies, programs, and services.’ The preamble further affirms that ‘the Inuit of Nunavut have an inherent right to the use of the Inuit Language in full equality with other Official Languages, and that *positive action is necessary to protect and promote the Inuit Language and Inuit cultural expression*’ (emphasis added). The preamble also expresses that the Legislature is ‘committed to the protection, promotion and revitalization of the Inuit Language, Inuit identity and Inuit cultural expression’.

The OLA 2008 specifies that the Inuit Language,⁹⁰ English and French are the Official Languages of Nunavut, and that they have equality of status and equal rights and privileges as to their use in territorial institutions ‘to the extent and in the manner provided under this Act’.⁹¹ Everyone has the right to use any of the three Official

Languages in the Legislative Assembly of Nunavut, although records and journals of the assembly, as well as laws passed by the assembly, are only required to be printed and published in English and French.⁹² In proceedings of judicial or quasi-judicial bodies⁹³ of Nunavut (but not federal courts), any of the three official languages can be used by any person, whether or not the person can understand or communicate in any other language.⁹⁴ Every territorial institution—defined as the Government of Nunavut, the Legislative Assembly of Nunavut, a judicial or quasi-adjudicative body, and any public agency established by the laws of Nunavut—is required to display all public signage in all three official languages, and to make and issue written instruments directed to the public in all three official languages.⁹⁵ A member of the public has the right to communicate with and receive the services of the head or central service offices of territorial institutions in any of the three official languages. A member of the public has the same right with respect to other offices of territorial institutions ‘if there is a significant demand for communications with and services from the office in an Official Language’, as evidenced by the percentage of the population served by the office who have that particular official language as their first or preferred language, and the volume of communications or services between the office and members of the public using an official language.⁹⁶ The member of the public also has that right if, due to the nature of such other offices, it is reasonable that communications and services from that office be available in ‘any of the official languages, as evidenced by the scope, impact or importance of the services in question for members of the public’ or by the relevance of the services in question to the health, safety, or security of members of the public.⁹⁷

The Minister of Languages of Nunavut, who is made responsible for the administration of the OLA 2008, is required to ‘promote and advocate the equal status’ of all three official languages and ‘the full realization and exercise of the rights and privileges’ as to the use of all three official languages set out in the OLA 2008.⁹⁸ The Minister is required to develop and maintain a comprehensive plan for the implementation of the language obligations, policies, programs and services by the public sector in Nunavut.⁹⁹ This plan must include measures to evaluate and ensure that members of the Nunavut public service who are engaged with dealing with the public ‘have an acceptable level of oral and written proficiency and skill’, must designate a sufficient number of staff positions in the public service for the discharge of the obligations and duties set out in the act, and ‘to review the laws of Nunavut and the policies of the Government of Nunavut to ensure their consistency, compliance and effectiveness in implementing and promoting’ the objectives of the OLA 2008 and of the *Inuit Language Protection Act*.¹⁰⁰ **In practice, it is difficult to see how the Minister could ensure the implementation of any such plan if children are not being equipped through the education system with the requisite levels of skills in Official Languages, and as we have seen ample evidence of, elsewhere in this report, at present the school system is failing to do this in relation to language skills in Inuit languages.**

The *Inuit Language Protection Act, 2008* (the ‘ILPA 2008’)¹⁰¹ is a particularly important piece of legislation. Generally, language legislation is directed at clarifying the obligations of the public sector in relation to service provision through the medium of different languages. However, like a very small number of jurisdictions—most notably Quebec, under its *Law 101, the Charter of the French Language*—the ILPA 2008 imposes obligations on actors in the non-state sector with regard to language use. As with the OLA 2008, the preamble is particularly notable. It makes extended reference to the importance of the Inuit Language, linking it to the

advancement of ‘the reconciliation contemplated by the Nunavut Land Claims Agreement’ and ‘as a foundation necessary to a sustainable future for the Inuit of Nunavut as a people of distinct cultural and linguistic identity within Canada’. The preamble speaks of the determination ‘to respond to the pressures confronting the Inuit Language by ensuring that the quality and prevalent use of the Inuit Language are protected and promoted’, and then affirms it as

a language of education, in a system that in both its design and effect strives to equip Inuit children to enter adult life as world citizens *having a rich knowledge of the Inuit Language and full ability to participate in the day-to-day life, development and cultural vibrancy of their communities and homeland* [...].

The Inuit Language is also affirmed in the preamble as ‘a language of work in territorial institutions’, and as ‘a language used daily in services and communication with the public throughout all sectors of Nunavut society’. The preamble also emphasised that the effective teaching and transmission of the Inuit Language, especially during early childhood and in communities or age groups for which there are special concerns about language loss or assimilation, are now critical’ for both improved Inuit educational achievement but also ‘for Inuit Language protection, promotion and revitalization in Nunavut.’ Based on our discussion in other chapters, it is difficult to conclude that any of these preambular goals are being achieved, and in many cases, failures in the education system are working against the accomplishment of these goals.

Space does not permit a detailed analysis of the *Inuit Language Protection Act, 2008*,¹⁰² but it generally creates very significant obligations for public sector bodies, municipalities and private sector bodies in relation to the provision of services to the public through the medium of the Inuit Language. It creates particular obligations in relation to education. Specifically, section 8(1) of the act specifies that every parent whose child is enrolled in the education program in Nunavut ‘has the right to have his or her child receive Inuit Language instruction’. Section 8(2)(a) provides that the Government of Nunavut must ‘design and enable the education program to produce secondary school graduates fully proficient in the Inuit Language, in both its spoken and written forms’. Section 8(2)(b) then provides that the Government of Nunavut must develop and implement appropriate Inuit Language competency target necessary for the achievement of full proficiency for all stages of learning within the education program, consistent with section 8(2)(a) (just described). Section 8(2)(d) requires the Government of Nunavut to develop and provide curriculum, classroom materials and programs in the Inuit Language relating to the objectives and competency targets of section 8(2)(b), and to develop and provide the training, certification and professional development for educators and others, including Inuit Language training and upgrading, that are necessary to produce the number, type and quality of educators required to implement section 8. Section 9 requires the Government of Nunavut to promote early childhood Inuit Language development and learning, and to develop and provide early childhood education materials and programs in the Inuit Language. Under section 24(1), the Minister of Languages is responsible for coordinating, administering and advocating the full, efficient and effective realisation and exercise of the rights and privileges established under the act, and under section 24(2), is specifically charged with the responsibility of developing policies or programs intended to promote the use and development of the Inuit Language so that it can be

used in the full range of activities and sectors of Nunavut society, and ‘increased learning, proficiency and linguistic vitality of the Inuit Language’.

Crucially, section 49(4) of the *Inuit Language Protection Act, 2008* provides that section 8 came into force for Kindergarten and grades 1 to 3 on July 1, 2009, but that section 8 would not come into force for grades 4 to 12 until July 1, 2019. On 12 March 2019, the Legislature of Nunavut passed the *Interim Language of Instruction Act*, which received assent on the same day, and which provides that section 8 of the *Inuit Language Protection Act* would not come into force until an as-yet-undetermined date in the future, when a Bill to amend the *Education Act* and the *Inuit Language Protection Act* comes into force, which Bill will presumably amend these various obligations and further extend the date of their implementation. The reasons given for the introduction of this act are that ‘at the present time, insufficient numbers of certified teachers [are] available to provide Inuit Language instruction in grades 4 to 12’, and ‘the Government of Nunavut does not have the ability to provide Inuit Language instruction in grades 4 to 12 commencing on July 1, 2019’ These statements can only be interpreted as an abject admission of failure on the part of the Nunavut authorities in respect of the obligations which they imposed upon themselves in 2008. Section 8 was presumably included in the *Inuit Language Protection Act, 2008* because its implementation was presumably considered of fundamental importance to the accomplishment of the goals of the legislation as a whole. It could therefore be argued that **the *Interim Language of Instruction Act* compromises and for that reason is inconsistent with the *Inuit Language Protection Act*.**

The final piece of Nunavut legislation which is of particular relevance is the *Education Act, 2008*¹⁰³. As with the other Nunavut legislation, the Preamble is of importance because, although preambular statements do not create legal obligations in and of themselves, they do inform the interpretation of the legislation. The preamble to the *Education Act, 2008* begins by recognising that public education needs to focus on students, their intellectual development, and ‘their physical, emotional, social, intellectual and spiritual well-being’. The preamble asserts the belief that ‘high quality education’ is necessary for the implementation of the Nunavut Land Claims Agreement ‘and to support Inuit culture’—which must surely include Inuit language. It also asserts the belief that ‘bilingual education’—and the meaning of this term has been discussed in earlier chapters of this report—‘can contribute to the preservation, use and promotion of Inuit language and culture and provide students with multiple opportunities’. The preamble recalls the establishment of Nunavut and reaffirms ‘the remedial objectives, obligations and guidance expressed by the Nunavut Land Claims Agreement’ (emphasis added), making particular reference to, among other things ‘the stated objectives and positive obligations of government concerning Inuit self-reliance, Inuit cultural and social well-being and Inuit participation in the governance and economic development of their homeland’. The word ‘remedial’ is notable; in relation to Inuit language and culture, it implies the negative impact and results of past policies and the need to implement policies which will reverse such impacts and results.

Part 4 of the *Education Act, 2008*, sections 23 to 29, entitled ‘Language of Instruction’, sets out most of the obligations in relation to the teaching of and through the medium of Inuit language, but there are other provisions in the act which are of importance. Section 1(1), in Part 1, which sets out ‘Fundamental Principles’, provides that the public education system in Nunavut ‘shall be based on Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit’. These are set out in section 1(2), using the Inuktitut term for each principle and concept with an English

summary of its meaning in brackets. Although this section does not mention explicitly Inuit language, it is inconceivable that Inuit societal values and the full understanding of these terms themselves can be dissociated from the Inuit language, and that therefore the **Inuit language is essential to the achievement of the fundamental principles on which the public education system is meant to be based.**

Part 3 of the act, ‘School Program’, is also of importance. Section 7(1) provides that district education authorities must provide a school program for kindergarten and for grades 1 to 12 (that is, primary and secondary education). Section 7(3) requires district education authorities to ensure that the school program ‘is founded on Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit and *respect for Inuit cultural identity*’ (emphasis added). Section 8(1) provides that the education for every school in Nunavut consists of the delivery of the curriculum established by the Minister of Education, as modified by any local program developed by the district education authority, although such modifications require ministerial approval¹⁰⁴. Section 8(2) requires the Minister of Education to establish the curriculum for kindergarten and for grades 1 to 12, and under section 8(3) this curriculum must also be in accordance with and based on ‘Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit and respect for Inuit cultural identity’. Significantly, section 8(4) provides that the curriculum must ‘promote fluency in the Inuit Language¹⁰⁵ and an understanding of Nunavut, including knowledge of Inuit culture and of the society, economy and environmental characteristics of Nunavut’. This is a fundamentally important obligation, as it sets the overall goal for what the school curriculum, and therefore the education program for each school, is required to achieve in terms of Inuit language competence. With regard to pre-school, section 17(1) provides that district education authorities must provide an early education program ‘that promotes fluency in the Inuit Language and knowledge of Inuit culture’. Section 17(3) provides that the program must be developed in accordance with and be based on ‘Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit, particularly the principle of Pilimmaksarniq’. The latter concept is defined in section 1(2)(e) as the development of skills through practice, effort and action.

As noted, Part 4 of the *Education Act, 2008* deals with the language of instruction in Nunavut schools. Section 23(1) provides that every student must be given a bilingual education and the languages of instruction must be the Inuit Language and either English or French, as determined for particular areas by the district education authority. Thus, the school system must not only teach the Inuit language, but that language must be one of the languages of instruction, the language through which students are taught. The term ‘bilingual education’ is not defined in the act itself, but is given meaning in the *Language of Instruction Regulations*¹⁰⁶ (the ‘Regulations’). Of fundamental importance is section 23(2), which describes the purpose of bilingual education under section 23(1) to be ‘to produce graduates who are able to use both languages [i.e. Inuit Language and either English or French] competently in academic and other contexts’. This, it is suggested, must be the yardstick by which school education and, indeed, the Regulations must be judged. **If the school system, based on the Regulations and other provisions of the act, is not producing graduates who are able to use the Inuit Language ‘competently in academic and other contexts’, the requirements of the act are not being complied with.** As we have detailed in other sections of this report, **it is our strongly held view that the system at present is failing comprehensively in producing graduates having these skills, meaning that the act is being fundamentally breached.** Section 24(1) provides that

the district education authorities are required to decide as to whether English or French will be used with the Inuit Language as a language of instruction, and these authorities must also choose the bilingual education model or models that will be followed in delivering the education program in their areas. These models are set out in the Regulations.

Section 25 is also of fundamental importance. Section 25(1) provides that the Minister of Education is ultimately responsible for ensuring that the duties of the Government of Nunavut in relation to education in the Inuit Language are fulfilled. Section 25(2) provides that in administering the *Education Act, 2008*, the Minister must ‘ensure that the educational program [i.e. the curriculum, set out in section 8, which was discussed above] supports the use, development *and the revitalization* of the Inuit Language’ (emphasis added). This is once again a yardstick by which school education and the Regulations must be judged. As we have detailed in other sections of this report, **it is our strongly held view that the system at present is failing comprehensively in supporting the use, development and particularly the revitalisation of the Inuit Language and that therefore the *Education Act, 2008* is being breached.**

The act recognised that a period of transition was needed in order to fully implement these obligations. Section 28 provided that the obligations of Part 4, including those with respect to bilingual education, applied immediately—at least, in the 2009-2010 school year—in relation to kindergarten and grades 1 to 3, and that those obligations would be phased in for other grades in the manner set out in the Regulations for all other grades, but that the provisions of Part 4 would apply to all grades by the 2019-2020. However, as was noted above in relation to the *Inuit Language Protection Act, 2008*, on 12 March 2019 the Legislature of Nunavut passed the *Interim Language of Instruction Act*, which received assent on that same day. It provides that Part 4 will now not apply to grades 4 through 12 by the 2019-2020 school year, but will only do so at a later date—essentially, some as yet to be determined date in the future on which a bill which the government of Nunavut to amend both the *Education Act* and section 8 of the *Inuit Language Protection Act* becomes law. This act effectively suspends the full application of Part 4 as well as section 8 of the *Inuit Language Protection Act* for all grades other than Kindergarten and grades 1 to 3. As was noted earlier, in the preamble to the *Interim Language of Instruction Act*, the reasons given for the introduction of the act are that ‘at the present time, insufficient numbers of certified teachers [are] available to provide Inuit Language instruction in grades 4 to 12’, and ‘the Government of Nunavut does not have the ability to provide Inuit Language instruction in grades 4 to 12 commencing on July 1, 2019’. As was also noted above, **these statements can only be interpreted as an abject admission of failure on the part of the Nunavut authorities in respect of the obligations which they imposed upon themselves in 2008.**

The Regulations play an important role in providing meaning to the Part 4 obligations. Section 3 of the Regulations sets out the models of bilingual education from which district education authorities are required to choose under section 24(1) of the *Education Act, 2008* (as discussed above). Section 3 provides for three models, the Quilq Model, the Immersion Model, and the Dual Model, all of which are described in more detail in the Table of Bilingual Education Models in the Schedule to the Regulations. Section 4 of the Regulations provide that each district education authority must follow the model which it has chosen, as must the principal teacher of each school within the district education authority. Under the Schedule, the Immersion Model provides for the greatest amount of use of Inuit Language as the

medium of instruction. It requires that the Inuit Language be used between 85 and 90% of the time in Kindergarten and grades 1 to 3, 80 to 85% of the time in grades 4 to 6, and 65 to 70% of the time in grades 7 to 9. The Qulliq Model requires that the Inuit Language be used between 85 and 90% of the time in Kindergarten and grades 1 to 3, 70 to 75% of the time in grades 4 to 6, and 55 to 65% of the time in grades 7 to 9. The Dual Model is more complex, and provides for two streams, an ‘Inuit Language Stream’ and a ‘Non-Inuit Language Stream’, and pupils are assigned to the stream by the school team in consultation with the pupil’s parents. In the Inuit Language Stream, the Inuit Language must be used between 85 and 90% of the time in Kindergarten and grades 1 to 3, 70 to 75% of the time in grade 4, 60 to 70% of the time in grade 5, and 55 to 60% of the time in grade 6, and 50 to 60% of the time in grades 7 to 9. In the Non-Inuit Language Stream, in Kindergarten and grades 1 to 3 the Inuit Language is taught only between 10 to 15% of the time, and then only as a subject (which can be taught through the medium of the non-Inuit language); in grade 4, the Inuit Language must be used between 25 and 30% of the time, in grade 5 between 30 and 40% of the time, in grade 6 between 40 and 45% of the time, and in grades 7 to 9, the Inuit Language must be used between 40 and 50% of the time. For grades 10 to 12, the requirements are the same for all three models: in grade 10, at least 15 credits must be taken through the medium of the Inuit Language and at least 15 credits through the non-Inuit language, and in grades 11 and 12, at least 10 credits must be taken through the medium of the Inuit Language and at least 10 credits through the medium of the non-Inuit language, thereby leaving a fair amount of choice to pupils as to the balance between education through the medium of the two languages.

Section 28 of the Regulation is particularly important, because it provides for the phased implementation of these obligations, as provided for in Section 28 of the *Education Act, 2008* itself. Under section 28 of the Regulation, Part 4 applied to grade 4 in 2013-14, grade 5 in 2014-15, grade 6 in 2015-16, grade 7 in 2016-17, grade 8 in 2017-18, grade 9 in 2018-19, and grades 10 to 12 in 2019-20. As noted, the *Interim Language of Instruction Act, 2019* has effectively suspended the application of Part 4 of the *Education Act, 2008* to grades 4 to 12 until a later, as-yet-undefined date. As also already noted, it also effectively suspended the application of section 8 of the *Inuit Language Protection Act, 2008*. However, section 28 of the *Education Act, 2008* provides that Part 4 was to be phased in in accordance with the Regulation, and as the Regulation provided that Part 4 applied to grades 4 to grade 9 on a phased basis between 2013 and 2019, it could be argued that Part 4 was in force in relation to those years from the school year designated in the Regulation, and that failures to comply with the Regulation during those years could still be considered to be in violation of the law. It must also be emphasised that the *Interim Language of Instruction Act* does not affect the application of other legislative provisions discussed in this section, including, significantly, the ‘Fundamental Principles’ in Part 1 of the *Education Act, 2008* on which education in Nunavut must be based, and the general obligation under section 8(4) of the *Education Act, 2008*—which is Part 3 of that act—that the curriculum must promote fluency in the Inuit Language, something which, as already noted, we have suggested elsewhere in this report the curriculum has persistently failed to do. **We would also suggest that the indefinite suspension of section 8 of the *Inuit Language Protection Act, 2008* fundamentally compromises the ability to implement that act, as that entire act is premised on the notion that there will be sufficient numbers of people in Nunavut who are capable of providing the Inuit Language services anticipated by that legislation—presumably, it was for**

this very reason that the education commitments in that act, including those in section 8, were included in the first place.

4.2 INTERNATIONAL LEGAL OBLIGATIONS

4.2.1 International Human Rights Law

Canada has a number of international legal obligations of relevance to the education of Inuit children in Nunavut, including the International Covenant on Civil and Political Rights ('ICCPR'),¹⁰⁷ the International Covenant on Economic, Social and Cultural Rights ('ICESCR')¹⁰⁸ the Convention on the Rights of the Child ('CRC'),¹⁰⁹ and the International Convention on the Elimination of all forms of Racial Discrimination ('ICERD'),¹¹⁰ all of which are United Nations treaties which create binding international legal obligations for Canada. The ICCPR contains an article, Article 27, which specifically addresses the rights of minorities. This will be discussed in section 4.2.2., below. Aside from that, the ICCPR does not contain any provision of direct relevance to the education of indigenous children—as we shall see, other international human rights instruments do—although the ICCPR does contain provisions, such as those which protect individuals against various forms of discrimination, which may have indirect relevance. Also, the prohibition in Article 7 of the ICCPR on subjecting persons to torture or to cruel, inhuman or degrading treatment or punishment may certainly be of direct relevance in relation to the type of treatment to which indigenous children have been subjected to in the school system, such as the experience of many indigenous children in residential schools. This is a matter which shall be explored in section 3, below. Here, a range of provisions of direct relevance to the education of indigenous children, but which are not explicitly directed at minorities or indigenous peoples will be explored.

Article 13, paragraph 1 of the ICESCR provides that States Parties recognize the right of everyone to education, and that education 'shall be directed to the full development of the human personality and the sense of its dignity'. The paragraph also provides that education must "enable all persons to participate effectively in a free society". The Committee on Economic, Social and Cultural Rights—the body created under the treaty to oversee its implementation—has noted that States must facilitate the acceptability of education "by taking positive measures to ensure that education is culturally appropriate for minorities and Indigenous Peoples".¹¹¹ The Committee did not make explicit reference to the language of instruction. However, in a territory such as Nunavut, the majority of the population speaks an indigenous language. As we have seen in section 1 of this chapter, that language is both an official language and one which receives significant protection through a statute which effectively mandates its use in both the public and private sector.

The failure of the education system in Nunavut to ensure full written and oral fluency and high levels of competence in the languages of Inuit arguably compromises the ability of the state to deliver education that is 'culturally appropriate' to the context of Nunavut, which enables children to 'participate effectively' in Nunavut society, and which therefore limits the 'full development of the human personality and the sense of its dignity'.

Article 15, paragraph 1(a) of the ICESCR is also of relevance; it provides that everyone has the right to participate in cultural life. The Committee on Economic, Social and Cultural Rights has noted the following:

The right of everyone to take part in cultural life is also intrinsically linked to the right to education (arts. 13 and 14), through which individuals and communities pass on their values, religion, customs, language and other cultural references, and which helps to foster an atmosphere of mutual understanding and respect for cultural values.¹¹²

Furthermore, the Committee has made it clear that ‘culture’ encompasses, amongst other things, ways of life, *language*, oral and written literature, and song.¹¹³ The Committee also notes that the concept of ‘participation’ in cultural life has various aspects, one of which is access, which covers the right of everyone to know and understand his or her own culture through education and information, and to receive quality education with due regard for cultural identity.¹¹⁴ **Where, as with the Inuit, culture and cultural identity are deeply entwined with and embedded in language, this, it is argued, implies the fundamental importance of equipping children with extensive language skills in the indigenous language.**

The Committee also noted that children require special protection, and that children ‘play a fundamental role as the bearers and transmitters of cultural values from generation to generation’ and that education must be culturally appropriate, and must enable children to develop their personality and cultural identity and to learn and understand cultural values and practices of the communities to which they belong, among other things.¹¹⁵ They also recalled that educational programmes of States parties ‘should respect the cultural specificities of national or ethnic, linguistic and religious minorities as well as indigenous peoples’, and that

States parties should adopt measures and spare no effort to ensure that educational programmes for minorities and indigenous groups *are conducted on or in their own language*, taking into consideration the wishes expressed by communities and in the international human rights standards in this area.¹¹⁶ (emphasis added)

The Committee also referred to minorities and indigenous peoples as groups which require special protection. They noted that minorities have the right to their forms of education, their *languages*, and other manifestations of their cultural identity and membership,¹¹⁷ and that any programme intended to promote the constructive integration of minorities into the society of a State party should be based on inclusion, participation and non-discrimination, ‘with a view to preserving the distinctive character of minority cultures’.¹¹⁸ Clearly, the preservation of the Inuit language is absolutely fundamental to the preservation of the distinctive character of Inuit culture. Education policy in Nunavut should therefore be aimed at this particular end. **Among the minimum core obligations for States is that of eliminating any barriers or obstacles that inhibit or restrict a person’s access to the person’s own culture or to other cultures.¹¹⁹ It is suggested that an education which does not equip an Inuit student in Nunavut with high degrees of competence in the Inuit languages constitutes such a barrier, and that a policy which fails to address this barrier and in fact exacerbates it constitutes a breach of the minimum core obligations.**

Under Article 2, paragraph 1, States Parties to the ICERD undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms. Racial discrimination is defined in Article 1, paragraph 1 to include any distinction, exclusion, restriction or preference based on race, colour, descent, or

national or ethnic origin. Article 2, paragraph 2 of the ICERD provides that States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms, although for only so long as is necessary to achieve the objectives for which such measures were meant to achieve. The Committee on the Elimination of Racial Discrimination, the body created under the treaty to oversee its implementation, has made a general recommendation on the rights of indigenous peoples in which it notes that ‘the situation of indigenous peoples has always been a matter of close attention and concern’.¹²⁰ The Committee noted that it was conscious of the fact that ‘in many regions of the world indigenous peoples have been, and are still being, discriminated against and deprived of their human rights and fundamental freedoms’, and that consequently ‘the preservation of their culture and their historical identity has been and still is jeopardized’.¹²¹ The Committee then called upon States Parties to recognise and respect ‘indigenous distinct culture, history, *language* and way of life as an enrichment of the State’s cultural identity *and to promote its preservation*’¹²² (emphasis added), to provide indigenous peoples with “conditions allowing for a sustainable economic and social development *compatible with their cultural characteristics*”¹²³ (emphasis added), and to ensure that indigenous communities ‘can exercise their rights to practice and revitalize their cultural traditions and customs *and to preserve and to practise their languages*’¹²⁴ (emphasis added). It is very difficult to see how States can achieve these objectives without ensuring through the education system that members of indigenous communities attain high degrees of oral and written proficiency in their languages. Indeed, in the context of Nunavut, where speakers of Inuit languages constitute a large majority, but where, partly because of existing educational provision, the language is weakening, especially among younger people, it could be said that such educational provision is frustrating these goals.

Canada is also party to the CRC. Important general principles are set out in Article 3. Specifically, paragraph 2 of that article provides that in all actions concerning children, including actions taken by the public administration and legislative bodies, ‘the best interests of the child shall be a primary consideration’. Paragraph 2 of the article provides that states parties such as Canada ‘undertake to ensure the child such protection and care as is necessary for his or her well-being’. As we have shown elsewhere in this report, mother-tongue-medium education throughout primary and secondary education contributes to the well-being of Inuit children, and failure to implement such a policy endangers that well-being. Canada is also committed under Article 8, paragraph 1 to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference; identity would surely include the linguistic and cultural identity of the child.

Under Article 29, paragraph 1 Canada agrees that the education of the child must be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential (subparagraph (a)), and to the development of respect for the child’s own cultural identity, *language* and values, among other things (subparagraph (c)). As we have demonstrated elsewhere in this report, mother tongue-medium education throughout primary and secondary education greatly promotes these objectives, and the failure to provide such education significantly threatens their accomplishment. The Committee on the Rights of the Child, the body

established under the CRC to monitor its implementation, has noted that Article 29, paragraph 1 requires that the school curriculum ‘must be of direct relevance to the child’s social, cultural, environmental and economic context and to his or her present and future needs’ and that education ‘must also be aimed at ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can be expected to be confronted with in life’.¹²⁵ As has already been noted, a large majority of the population of Nunavut speak Inuit languages. As we have seen in section one of the chapter, Inuit languages are official languages of Nunavut, and under the Inuit Language Protection Act 2008, it is intended that the public, private and voluntary sectors in Nunavut are capable of functioning through Inuit languages. In this context, it seems obvious that a high degree of literacy and oral communication skills in Inuit languages constitute ‘essential life skills’ which are necessary to allowing Inuit children to face the challenges that they may be expected to be confronted with in life. As such, **it is suggested that Article 29 requires education policies which provide Inuit mother tongue-medium education through secondary school as the evidence adduced elsewhere in this report demonstrates that such education is necessary to impart such levels of skills in students.**

Article 30 essentially encapsulates the ‘minorities article’, Article 27 of the ICCPR, which will be discussed below:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Finally, Article 37, paragraph (a) provides that Canada must ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment. **Given the very adverse effects produced by some forms of education inflicted upon indigenous children, it is possible that such forms of education may constitute inhuman or degrading treatment,** an issue we consider in somewhat more detail in section three of this chapter, below.

4.2.2 International Law relating to Indigenous Peoples and Minorities

The most important international instrument in relation to the rights of Indigenous Peoples is International Labour Organisation (‘ILO’) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries¹²⁶ of 1989, which entered into force on 5 September 1991, as it, together with the older ILO Convention No. 107 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries¹²⁷ of 1957, which was meant to replace, create binding international legal obligations on states which have signed and ratified it. However, Canada has not signed or ratified either treaty, and therefore the provisions of both treaties do not create any obligations for Canada or, by implication, for Nunavut.

The other very important international instrument of relevance is the UN General Assembly Declaration on the Rights of Indigenous Peoples.¹²⁸ Strictly speaking, UN General Assembly resolutions such as this do not create binding international legal

obligations, although they are of considerable political and indeed moral value. Initially, Canada was one of only four states which voted against the declaration in the General Assembly in 2007;¹²⁹ 143 states voted in favour, and eleven others abstained. In May 2016, however, Canada reversed its position and has now officially adopted the declaration,¹³⁰ thereby agreeing in effect to honour it.

Article 3 of the Declaration provides that Indigenous Peoples have the right to self-determination. Article 4 specifies that Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs—such as, in the case of Nunavut, school education—as well as ways and means for financing their autonomous functions. This right to have autonomous functions of the autonomous institutions of Indigenous Peoples adequately funded is a particularly important one in relation to matters such as the funding of the teaching of and through the medium of indigenous languages.

Article 8, paragraph 1 provides that Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. Article 8, paragraph 2 provides that States shall provide effective mechanisms for prevention of, and redress for (a) any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities, and (d) any form of forced assimilation or integration. The phrasing here is crucial—even if the aim of the state is not to deprive Indigenous Peoples of their cultural values or ethnic identities, if state policies have this effect, the state is in breach of its obligations. This issue of intent of the State on the one hand and the effect of State policy on the other is discussed below. This provision also requires the state to provide ‘redress’ for past actions which has had the effects described. As the education system has been used to produce these effects, it is now necessary that the education system be deployed to redress those effects. If the education system is not yet doing so—which, in the case of Nunavut, as we have shown elsewhere in this report, it is not—then the state is in breach of its obligations under this Article.

Article 13, paragraph 1 provides Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, *languages*, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. Paragraph 2 requires that States take effective measures to ensure that this right is protected. Thus, States must ensure that Indigenous peoples are able to revitalize their languages and where the state has not done so effectively—and as we have documented elsewhere in this report, Nunavut has not yet created an education system that will ensure the maintenance and revitalisation of the Inuit languages—then the state is in breach of this obligation. Paragraph 2 also requires that States ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means—in principle, the Nunavut Official Languages Act and the Inuit Language Protection Act promote the achievement of this obligation, but in practice it is not at all clear that these pieces of legislation are yet having their intended effect. The failure of the Nunavut education system to produce sufficient graduates with requisite language skills to ensure that implementation is possible is a serious problem.

Article 14 explicitly addresses education. Paragraph 1 provides that Indigenous peoples have the right to establish and control their educational systems and institutions *providing education in their own languages*, in a manner appropriate to their cultural methods of teaching and learning. **Paragraph 3 provides that States shall, in conjunction with indigenous peoples, take effective measures, in order**

for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and *provided in their own language*. The fundamental importance of providing education—not only in early years but throughout the process of education—in the languages of indigenous peoples is very clear. The reference in paragraph 3 to the provision of such education ‘when possible’ recognises that challenges may exist in making such education possible, but this qualification is clearly not intended to allow the authorities to engage in foot-dragging. Indeed, given the overall thrust of the declaration, which is strongly in support of the urgent revitalisation of indigenous languages, resort to this qualification should be used sparingly if at all.

4.2.2.1 Minority Rights

In international law, the Inuit would also be considered to be a minority,¹³¹ and would therefore benefit from any international legal obligations which Canada has in relation to the protection of minorities. The most important commitment, in terms of creating binding obligations in international law, is Article 27 of the ICCPR, which provides as follows:

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.

This provision has been subject to a large amount of commentary. It clearly does not explicitly address the question of education of minority children or the language of instruction. However, the Human Rights Committee, the body created under the ICCPR to oversee its implementation, has noted that although the rights protected under Article 27 are individual rights, they depend on the ability of the minority group to maintain its culture, language or religion and that therefore ‘positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion, in community with the other members of the group’.¹³² Furthermore, the Committee has noted that the article ‘relates to rights whose protection imposes specific obligations on States parties’ and that the protection of these rights ‘is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned’.¹³³ In spite of the absence of a direct reference to education and in particular to mother tongue-medium education, given the critical importance of mother tongue-medium education to the maintenance of indigenous and minority speech communities, demonstrated later in this report, we suggest that **it is not possible to ensure the survival and continued development of the cultural identity of the Inuit without strong mother tongue education programmes throughout primary and secondary education.**

Explicit obligations in relation to the teaching of and through the medium of minority languages in primary and secondary education have been developed under two important Council of Europe Treaties, namely the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages. However, Canada is not a party to either of these treaties. Canada did,

however, support the United Nations General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,¹³⁴ Article 1, paragraph 1 of which requires States to ‘protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity’, and paragraph 2 of which requires States to adopt ‘appropriate legislative and other measures to achieve those ends’. Article 4, paragraph 2 requires States to ‘take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, *language*, religion, traditions and customs’. Article 4, paragraph 3 provides that States ‘should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue’. Finally, Article 4, paragraph 4 provides that States should, ‘where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, *language* and culture of the minorities existing within their territory’. Once again, given what we know, discussed above in this report, about the fundamental importance of both primary and secondary education in equipping indigenous children with their language, it is difficult to see how these obligations could adequately be addressed without the provision of such mother-tongue education.

Canada is also a participant in the Organisation for Security and Cooperation in Europe (‘OSCE’) and although the organisation does not produce standards which are, strictly speaking, legally binding in international law, they are, like UN General Assembly resolutions, of considerable political force and moral value. Part IV of 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE¹³⁵ set out a range of standards with respect to the protection of minorities. Under paragraph 33 of that document, participating states of the CSCE undertook to protect the ethnic, cultural, *linguistic* and religious identity of national minorities on their territory and create conditions for the promotion of that identity. Thus, as a general matter, Canada, and by necessary implication Nunavut, has committed itself not only to protecting the linguistic identity of minorities such as the Inuit, but to create conditions which *promote* that identity. Forms of education which do not protect and promote Inuit language and linguistic identity are therefore not consistent with this commitment. Paragraph 34 of the document deals specifically with education, and provides the following:

The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation

While Inuit languages are not official languages of the Canadian state, they are official languages of Nunavut, and in the context of the Official Languages Act and the Inuit Language Protection Act, the need to learn Inuit languages is clear. In spite of the various qualifications, the thrust of this paragraph is also clear: the State is obliged to ensure that Inuit have adequate opportunities to learn Inuit languages, not only in the early years of education but throughout the process of education.

The OSCE High Commissioner on National Minorities has published several sets of thematic Recommendations and Guidelines. Although these do not create any binding obligations in international law, they provide advice on common challenges faced by OSCE participating states and best practice for those states. These could be understood as yardsticks by which to measure how well participating states are doing in relation to the standards set by the OSCE and under international law more generally. The first of these were the Hague Recommendations regarding the Education Rights of National Minorities of October 1996.¹³⁶ In paragraph 1, the Recommendations recognise as a general principle that ‘the right of persons belonging to national minorities to maintain their identity can only be fully realised if they acquire a proper knowledge of their mother tongue during the educational process’. The recommendations suggest that States should create conditions at pre-school and kindergarten level which enable parents to have their children taught through the medium of the indigenous language, that at primary level the curriculum should ideally be taught through the medium of the indigenous language, and that at secondary level a substantial part of the curriculum should be taught through the medium of that language.¹³⁷ These recommendations represent international best practice in relation to the satisfaction of State obligations regarding the education of linguistic minorities, including indigenous children. **At present, as we have documented elsewhere in this report, present practice in Nunavut falls well below such best practice.**

4.2.3 International Criminal Law

In spite of the fact that, as noted elsewhere in this report, the concept of ‘cultural genocide’ is now widely used in a variety of disciplines and increasingly in more general discourse in relation to the sorts of assimilative policies which have been and are still being applied to indigenous peoples and minorities, as we shall see, the term has not found much support in international law or international legal discourse, something which remains true concerning the notion that such assimilationist policies could amount to international crimes. It is, of course, important that a Chief Justice of the Supreme Court of Canada, the Honourable Beverley McLachlin used the term ‘cultural genocide’ in relation to Canada’s treatment of its Aboriginal peoples, although at least one leading Aboriginal Law scholar, John Borrows, was reported as saying that the term, and the Chief Justice’s use of it, was unlikely to have legal consequences.¹³⁸ Although, as we shall see, from a strictly legal perspective, the application of international criminal law in relation to the subject matter of this report is highly problematic, the Chief Justice’s comments are a reminder that the law is itself not static, and is shaped in both its construction and interpretation by the evolution of wider social views and understandings.

4.2.3.1. Crimes Against Humanity

The concept of crimes against humanity is a relatively recent development in international law, and many aspects of what constitutes criminality are unclear and are still being developed. Indeed, unlike genocide, the concept has never been codified into a single convention or treaty—although, as we shall see, below, an initiative is now under way to develop such a convention—and many aspects of what constitutes a ‘crime against humanity’ remain unclear.

The term ‘crime against humanity’ was first used in the modern context in respect of the massacres of Ottoman Turkey’s Armenians from 1915, and it was translated into international legal principle in 1945, following the second World War, in the London Agreement embodying the Charter of the International Military Tribunal (under which the Nuremberg Trials were conducted) (Cassese, 2008: 101-8). Although long associated with armed conflict, this is no longer necessarily the case; it is now accepted that they can also be perpetrated in times of peace. Antonio Cassese, one of the foremost scholars of international criminal law, has suggested that the category of crimes against humanity has now become part of customary international law, and that while the concept is “sweeping”, it has a number of common features. First, they are “particularly odious offences in that they constitute a serious attack on human dignity or a grave humiliation or degradation of one or more persons”. Second, they are not isolated or sporadic events, but “are part of a widespread or systematic practice of atrocities that either form part of government policy or are tolerated, condoned, or acquiesced in by a government”. Third, such crimes can be perpetrated in time of war or in peace. Fourth, they are committed against civilians or, under customary international law (but not under the Statute of the International Criminal Court), enemy combatants in armed conflicts (Cassese, 2008: 101-8).

The most complete definition of what constitutes ‘crimes against humanity’ is now set out in the Rome Statute of the International Criminal Court of 17 July, 1998 (the “Statute of the ICC Statute”). Article 7, paragraph 1 of the Statute of the ICC defines “crime against humanity” as any of a number of acts set out in paragraph 1, “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”. Subparagraph 2 (a) of Article 7 defines “attack directed against any civilian population” to mean a course of conduct involving the commission of multiple acts referred to in paragraph 1 against any civilian population. Furthermore, subparagraph 2 (a) also provides that the multiple commission of such acts must be “pursuant to or in furtherance of a State or organizational policy to commit such attack”. While this language suggests that the acts must be accompanied with physical violence, it is not clear that that this is necessarily the case, as the case law of certain special international criminal tribunals has indicated that physical violence may not be necessary (de Guzman, 2011: 11).

The acts enumerated in paragraph 1 of Article 7 of the ICC Statute which can give rise to a crime against humanity are:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation or forcible transfer of population;
- (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) torture;
- (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender [...], or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) enforced disappearance of persons;
- (j) the crime of apartheid;

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Clearly, virtually all of these acts would not apply in the context of the practices considered in this report. The only possibilities which may offer any hope are paragraphs (h) and (k).

With regard to paragraph (h), paragraph 2(g) of Article 7 of the Statute of the ICC provides that ‘persecution’ means “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity”. The Statute of the ICC does not, however, define what is meant by ‘fundamental rights’. In one case¹³⁹ in which the concept was considered, as part of a detailed consideration of the crime of persecution (under the International Criminal Tribunal for the former Yugoslavia), the Trial Chamber noted that, although the realm of human rights is dynamic and expansive, not every denial of a human right may constitute a crime against humanity. The Trial Chamber also made the following comments:

The only conclusion to be drawn from its application is that only gross or blatant denials of fundamental human rights can constitute crimes against humanity [...] in order to identify those rights whose infringement may constitute persecution, more defined parameters for the definition of human dignity can be found in international standards on human rights such as those laid down in the Universal Declaration on Human Rights of 1948, the two United Nations Covenants on Human Rights of 1966 and other international instruments on human rights or on humanitarian law. Drawing upon the various provisions of those texts it proves possible to identify a set of fundamental rights appertaining to any human being, the gross infringement of which may amount, depending on the surrounding circumstances, to a crime against humanity. Persecution consists of a severe attack on those rights, and aims to exclude a person from society on discriminatory grounds [...]
[...]

The Trial Chamber therefore defines persecution as the gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as other acts prohibited in Article 5 [the equivalent of Article 7 in the ICC Statute] [...]¹⁴⁰

One problem is that, as we have seen in sections 2.1 and 2.2, above, while there are a variety of obligations of relevance in international human rights law, and in the international law on minority rights and the rights of indigenous peoples, most of the most important international human rights instruments say very little about mother tongue education. It is therefore very difficult to conclude that, at present at least, inadequate provision of mother tongue education, or even its outright denial, would constitute a denial of a ‘fundamental right’ within the meaning of paragraph (h). Another problem is that, as is noted in the above passage, discrimination needs to be involved. In the context of Nunavut, this may be particularly difficult to demonstrate. As we have seen in section 1 of this chapter, education is ultimately a matter for the Legislature of Nunavut, for which a majority of the voters are themselves Inuit and in which a majority of the members are Inuit. It would be unprecedented, and arguably

highly unlikely, for an international tribunal to find that a body comprised largely of members of a particular group and who are themselves democratically elected by a population that is also comprised largely of members of that group have engaged in acts of discrimination against that group. Finally, as a technical matter, the final clause of paragraph (h) is also highly problematic, as it requires that the persecution must be in connection with one of the other acts listed above, or another crime within the jurisdiction of the ICC (genocide, war crimes, and the crime of aggression). Cassese has noted, however, that this final requirement is not a requirement of the concept of “crimes against humanity” as understood in customary international law (Cassese, 2008: 125-6). However, it may be necessary to demonstrate that the acts reach the same level of gravity of other acts which are considered in customary international law to be crimes against humanity, and this would, again, be a very significant hurdle, as most such acts involve significant physical violence. By the same token, in an important recent monograph, the question of whether ‘cultural persecution’ could amount to a ‘crime against humanity’ was considered at length (Novic, 2016: chapter 5, 142-168). Novic notes that at the moment, it remains to be seen whether the crime of ‘persecution’ could form the basis of what she describes as “a holistic approach to crimes against culture” (Novic, 2016: 154), although she notes that of the case law that does exist, there is at present somewhat more possibilities in relation to tangible cultural heritage than intangible cultural heritage.

The second sort of act enumerated in Article 7, paragraph 1 of the Statute of the ICC that may be relevant here is that set out in subparagraph (k), effectively a catch-all provision which refers to “other inhumane acts of a similar character [to those set out in paragraph 1] intentionally causing great suffering, or serious injury to body or to mental or physical health”. Like the category persecution, however, this category has a number of definitional uncertainties which have not yet been clarified by courts and tribunals. A particularly difficult challenge is the requirement that the acts be of a similar character to other acts set out in paragraph 1; as noted in respect of persecution, this may imply that such acts must involve significant physical violence, and this could potentially limit its application. Significantly, Novic, who considered the question of the crime of ‘persecution’ at length, dismissed summarily the possible application of ‘inhumane acts’ in a cultural context, on the grounds that the crime against humanity of inhumane acts has thus far never been used to address the types of issues that she was considering (Novic, 2016: 145).

Finally, it should be noted that in 2013, at its sixty-fifth session, the International Law Commission decided to place the topic of ‘crimes against humanity’ on its long-term programme of work, and that its sixty-sixth session in 2014, it moved the topic onto its current programme of work, and appointed a Special Rapporteur, Sean D. Murphy. Work is ongoing, but in 2015 the Special Rapporteur issued the First Report on Crimes against Humanity,¹⁴¹ in which the Special Rapporteur included two draft articles for an eventual convention on crimes against humanity, one of which, Draft Article 2, was the definition of ‘crimes against humanity’. Essentially, it reproduces the definition of ‘crimes against humanity’ in the Statute of the ICC.¹⁴² However, these are, as noted, only draft articles; it is therefore impossible to say what the definition in any future convention will ultimately include.

In conclusion, the law at present is not very favourably disposed to the application of the concept of crimes against humanity in the context of the sorts of policies and practices we are looking at in this report. This is to a very significant degree due to the existing international law definitions in relation to

crimes against humanity, and the significant ambiguities and indeed obstacles in the small number of acts which may potentially apply.

4.2.3.2. Genocide

Rafaël Lemkin, who conceived of the term genocide, was of the view that it should encompass not only the physical destruction of what he termed “national groups”, but also “the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves”, and he made reference to the “disintegration of the political and social institutions of *culture, language*, national feelings, religion and the economic existence of national groups” (Lemkin 1944: 79; emphasis added). This concept of cultural genocide was considered at length during the drafting of the *United Nations’ Convention on the Prevention and Punishment of the Crime of Genocide* (the ‘Genocide Convention’).¹⁴³ Indeed, in the initial draft of the Human Rights Division of the Secretariat of the UN (UN Doc. E/447), genocide was defined as a criminal act directed against any racial, national, linguistic, religious or political group of human beings “with the purpose of destroying it in whole or in part, *or of preventing its preservation or development*” (Article 1.II). The criminal acts which gave rise to genocide were, following Lemkin (1944), divided into three categories, physical, biological, and cultural. This third category involved “destroying the specific characteristics of the group”, by one of the following means:

- (a) forcible transfer of children to another human group;
- (b) forced and systematic exile of individuals representing the culture of a group;
- (c) prohibition on the use of the national language even in private intercourse;
- (d) systematic destruction of books printed in the national language or of religious works or prohibition of new publications;
- (e) systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship (UN Doc. E/447).

The concept of cultural genocide was carried forward in the draft of the Genocide Convention prepared by the *ad hoc* drafting committee created by the UN Economic and Social Council. What constituted the crime of genocide was set out in two articles, Article II, which dealt with ‘physical and biological’ genocide, and Article III, which dealt with ‘cultural’ genocide. Article III provided that genocide also meant “any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or the religious belief of its members such as:

1. Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;

2. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.” (UN Doc. E/AC.25/12).

When it came to the final draft of the Genocide Convention, however, the concept of cultural genocide was not included, due to opposition from several, mostly western States. Among the justifications for this opposition were that the physical destruction of groups was more serious than the destruction of their culture, that cultural genocide could result in “spurious claims” being brought, and that the inclusion of cultural genocide could inhibit the assimilation of cultural or linguistic groups. Ironically, delegates from some countries, including the United States and Canada, were also apparently concerned that the inclusion of cultural genocide could lead to claims by indigenous groups.¹⁴⁴

The exclusion of cultural genocide from the final text of the Genocide Convention has the effect of greatly restricting the application of that treaty to the sorts of policies and practices described in the previous part of this paper. As Schabas notes, “in light of the *travaux préparatoires* of the Genocide Convention, it seems impossible to consider acts of cultural genocide as crimes if they are unrelated to physical or biological genocide.” (Schabas 2000: 187).

Article II of the Genocide Convention defines genocide to mean the commission of any of the acts set out in paragraphs (a) to (e) of the article—the list is meant to be exhaustive—with the intention “to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. There is no doubt that indigenous peoples such as the Inuit would be considered to be a protected group, for example on the basis of their ethnicity. The acts of genocide in Article II are the following:

- (a) Killing of members of the group;
- (b) Causing serious bodily harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Not surprisingly, given the drafting history of the Genocide Convention as just outlined, most of the acts set out in paragraphs (a) to (e) of Article II of the Genocide Convention concern the physical destruction. However, paragraph (b) of Article II refers not only to causing serious bodily harm to members of the group, but also to causing serious mental harm to them. Paragraph (e) is particularly interesting, as it was one of the acts which constituted cultural genocide in the initial draft of the Secretariat working group, described above, and it did not form part of the definitions of physical or biological genocide that had been developed during the preparation of the convention. It has been noted that paragraph (e) was added to the Genocide Convention “almost as an afterthought, with little substantive debate or consideration.” (Schabas 2000: 175). Likewise, the inclusion of the concept of “mental harm” under paragraph (b) was a late addition to the convention, and although it attracted more debate—and initial opposition by some States—its meaning and consequences also did not receive a great deal of attention (Schabas, 2000: 159-160).

With regard to Article II, paragraph (b), what constitutes causing “serious bodily or mental harm” is not altogether clear. Rape or other acts of sexual violence would appear to be covered; interestingly, it seems that the level of harm required, though high, need not be permanent. The scope of “serious mental harm” is, however, and remains problematic (Schabas 2000: 161). The paragraph contemplates that mental harm can exist independently of physical harm—“serious physical or mental harm”—and it must therefore be possible that the infliction of serious mental harm in the absence of physical harm can, potentially, constitute an act of genocide within Article II. The difficulty is that acts which have been considered to come within paragraph (b) by tribunals such as rape and sexual violence have a clear physical as well as mental element. Very serious levels of mental harm—serious enough to cause similar levels of suffering as is caused by rape and sexual violence, for example, would likely have to be demonstrated, establishing a very considerable threshold.

Paragraph (c) is even more problematic. While the reference to ‘conditions of life’ could be interpreted broadly, the infliction of those conditions has to be directed at the physical destruction of the group. In practice, such conditions usually involve physical deprivation of things necessary to sustain life, such as subjecting members of the group to a reduced diet, provision of medical services which are below a minimum standard, withholding adequate accommodation, and so forth.

With regard to paragraph (e), although the wording is ambiguous, “forcibly transferring children of the group to another”, seems to imply the physical transfer of children, rather than their alienation from the language and culture of the group to which they belong. The use of the adverb “forcibly” is strongly suggestive that what is anticipated here is the physical transfer of children.

In addition to establishing that one of these acts of genocide have been committed, it is also necessary to establish that there is the requisite intent, and this is a further significant obstacle to the application of the Genocide Convention to the sorts of practices considered in this report. This is because there is widespread scholarly agreement that the intention to physically or biologically destroy the group is essential to any genocide claim under the Genocide Convention. This is based on the decision to exclude “cultural genocide” from the scope of the treaty. The International Law Commission has expressed the position in the following terms:

As clearly shown by the preparatory work for the Convention, the destruction in question is the material destruction of a group either by physical or biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group. . . . [T]he text of the Convention, as prepared by the Sixth Committee and adopted by the General Assembly, did not include the concept of ‘cultural genocide’ contained in the two drafts and simply listed acts which come within the category of ‘physical’ or ‘biological’ genocide.

In particular, it is commonly assumed that the concept of ‘destruction’ is limited to physical destruction of the group, based once again on the drafting history, and international tribunals seem to continue to be wary of expanding the nature of the intent required for a finding of genocide beyond the physical or biological destruction of the group. While some prominent scholars, such as William Schabas, has noted that the reference to ‘destruction’ could bear a wider ‘socio-cultural’ interpretation, and while recent scholarship has shown some considerable sympathy to such an expanded interpretation (Novic, 2016: 239), one such scholar has concluded that such

a move “is unlikely to happen”, for a variety of reasons (Novic, 2016: 239). The present state of the law is summarised by another recent scholarly consideration of the concept of cultural genocide. After reviewing recent case law which have involved claims having a cultural element, Gilbert concludes as follows: “it appears that although judges are clear that cultural genocide is not part of the [Genocide] convention text, cultural attacks against a specific group can serve as evidence to prove the intent to physically destroy a group” (Gilbert, 2018: 328).

It is arguable that the substantial social problems in Nunavut, with suicide as an extreme symptom of alienation, are indicative of residential schools and present-day ‘white’ schooling causing physical and mental harm. While this very probably cannot in the current state of international law be seen as entailing criminal liability, there is a strong case for seeing the current situation in Nunavut education as morally, socially, financially, and politically indefensible and requiring firm action to remedy the many problems that have been identified in this report.

Notes:

⁷⁷ [1996] 2 S.C.R. 507.

⁷⁸ *Ibid*, at para. 44.

⁷⁹ *Ibid*, para. 56; Leitch, 2006: 112.

⁸⁰ *Ibid*, paras. 60-67; Leitch, 2006: 112.

⁸¹ Truth and Reconciliation Commission of Canada, 2015: 152-7.

⁸² See: <https://www.liberal.ca/liberals-call-for-full-implementation-of-truth-and-reconciliation-commission-recommendations/>.

⁸³ S.C. 1993, c. 28.

⁸⁴ Section 23(1)(n).

⁸⁵ R.S.N.W.T. 1988,c.O-1.

⁸⁶ Section 38.

⁸⁷ Section 4.

⁸⁸ For example, while members of the public are entitled to communicate with central or head offices of governmental institutions in English or French, they are only entitled to communicate with regional, area or community offices of such institutions through one of the other official languages, and even then only where there is sufficient demand for services in one of those official languages, and it is reasonable, given the nature of the office, that communications with it be available in one of those languages: sections 11(1) and (2).

⁸⁹ S.Nu. 2008, c. 10.

⁹⁰ Defined by reference to the definition of ‘Inuit Language’ in the *Inuit Language Protection Act, 2008*, which provide that Inuit Language means Inuinnaqtun in or near Kugluktuk, Cambridge Bay, Bathurst Inlet and Umingmaktuq, and Inuktitut in or near other municipalities (section 1).

⁹¹ Sections 3(1) and (2).

⁹² Sections 4(1) and (2), and section 5(1).

⁹³ Defined as the Nunavut Court of Justice, the Court of Appeal of Nunavut, and all bodies established by Nunavut for the exercise of an adjudicative function: section 1.

⁹⁴ Sections 8(1) and (2).

⁹⁵ Sections 11(1).

⁹⁶ Sections 12(1)-(3).

⁹⁷ Section 12(4).

⁹⁸ Section 13(2).

⁹⁹ Section 13(3)(a).

¹⁰⁰ Section 13(3)(b).

¹⁰¹ S.Nu. 2008, c. 17.

¹⁰² For a detailed discussion of the legislation and the constitutionality of some of its provisions, see Robinson and Power, 2013.

¹⁰³ S.Nu. 2008, c. 15.

¹⁰⁴ Section 9(4).

¹⁰⁵ ‘Inuit Language’ is defined in the *Education Act, 2008* as Inuinnaqtun in or near Kugluktuk, Cambridge Bay, Bathurst Inlet and Umingmaktuq, and elsewhere as Inuktitut.

¹⁰⁶ R-014-2012.

¹⁰⁷ Adopted and opened for signature, ratification and accession by UN General Assembly resolution 2200A (XXI) of 16 December 1966, and entered into force 23 March 1976.

¹⁰⁸ Adopted and opened for signature, ratification and accession by UN General Assembly resolution 2200A (XXI) of 16 December 1966, and entered into force 3 January 1976.

¹⁰⁹ Adopted and opened for signature, ratification and accession by UN General Assembly resolution 44/25 of 20 November 1989, and entered into force on 2 September 1990.

¹¹⁰ Adopted and opened for signature and ratification by UN General Assembly resolution 2106 (XX) of 21 December 1965, and entered into force 4 January 1969.

¹¹¹ Committee on Economic, Social and Cultural Rights, General Comment No. 13, The Right to Education (Article 13 of the Covenant), Twenty-first session, 15 November 3 December 1999, E/C.12/1999/10, 8 December 1999, para. 50.

¹¹² Committee on Economic, Social and Cultural Rights, General Comment No. 21, Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights), Forty-third Session, 2-29 November 2009, para. 2.

¹¹³ *Ibid.*, para. 13.

¹¹⁴ *Ibid.*, para. 15(b).

¹¹⁵ *Ibid.*, para. 26.

¹¹⁶ *Ibid.*, para. 27.

¹¹⁷ *Ibid.*, para. 32.

¹¹⁸ *Ibid.*, para. 33.

¹¹⁹ *Ibid.*, para. 55.

¹²⁰ Committee on the Elimination of Racial Discrimination, General recommendation XXIII on the rights of indigenous peoples, Fifty-first session (1997), document A/52/18, annex V, para. 1.

¹²¹ *Ibid.*, para. 3.

¹²² *Ibid.*, para. 4(a).

¹²³ *Ibid.*, para. 4(c).

¹²⁴ *Ibid.*, para. 4(e).

¹²⁵ Committee on the Rights of the Child, General Comment No. 1 (2001), Article 29(1): The Aims of Education, UN document CRC/GC/2001/1, 17 April 2001, para. 9.

¹²⁶ Available on-line at:

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169.

This treaty has been signed and ratified by twenty-three countries.

¹²⁷ Available on-line at:

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312252:NO. This treaty entered into force on 2 June 1959, but continues to apply to only

seventeen states.

¹²⁸ UN General Assembly Resolution 61/295 of 13 September 2007.

¹²⁹ The others were all English-language dominant settler states, the United States, Australia and New Zealand.

¹³⁰ <https://www.cbc.ca/news/aboriginal/canada-adopting-implementing-un-rights-declaration-1.3575272>.

¹³¹ See, for example, Human Rights Committee, General Comment No. 23(5) (art. 27), CCPR/C/21/Rev.1/Add.5, 26 April 1994, para. 7, which clearly recognises that Article 27 of the ICCPR, in relation to the rights of minorities, applies also to indigenous peoples.

¹³² *Ibid.*, para. 6.2.

¹³³ *Ibid.*, para. 9.

¹³⁴ Adopted by UN General Assembly resolution 47/135 of 18 December 1992.

¹³⁵ Available on-line at: <https://www.osce.org/odihr/elections/14304?download=true>. The CSCE—the Conference on Security in Co-operation in Europe—was renamed the OSCE on 1 January 1995.

¹³⁶ Available on-line at: <https://www.osce.org/hcnm/32180?download=true>.

¹³⁷ Paragraphs 11-13.

¹³⁸ John Lehmann, ‘Chief Justice says Canada attempted ‘Cultural Genocide’ on Aboriginals’, The Globe & Mail, May 28, 2015, available at: <https://www.theglobeandmail.com/news/national/chief-justice-says-canada-attempted-cultural-genocide-on-aboriginals/article24688854/>.

¹³⁹ The Trial Chamber of the International Criminal Tribunal for the former Yugoslavia, in Kupreškić and others, ICTY, Trial Chamber, judgment of 14 January, 2000 (case no. It-95-16-T).

¹⁴⁰ *Ibid.*, paras. 616-27.

¹⁴¹ International Law Commission, Sixty-seventh Session, 4 May-5 June and 6 July-7 August 2015, Doc. No. A/CN.4/680.

¹⁴² *Ibid*, paras. 176-7.

¹⁴² (1951) 78 UNTS 277. Adopted by the UN General Assembly on 9 October, 1948, and came into force in January, 1951.

¹⁴⁴ Sautman, 2003: 183; see also Churchill 1997: 409-413). Some parties to the deliberations on the Genocide Convention felt that the appropriate way in which to deal with policies which aim at the destruction of cultures and languages was through the development of standards of minority protection, rather than through the Genocide Convention; for a discussion of the failure of the United Nations to deal with such destruction at all, see Morsink, 1999.

CHAPTER 5. CONCLUSIONS

Our study analyses education in Nunavut by studying a wealth of local reports and analysis, evidence of successful and less successful education of Indigenous peoples and minorities worldwide, and by drawing on many relevant scholarly disciplines. In Australian Northern Territories, ‘most education for Indigenous people failed to impart control over western academic knowledge and skills while also excluding their distinctive cultures and languages, thereby entrenching intergenerational inequality and, in remote areas, abject poverty’ (Oldfield and Lo Bianco, in press). Our report shows that education in Nunavut has a history of *cultural genocide, linguicide, econocide and historicide*, and this continues. Education does not prepare Nunavut youth for fighting the very serious *ecocide* in the Arctic.

We describe the evolution and definitions of what actions (or lack of action) in education might be considered to constitute linguistic and cultural genocide. We describe principles established in the elaboration of international law, including international criminal law that are directly relevant for assessing what took place earlier in Nunavut, and still does, even if the forms for implementing this discrimination and structural violence are changing. We propose that it is valid to move from assessing the intent or aim of various actions by political and educational authorities (or lack of them) in education (evil motive discrimination) to assessing the effects/results (effects discrimination). We also present some key fallacies that education in English as a second or foreign language builds on (monolingualism, native speakerism, an early start, maximum exposure, etc.), which have presumably been influential in Nunavut. The consequence of the policies now in place is subtractive language learning, meaning that English expands at the expense of Inuktitut.

We report on the importance of local ecological knowledge that is necessarily coded and embedded in the languages that it has been developed in, Inuktitut. This is knowledge that is not present in English and much of it cannot be learned in English. The inter-generational transmission of this knowledge, for learning and internalising ancestral cultures and activities and developing and successively adapting them to today’s world is seriously endangered through the present-day education system in Nunavut. This knowledge is increasingly relevant for combating the ecocide that is involved in the present climate crisis.

We also present a range of ways of organising bilingual education. The three types of ‘bilingual’ education currently functioning in some schools in Nunavut are all at best weak forms of bilingual education, and therefore do not lead to successful bilingualism and academic and other learning. In many schools there is no teaching through the medium of Inuktitut. The current system is failing the students.

Today’s education is, in our view, inconsistent with obligations in domestic law. In particular, it is failing to provide children with the sort of education necessary to achieve the basic objectives set out in the Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada of 25 May 1993, it is fatally compromising the ability of Nunavut to effectively implement both the *Official Languages Act*, 2008 and the *Inuit Language Protection Act*, 2008. Crucially, today’s education is failing to comply with the requirements of the *Nunavut Education Act*, 2008.

If the school system, based on the Regulations and other provisions of the Act, is not producing graduates who are able to use the Inuit Language ‘competently in academic

and other contexts’, the requirements of the Act are not being complied with. It is our strongly held view that the system at present is failing comprehensively in producing graduates having these skills, meaning that the act is being fundamentally breached. In addition, the recent *Interim Language of Instruction Act* compromises and for that reason is inconsistent with the *Inuit Language Protection Act*.

The system at present is failing comprehensively in supporting the use, development and particularly the revitalisation of the Inuit Language. The *Education Act, 2008* is therefore being breached.

Today’s education also violates Canada’s international commitments. For example, Canada has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). The failure of the education system in Nunavut to ensure full written and oral fluency and high levels of competence in the languages of the Inuit arguably compromises the ability of the state to deliver education that is ‘culturally appropriate’ to the context of Nunavut, to enable children to ‘participate effectively’ in Nunavut society, and which therefore limits the ‘full development of the human personality and the sense of its dignity’. These are required by ICESCR.

Among the minimum core obligations for States under the ICESCR is that of eliminating any barriers or obstacles that inhibit or restrict a person’s access to the person’s own culture or to other cultures. An education which does not equip an Inuit student in Nunavut with high degrees of competence in the languages of the Inuit constitutes such a barrier: a policy which fails to address this barrier and in fact exacerbates it constitutes a breach of the minimum core obligations.

Canada has ratified the International Convention on the Elimination of all forms of Racial Discrimination (‘ICERD’). In Nunavut, where speakers of Inuktitut constitute a large majority, the language is weakening, especially among younger people. Educational provision which does not strengthen Inuktitut is frustrating the goals listed by The Committee on the Elimination of Racial Discrimination.

Canada has ratified the Convention on the Rights of the Child (‘CRC’). A high degree of literacy and oral communication skills in Inuktitut constitutes ‘essential life skills’ demanded by the Convention. Canada has ratified the International Covenant on Civil and Political Rights (‘ICCPR’). Canada has also endorsed the UN Declaration on the Rights of Indigenous Peoples (‘UNDRIP’). The education system in Nunavut is in breach of several Articles in these international instruments.

With regard to the question of international criminality, we have considered how the concepts of genocide and crimes against humanity might be applied to the forms of education practised in Nunavut. From a narrowly legal perspective, although arguments on both counts can be advanced, based on the current state of the law, they would be very speculative. The Genocide Convention remains highly problematic from the perspective of claims based solely on cultural grounds. Acts of genocide, as defined in the Genocide Convention, do include forcibly transferring children of the group to another group and causing serious mental harm to members of the group. Such acts must be committed with the intent of destroying in whole or in part a group; destruction has generally from a purely legal perspective been understood to mean the actual physical destruction of the group. The Truth and Reconciliation Committee’s interpretation, by contrast, considers that there has been a history of cultural - including linguistic - genocide. Other scholarly disciplines support this analysis.

The concept of ‘inhumane acts’ which might constitute a crime against humanity is similarly problematic, based on the law as it now stands. Although the International Law Commission has since 2014 been examining the concept of Crimes against Humanity with a view to the development of an international convention, it does not

appear at this stage that the concept will be expanded sufficiently to unambiguously address measures which do not involve some form of physical attack.

As the education system has been used to produce many of the negative social effects documented in this report, it is now necessary that the education system be deployed to redress those effects. If the education system is not yet doing so—which, in the case of Nunavut, as we have shown in this report, it is not—then the state is in breach of its international obligations. Adequate financial support is imperative.

There is evidence from other parts of the world that even demographically small communities can succeed in creating effective mother-tongue based multilingual education. Mother-tongue-medium education has been shown in large-scale studies to be more important than any other factor, including the students' socio-economic conditions, in predicting and assuring the educational success of bilingual students. This ought in principle to have been possible in Nunavut, but has so far not been achieved.

We conclude:

- Despite the immediate impact of climate change being much greater in the far north of Canada than elsewhere;
- Despite abundant evidence that the quality of life in Nunavut is unacceptably low as compared with the rest of Canada;
- Despite the evidence that most of the symptoms of unequal and oppressed neo-colonial societies are present in Nunavut;
- Despite the Truth and Reconciliation Commission Report determining that there is a history of cultural genocide in Nunavut, and recommending changes that can lead to greater social justice;
- Despite warnings and evidence that Inuktut and the culture that it embodies are at grave risk of not surviving; and
- Despite measures taken to strengthen Inuktut in the education system in Nunavut:

- Inuit language is essential to the achievement of the fundamental principles on which the public education system is meant to be based;
- the use of Inuktut in the wider Nunavut society is declining, especially among the children and young people;
- the goals for protecting and promoting Inuktut embodied in laws are not being achieved;
- the Nunavut legal requirements to implement bilingual instruction throughout all nine school grades has not been achieved;
- Inuktut is not used extensively as a medium of instruction in education in Nunavut, especially not after Grade 3;
- The *Interim Language of Instruction Act* compromises and for that reason is inconsistent with the *Inuit Language Protection Act*;
- recommendations in reports illustrating how bilingual education could optimally be organized have not been followed;
- the vast majority of teachers are unable to teach in Inuktut; a majority of teachers (almost 80% in 2016) are non-Inuit;
- most further training after basic education takes place outside Nunavut and entirely in English, which fails to strengthen Inuktut;
- Inuit youth do not attain the linguistic or educational competencies needed for achieving the official targets of having 80% of jobs filled by Inuit;

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- Inuit youth are not supported in the present education system in developing their capabilities to the full; there is capability deprivation;
 - the federal government spends 44 times more per child on French in Nunavut than it does on Inuktitut;
 - fraudulent myths that only English is necessary for ‘development’ and that English is universally relevant and neutral are still largely guiding the education system;
 - Canada violates in the education of Inuit children in Nunavut many of its obligations in international law instruments which Canada has signed and ratified or otherwise accepted,
 - seen from an educational and psychological point of view, and from the social consequences of current practices, there is *prima facie* evidence of education in Nunavut being involved in processes and practices of linguistic and cultural genocide,
 - urgent action will need to be taken to address the deficiencies we have identified here and in particular to ensure that Canada and Nunavut are in compliance with the various domestic and international legal obligations which we have outlined in these conclusions and in this report.

REFERENCES

- Abele, Frances & Graham, Katherine (2010). *Literature Review. The Literature on Bilingual Education. Prepared for the National Committee on Inuit Education*. March 23, 2010.
- Aikio-Puoskari, Ulla & Skutnabb-Kangas, Tove (2007). When few under 50 speak the language as a first language: linguistic (human) rights and linguistic challenges for endangered Saami languages. In *Revitalizing the Periphery*. Raporta/Report 1/2007. Guovdageaidnu: Sámi Instituhtta, 9-63. [ISBN 978-82-7367-013-7].
- Alidou, Hassana, Boly, Aliou, Brock-Utne, Birgit, Diallo, Yaya Satina, Heugh, Kathleen & Wolff, H. Ekkehard (2006). *Optimizing Learning and Education in Africa – the Language Factor. A Stock-taking Research on Mother Tongue and Bilingual Education in Sub-Saharan Africa*. Working Document prepared for ADEA 2006 Biennial Meeting, (Libreville, Gabon, March 27-31, 2006). Paris: Association for the Development of Education in Africa (ADEA), UNESCO Institute for Education & Deutsche Gesellschaft für Technische Zusammenarbeit.
- Andre, Robert (1987a). In Brody, Hugh (1987). *Living Arctic. Hunters of the Canadian North*. London: Faber and Faber, vii.
- Andre, Robert (1987b). In Brody, Hugh (1987). *Living Arctic. Hunters of the Canadian North*. London: Faber and Faber, 232.
- Annamalai, E. & Skutnabb-Kangas, Tove (in press). Social justice and inclusiveness – an overview. In *Handbook on Social and Affective Factors in Home Language Maintenance and Development* eds. Andrea Schalley & Susana Eisenclas. Series *Handbook of Applied Linguistics*, Mouton de Gruyter.
- Aylward, M. Lynn (2010). The Role of Inuit Languages in Nunavut Schooling: Nunavut Teachers Talk about Bilingual Education. *Canadian Journal of Education* 33 (2), 295-328.
- Baker, Colin (2011). *Foundations of Bilingual Education and Bilingualism* (5th ed.). Bristol, UK: Multilingual Matters.
- Baugh, John (1999). *Out of the Mouths of Slaves: African American Language and Educational Malpractice*. Austin: University of Texas Press.
- Baugh, John (2000). Educational Malpractice and the Miseducation of Language Minority Students. In Hall, Joan Kelly & Eggington, William G. (eds). *The Sociopolitics of English Language Teaching*. Clevedon: Multilingual Matters, 104-116.
- Baugh, John (2018). *Linguistics in Pursuit of Justice*. Cambridge: Cambridge University Press.
- Bear Nicholas, Andrea (2003). Linguicide and Historicide in Canada. Paper given at Presence of the Past: The Third National Conference on Teaching, Learning and Communicating the History of Canada. Retrieved 7 December 2015 from the first part of <http://cultivatingalternatives.com/2013/02/03/hoping-against-hope-the-struggle-against-colonialism-in-canada/>.
- Bear Nicholas, Andrea (2009). Reversing Language Shift through a Native Language Immersion Teacher Training Program in Canada. In Skutnabb-Kangas, Tove, Phillipson, Robert, Mohanty, Ajit & Panda, Minati (eds). *Social Justice through Multilingual Education*. Bristol: Multilingual Matters, 220-237.
- Berger, Thomas R. (2006). *Nunavut Land Claims Agreement Implementation Contract Negotiations for the Second Planning Period 2003-2013. Conciliator's Final Report. March 1, 2006. "The Nunavut Project"*.
- Beşikçi, İsmail (2017). The Turkish State's Official Ideology, the Kurdish Language,

-
- and Language Rights. In Skutnabb-Kangas, Tove & Phillipson, Robert (eds). *Language Rights*. Volume III, pp. 206-224. London & New York: Routledge.
- Box, Jason E., Colgan, William T., Røjle Christensen, Torben, Schmidt, Niels Martin, Lund, Magnus, Parmentier, Frans-Jan W., Brown, Ross, Bhatt, Uma S., Euskirchen, Eugénie S., & Romanovsky, Vladimir E. (2019). Key indicators of Arctic climate change: 1971-2017. *Environmental Research Newsletter* 14:4, published 8 April 2019. <https://iopscience.iop.org/article/10.1088/1748-9326/aafc1b/meta>
- Brean, Joseph (2015a). 'Cultural genocide' controversy around long before it was applied to Canada's residential schools. The term seems to get to genocide, the most fearsome crime of all, by skipping over deliberate mass murder. Residential schools, after all, were schools, not death camps. *National Post*, June 3, 2015. <https://nationalpost.com/news/canada/cultural-genocide-controversy-has-been-around-long-before-it-was-applied-to-canadas-residential-schools>.
- Brean, Joseph (2015b). Canada was ready to abandon 1948 accord if UN didn't remove 'cultural genocide' ban, records reveal. 'You should support or initiate any move for the deletion of Article three on "Cultural" Genocide. If this move not successful' vote against the article. *National Post*, June 8, 2015. <https://nationalpost.com/news/canada/canada-threatened-to-abandon-1948-accord-if-un-didnt-remove-cultural-genocide-ban-records-reveal>.
- Brean, Joseph (2016). 'Cultural genocide' of Canada's indigenous peoples is a some people,' said Payam Akhavan, professor of law at McGill University, and one of the first most prominent academics to questions the genocide label. *National Post*, January 15, 2016. <https://nationalpost.com/news/canada/canada-threatened-to-abandon-1948-accord-if-un-didnt-remove-cultural-genocide-ban-records-reveal>.
- Brody, Hugh (1987). *Living Arctic. Hunters of the Canadian North*. London: Faber and Faber.
- Chrisjohn, Roland D., Tanya Wasacase, Lisa Nussey, Andrea Smith, Marc Legault, Pierre Loiselle & Mathieu Bourgeois (2001). Genocide and Indian Residential Schooling: The past is present. In Wiggers, Richard D. & Griffiths, Ann L. (eds). *Canada and International Humanitarian Law: Peacekeeping and War Crimes in the Modern Era*. Halifax, Nova Scotia: Centre for Foreign Policy Studies, Dalhousie University, 229-266.
- Chrisjohn, Roland, Bear Nicholas, Andrea, Stote, Karen, Craven, James (Omahkohkiaayo i' poyi), Wasacase, Tanya, Loiselle, Pierre & Smith, Andrea O. (2008). *An Historic Non-Apology, Completely and Utterly Not Accepted. The Maze of Rhetoric*.
- Chuffart, Romain François R. (2017). *Indigenous Linguistic Rights in the Arctic: Human Rights Approach*. 30 ECTS thesis submitted in partial fulfilment of the degree of Master of Arts in Polar Law (MA). Advisor Fernand de Varennes. Faculty of Law School of Humanities and Social Sciences University of Akureyri Akureyri, April 2017.
- Clark, Donald & Williamson, Robert (eds) (1996). *Self-Determination: International Perspectives*. London: Macmillan and New York: St.Martin's Press.
- Cummins, Jim (2016). Hunger for Learning, Passion for Equity: The Inspirational and Evidence-Based Work of Fiona Walton in the Nunavut Educational Decolonization Project. Symposium to Honour Dr. Fiona Walton, University of Prince Edward Island, August 26, 2016.
- Curtis, Mark (1995). *The ambiguities of power. British foreign policy since 1945*. London & New Jersey: Zed Books.

-
- Drake, Karin (2016). Language rights as Aboriginal rights: from words to action. National observatory on Language Rights, blog, 25 July 2016. Online: <https://odl.openum.ca/language-rights-as-aboriginal-rights-from-words-to-action/>
- Drapeau, Lynn (1998). Aboriginal languages: current status. In Edwards, John (ed.). *Language in Canada*. Cambridge, UK/New York/Melbourne: Cambridge University Press, 144-159.
- Drèze, Jean & Sen, Amartya (1996). *India: Economic Development and Social Opportunity*. Oxford: Clarendon Press.
- Drèze, Jean & Sen, Amartya (2002). *India: Development and Participation*. New Delhi: Oxford University Press.
- Drescher, Seymour (2010). *Econocide: British Slavery in the era of Abolition*. 2nd edition. Chapel Hill: University of North Carolina Press.
- Drèze, Jean & Sen, Amartya (2014). *An Uncertain Glory. India and its Contradictions. Development and Participation*. London: Penguin.
- Exner-Pirot (2016). Economic security in the Canadian Arctic. In Hossain, Kamrul and Petrétei, Anna (eds.) (2016). *Understanding the Many Faces of Human Security. Perspectives of Northern Indigenous Peoples*. Leiden/Boston: Brill Nijhoff, 74-89.
- Fitzgerald, Oonagh & Schwartz, Risa (2017). Introduction. In *UNDRIP Implementation Special Report*. Waterloo, Ontario: Centre for International Governance Innovation, 1-6. <https://www.cigionline.org/sites/default/files/documents/UNDRIP%20Implementation%20Special%20Report%20WEB.pdf>
- Fontaine, Lorena (2017). Our Languages Are Sacred. In *UNDRIP Implementation Special Report*. Waterloo, Ontario: Centre for International Governance Innovation, 89-96. <https://www.cigionline.org/sites/default/files/documents/UNDRIP%20Implementation%20Special%20Report%20WEB.pdf>
- Fontaine, Lorena, Leitch, David, Bear Nicholas, Andrea & de Varennes, Fernand (2017). What Canada's New Indigenous Language Law Needs to Say and Say Urgently. Monckton: Observatoire international des droits linguistiques. September 15, 2017. <https://www.droitslinguistiques.ca/blogue/6-blogue/458-what-canadas-new-indigenous-languages-law-needs-to-say-and-say-urgently?lang=fr>
- Fur, Gunlög (2016). Kolonisation och kulturmöten under 1600- och 1700-talen [Colonisation and cultural encounters in the 1600s and 1700s]. I Lindmark, Daniel & Sundström, Olle (red.) (2016). *De historiska relationerna mellan Svenska kyrkan och samerna. En vetenskaplig antologi*. [The historical relations between the Swedish church and the Saami. A scientific anthology]. Bind 1-2. Skellefteå: Artos & Norma bokförlag. www.artos.se ISBN 978-91-7580-795-9. Bind 1, 241-282.
- Fyn, Dawn, E. L. (2014). *Our Stories: Inuit Teachers Create Counter Narratives and Disrupt the Status Quo*. PhD Thesis, The School of Graduate and Postdoctoral Studies, The University of Western Ontario. London, Ontario, Canada.
- Greaves, Wilfrid (2016). Environment, identity, autonomy: Inuit perspectives on Arctic security. In Hossain, Kamrul and Petrétei, Anna (eds.) (2016). *Understanding the Many Faces of Human Security. Perspectives of Northern Indigenous Peoples*. Leiden/Boston: Brill Nijhoff, 35-55.
- Grenoble, Lenore A. (2018). Arctic Indigenous Languages : Vitality and Revitalization. In Hinton, Leanne, Huss, Leena & Roche, Gerald (eds) (2018). *The*

-
- Routledge Handbook of Language Revitalization*. New York and London: Routledge, 345-354.
- Grin, François (2003). Language Planning and Economics. *Current Issues in Language Planning* 4(11), 1-66.
- Grin, François (2006). The economics of language policy implementation: identifying and measuring costs. In Neville Alexander (ed.). *Mother Tongue-based Bilingual Education in Southern Africa. The Dynamics of Implementation. Proceedings of the Symposium at the University of Cape Town (16-19 October 2003)*, 11-25.
- Gromacki, Joseph P. (2017). The Protection of Language Rights in International Human Rights Law: A Proposed Draft Declaration of Linguistic Rights. In Skutnabb-Kangas, Tove & Phillipson, Robert (eds). *Language Rights, Volume I, Language Rights: Principles, Enactment, Application*, London & New York: Routledge, Series Critical Concepts in Language Studies, pp. 68-122. Reprinted from *The Protection of Language Rights in International Human Rights Law: A Proposed Draft Declaration of Linguistic Rights. Virginia Journal of International Law* (1992). 32:471, 515-579.
- Gynther, Päivi (2003). On the Doctrine of Systemic Discrimination and its Usability in the Field of Education. *International Journal of Minority and Group Rights* 10: 45-54. [the last name is misspelled as Gynter in the article].
- Gynther, Päivi (2007). *Beyond Systemic Discrimination: Educational Rights, Skills Acquisition and the Case of Roma*. Erik Castrén Institute Monographs on International Law and Human Rights series. Helsinki: University of Helsinki.
- Hanushek, Eric A. & Woessmann, Ludger (2015). *Universal basic skills. What countries stand to gain*. Paris: OECD.
- Henderson, James (Sa'ke'j) Youngblood (2017). The Art of Braising Indigenous Peoples' Inherent Human Rights Into the Law of Nation-States. In *UNDRIP Implementation Special Report*. Waterloo, Ontario: Centre for International Governance Innovation, 10-16.
<https://www.cigionline.org/sites/default/files/documents/UNDRIP%20Implementation%20Special%20Report%20WEB.pdf>.
- Heugh, Kathleen (2009). Literacy and bi/multilingual education in Africa: recovering collective memory and knowledge. In Skutnabb-Kangas, Tove, Phillipson, Robert, Mohanty, Ajit K. & Panda, Minati (Eds.), *Social Justice through Multilingual Education*. Bristol, Buffalo & Toronto: Multilingual Matters, 103-124.
- Hinton, Leanne, Huss, Leena & Roche, Gerald (eds) (2018). *The Routledge Handbook of Language Revitalization*. New York and London: Routledge.
- Holmstrand, Lars (1980). *Effekterna på kunskaper, färdigheter och attityder av tidigt påbörjad undervisning i engelska* (The effects on knowledge, skills and attitudes of early teaching of English). *Pedagogisk forskning i Uppsala* 18, Uppsala: Pedagogiska institutionen, Uppsala Universitet.
- Holmstrand, Lars S.E. (1982). *English in the Elementary School. Theoretical and Empirical Aspects of the Early Teaching of English as a Foreign Language*. Acta Universitatis Upsaliensis, Uppsala Studies in Education 18, Stockholm: Almqvist & Wiksell International.
- Hossain, Kamrul and Petrétei, Anna (eds.) (2016). *Understanding the Many Faces of Human Security. Perspectives of Northern Indigenous Peoples*. Leiden/Boston: Brill Nijhoff.
- Huttenbach, Henry R. (2003). *The Universality of Genocide*. With an article by Hugo Valentin. The Hugo Valentin Lectures II. The Uppsala Programme for Holocaust and Genocide Studies, Centre for Multiethnic Studies, Uppsala: Uppsala

-
- University, 13-23.
- ICSU [The International Council for Science]. (2002). *Science, Traditional Knowledge and Sustainable Development*. Series on Science for Sustainable Development No. 4. Compiled and edited primarily by Nakashima, Douglas and Derek Elias. UNESCO. ISSN 1683-3686.
- Inutiq, Sandra (2016). *Inuit Language in Nunavut. Indigenous Languages: Preservation and Revitalization: Articles 13, 14 and 16 of the United Nations Declaration on the Rights of Indigenous Peoples*. International Expert Group Meeting, New York, 19-21 January 2016. PFII/2016/EGM.
- Kirkness, Verna (2002). The Preservation and Use of our Languages. In Burnaby, Barbara & Reyhner, Jon (eds). *Indigenous Languages Across the Community*. Flagstaff, Arizona: Northern Arizona University, 17-23.
- Klees, Steven J., Stromquist, Nelly P., Samoff, Joel & Vally, Salim (2019). The 2018 World Development Report on Education: A Critical Analysis. Forthcoming, in *Development and Change*.
- Kleivan, Inge (1995). Undervisningsbøger fremstillet til den grønlandske skole og til Ilinnarfissuaq frem til midten af det 20. århundrede. In *Ilinnarfissuup 1995-imi ukiunik 150-iliillumi nalliuttorsiorneranut atatillugu atuakkiq. Festskrift I anledning af Ilinnarfissuuaq's 150-års jubileum i 1995*. Nuuk: Ilinnarfissuuaq/Atuakkiorfik, 138-191.
- Kontra, Miklós, Lewis, Paul, Skutnabb-Kangas, Tove (2016). Afterword: disendangering languages. In Johanna Laakso, Anneli Sarhimaa, Sia Spiliopoulos Åkermark and Reetta Toivanen (eds). *Multilingualism beyond rhetorics: towards openly multilingual policies and practices in Europe*. Bristol: Multilingual Matters, 217-233.
- Kotierk, Aluki (2018). On the Inuktitut language, the Inuit may have been too welcoming. *Macleans*, Feb 22 2018. <https://www.macleans.ca/opinion/on-the-inuktitut-language-the-inuit-may-have-been-too-welcoming/>
- Larsen, Joan Nymand, Schweitzer, Peter & Petrov, Andrey (eds) (2014). *Arctic Social Indicators ASI II: Implementation*. Copenhagen: Nordic Council of Ministers.
- Lees, Jesse, Walton, Fiona, Burgess, Joe, Inuit Tapiriit Kanatami, Vanadian Electronic Library & National Committee on Inuit Education (2010). *Capacity Building in Inuit education: a literature review*. Ottawa, Ontario: Inuit Tapiriit Kanatami. https://books.scholaranyothersportal.info/en/read?id=/ebooks/ebooks0/gibson_cppc/2011-12-20/1/10506978.
- Leitch, David (2006). Canada's Native Languages: The Right of First Nations to Educate Their Children in Their Own Languages. *Constitutional Forum constitutionnel* 15(3), 107-120.
- Lind Meløy, L. (1980). *Internatliv i Finnmark. Skolepolitikk 1900-1940* (Boarding school life in Finnmark. School policy 1900-1940), Oslo: Det Norske Samlaget.
- Locke, John (1988) [originally 1690]. *Two treatises of government*. Cambridge: Cambridge University Press.
- Loh, Jonathan & Harmon, David (2018). Congruence Between Species and Language Diversity. Oxford Handbook on Endangered Languages, Chapter 29, uncorrected proofs.
- Lowell, Anne & Devlin, Brian (1999). Miscommunication between Aboriginal Students and their Non-Aboriginal Teachers in a Bilingual School. In May, Stephen (ed.). *Indigenous community-based education*. Clevedon: Multilingual Matters, 137-159.

-
- Mackey, William F. (1998). The foundations. In Edwards, John (ed.). *Language in Canada*. Cambridge, UK/New York/Melbourne: Cambridge University Press, 13-35.
- Makerere Report (1961). *Report on the conference on the teaching of English as a second language*. Entebbe: Commonwealth Education Liaison Committee.
- Martin, Ian (2000a). *Aajjiqatigiingniq. Language of Instruction Research Paper. A Report to the Government of Nunavut*. Department of Education, Iqaluit, Nunavut, Canada. Manuscript. [imartin@glendon.yorku.ca].
- Martin, Ian (2000b). *Sources and Issues: a backgrounder to the Discussion Paper on Language of Instruction in Nunavut Schools*. Department of Education, Nunavut. Manuscript. [imartin@glendon.yorku.ca].
- Martin, Ian (2003). Do First Nations Languages Need a Bill 101, Official Language Status or Some Other Type of Protective Legislation? Paper presented at Sweetgrass First Nations conference, "Raising Our Voices", 10.30-12.00 University of Western Ontario, London, Ontario, Canada.
- Martin, Ian (2017a). Indigenous Language Policy in the Americas: a comparative view. Paper presented at AILA World Congress, Rio de Janeiro, July 2017. Power Point.
- Martin, Ian (2017b). Language-in-Education Policy and Planning in the wake of the Bill 37 Debate: a matter of urgency. Paper presented at NTI AGM, October 2017, Iqaluktuuttiaq, Cambridge Bay, NU (Nunavut, Canada). Power Point.
- Massad, Joseph A. (2016). *Islam in Liberation*. Chicago – London: The University of Chicago Press.
- May, Stephen & Hill, Richard (2003). *Bilingual/Immersion Education: Indicators of Good Practice*. Milestone Report 2. Hamilton: Wilf Malcolm Institute of Educational Research, School of Education, University of Waikato.
- McCarty, Teresa L., Nicholas, Sheilah E. & Wigglesworth, Gillian (2019). A World of Indigenous Languages – Resurgence, Reclamation, Revitalization and Resilience. In McCarty, Teresa L., Nicholas, Sheilah E. & Wigglesworth, Gillian (eds). *A World of Indigenous Languages. Politics, Pedagogies and Prospects for Language Reclamation*. Bristol: Multilingual Matters. Series Linguistic Diversity and Language Rights, 1-26.
- McCarty, Teresa L., Nicholas, Sheilah E. & Wigglesworth, Gillian (2019) (eds). *A World of Indigenous Languages. Politics, Pedagogies and Prospects for Language Reclamation*. Bristol: Multilingual Matters. Series Linguistic Diversity and Language Rights.
- Metallic, Naiomi (2004). Les droits linguistiques des peuples autochtones. In Bastrache, Michel & Doucet, Michel (eds.) *Les droits linguistiques au Canada*, 3ième édition, Cowansville: Éditions Yvon Blais, 892-992.
- Milloy, John S. (1999). *"A National Crime": The Canadian Government and the Residential School System, 1879 to 1986*. Winnipeg, Manitoba: The University of Manitoba Press.
- Misra, Girishwar & Mohanty, Ajit K. (2000a). Consequences of Poverty and Disadvantage: A Review of Indian Studies. In Mohanty, Ajit K. & Misra, Girishwar (eds) (2000). *Psychology of Poverty and Disadvantage*. New Delhi: Concept Publishing Company, 121-148.
- Mohanty, Ajit K. & Skutnabb-Kangas, Tove (2013). MLE as an economic equaliser in India and Nepal: mother tongue based multilingual education fights poverty through capability development and identity support. In Henrard, Kristin (ed.). *Socioeconomic participation of minorities in relation to their right to (respect for)*

- identity*. Studies in International Minority and Group Rights, Volume 2. Leiden and Boston: Brill/ Martinus Nijhoff Publishers, 159-187.
- Monbiot, George (2018). *Out of the Wreckage. A New Politics for an Age of Crisis*. London & New York: Verso.
- Nghikeambua, Anneli, Mapudzi, Hatikanganwi & Mpofu, Nkosinothando (2019). Reasserting the Rightful Place of African Languages in Sustainable Development. In Warikandwa, Tapiwa Victor, Nhemachena, Artwell, Mpofu, Nkosinothando & Chitimira, Howard (eds). *Grid-locked African Economic Sovereignty. Decolonising the Neo-Imperial Socio-Economic and Legal Force-fields in the 21st Century*, 342-372.
- Novic, Elisa (2016). *The Concept of Cultural Genocide. An International Law Perspective*. Oxford: Oxford University Press.
- Office of the Languages Commissioner of Nunavut (2017). *2015-2016 Annual Report*. [https://assembly.nu.ca/sites/default/files/TD%20245-4\(3\)%20EN%20IN%20IKW%20FR%202015-2016%20Annual%20Report%20of%20the%20Languages%20Commissioner.pdf](https://assembly.nu.ca/sites/default/files/TD%20245-4(3)%20EN%20IN%20IKW%20FR%202015-2016%20Annual%20Report%20of%20the%20Languages%20Commissioner.pdf)
- Oldfield, Janine & Lo Bianco, Joseph (in press). A long unfinished struggle: literacy and Indigenous cultural and language rights. In Rennie, J. & Harper, H. (eds). *Literacy education and Indigenous Australians: Theory, Research and Practice*. Springer.
- Olthuis, Marja-Liisa, Kivelä, Suvi, and Skutnabb-Kangas, Tove (2013). *Revitalising Indigenous languages. How to recreate a lost generation*. Bristol: Multilingual Matters. Series Linguistic Diversity and Language Rights.
- Ouane, Adama (ed.) (2003). *Towards a multilingual culture of education*. Hamburg: UNESCO Institute for Education
- Panda, Minati (2006). Mathematics and Tribal Education. *Economic and Political Weekly* XLI: 2, 14-26.
- Panda, Minati (2007). Saora Culture, As-if Discourse, and Mathematics Learning. In Gang Zheng, Leung, Kwok & Adair, John (eds). *Perspectives and Progress in Contemporary Cross-Cultural Psychology*. Beijing: China Light Industry Press, 359-369.
- Panda, Minati & Ajit Mohanty (2009). Language matters, so does culture: beyond the rhetoric of culture in Multilingual Education. In Mohanty, Ajit, Minati Panda, Robert Phillipson & Tove Skutnabb-Kangas (eds). *Multilingual Education for Social Justice: Globalising the Local*. New Delhi: Orient BlackSwan, 295-312.
- Person, Kirk (2018). *Bridge to a brighter tomorrow: The Patani Malay-Thai Multilingual Education Programme*. Bangkok: United Nations Children's Fund (UNICEF).
- Petersen, Robert (1995). Ilinniarfissuaq's rolle for bevarelsen af det grønlandske sprog, p. 434. Summary of Petersen, Robert (1995). Ilinniarfissuup kalaallit oqaasiinut sunniuteqarnera. In *Ilinniarfissuup 1995-imi ukiunik 150-iliilluni nalliuttorsiorneranut atatillugu atuakkiaq. Festschrift I anledning af Ilinniarfissuaq's 150-års jubileum i 1995*. Nuuk: Ilinniarfissuaq/Atuakkiorfik, 192-217.
- Phillipson, Robert (1992). *Linguistic Imperialism*. Oxford: Oxford University Press.
- Phillipson, Robert (2006). Language Policy and Linguistic Imperialism. In Ricento, Tom (ed.). *An Introduction to Language Policy. Theory and Method*. Oxford: Blackwells, 346-361.
- Phillipson, Robert (2017). Myths and realities of 'global' English. *Language Policy*, 16/3, 313-331.

-
- Phillipson, Robert (2019). Linguistic imperialism. Entry in *The Concise Encyclopedia of Applied Linguistics*, ed. Carol A. Chapelle. Online, January 2019.
- Poliquin, Babriel (2012). Protection d'une vitalité fragile: les droits linguistiques autochtones en vertu de l'Article 35. *McGill LJ* 58, 573.
- Ramirez, J. David., Yuen, Sandra D. & Ramey, Dena R. (1991). *Executive Summary: Final report: Longitudinal study of structured English immersion strategy, early-exit and late-exit transitional bilingual education programs for language-minority children, Submitted to the U. S.f Department of Education*. San Mateo, CA: Aguirre International.
- Robinson, Julie and Marc C. Power (2013). Constitutionnalité des Dispositions conférant un Statut, des Privilèges et des Droits a une Langue Minoritaire: Le Cas Singulier du Nunavut et de sa Loi sur la Protection de la Langue Inuit. *McGill Law Journal*, 58. 519- 571,
- Roy, Cynthia Dawn (2015). Canada's Conversation on Cultural Genocide. November 6, 2015. *Canadian Journal of Educational Administration and Policy*, 182wn <http://activehistory.ca/2015/11/canadas-conversation-on-cultural-genocide/>.
- Schweitzer, Peter, Fox, Irlbacher, Csonka, Yvon & Kaplan, Lawrence (2010). Cultural wellbeing and cultural vitality. In Larsen, Joan Nymand, Schweitzer, Peter & Fondahl, Gail (eds) (2010). *Arctic Social Indicators ASI II: Implementation. A follow-up to the Arctic human development report*. Copenhagen: Nordic Council of Ministers, 91-108.
- Seitamo, Leila (1991). *Psychological Development in Arctic Cultures. A Comparative Study of Skolt Saami and Finnish Children in the North of Finland Within the Frame of Reference of Ecological Psychology*. Oulu: Acta Universitatis Ouluensis. Scientiae Rerum Socialicum, 8.
- Sen, Amartya – see Drèze & Sen
- Shiva, Vandana (1991). *Biodiversity: Social and Ecological perspectives*. London/New Jersey: Zed Books.
- Shiva, Vandana (1993). *Monocultures of the Mind. Perspectives on Biodiversity and Biotechnology*. London & New Jersey: Zed Books.
- Shiva, Vandana (1997). *Biopiracy: The Plunder of Nature and Knowledge*. Cambridge: South End Press.
- Shiva, Vandana (2005). *Earth Democracy: Justice, Sustainability, and Peace*. Cambridge: South End Press.
- Skirtz, Alice (2012). *Econocide. Elimination of the Urban Poor*. Washington, D.C.: NASW Press [National Association of Social Workers].
- Skutnabb-Kangas, Tove (1984) [1981]. *Bilingualism or not - the education of minorities*. Clevedon, Avon: Multilingual Matters (translation and revision of *Tvåspråkighet* (1981). Lund: Liber.
- Skutnabb-Kangas, Tove (1988). Multilingualism and the Education of Minority Children. In Skutnabb-Kangas, Tove & Cummins, Jim (eds). *Minority education: from shame to struggle*, Clevedon, Avon: Multilingual Matters, 9-44.
- Skutnabb-Kangas, Tove (2000). *Linguistic genocide in education - or worldwide diversity and human rights?* Mahwah, NJ & London, UK: Lawrence Erlbaum Associates, 818 pp. South Asian updated edition in 2008, Delhi: Orient Longman.
- Skutnabb-Kangas, Tove (2009). MLE for Global Justice: Issues, Approaches, Opportunities. In Skutnabb-Kangas, Tove, Phillipson, Robert, Mohanty, Ajit and Panda, Minati (eds). *Social Justice through Multilingual Education*. Bristol: Multilingual Matters, 36-62

-
- Skutnabb-Kangas, Tove (2015). Linguicism. *The Encyclopedia of Applied Linguistics*. Malden, MA: Blackwell. Published online: 19 June 2015
DOI: 10.1002/9781405198431.wbeal1460.
- Skutnabb-Kangas, Tove (in press). Linguistic genocide. A Global Crime. In *Cultural Violence and Destruction of Communities: New theoretical perspectives* eds Müge Göçek and Fiona Greenland. Routledge.
- Skutnabb-Kangas, Tove & Phillipson, Robert (eds) (2017). *Language Rights*. London/New York: Routledge. Series Critical Concepts in Language Studies. 4 volumes.
- Skutnabb-Kangas, Tove, Bear Nicholas, Andrea & Reyhner, Jon (2016). Linguistic Human Rights and Language Revitalization in the USA and Canada. In Coronel-Molina, Serafin M. and McCarty, Teresa L. (eds). *The Handbook of Indigenous Language Revitalization in the Americas*. New York: Routledge, 181-200.
- Skutnabb-Kangas Tove & Dunbar, Robert (2010). *Indigenous Children's Education as Linguistic Genocide and a Crime Against Humanity? A Global View*. *Gáldu Čála. Journal of Indigenous Peoples' Rights* No 1, 2010.
Guovdageaidnu/Kautokeino: Galdu, Resource Centre for the Rights of Indigenous Peoples. http://www.tove-skutnabb-kangas.org/en/most_recent_books.html.
[Norwegian translation 2012; Saami translation 2015].
- Skutnabb-Kangas, Tove & Fernandes, Desmond (2008). Kurds in Turkey and in (Iraqi) Kurdistan: A Comparison of Kurdish Educational Language Policy in Two Situations of Occupation. *Genocide Studies and Prevention* 3:1, 43-73.
- Skutnabb-Kangas, Tove & Phillipson, Robert (1989). *Wanted! Linguistic Human Rights*. ROLIG-papir 44. Roskilde: Roskilde University Centre.
- Skutnabb-Kangas, Tove (2009). MLE for Global Justice: Issues, Approaches, Opportunities. In Skutnabb-Kangas, Tove, Phillipson, Robert, Mohanty, Ajit and Panda, Minati (eds). *Social Justice through Multilingual Education*. Bristol: Multilingual Matters, 36-62
- Skutnabb-Kangas, Tove (in press). Linguistic genocide. A Global Crime. In *Cultural Violence and Destruction of Communities: New theoretical perspectives*, edited by Müge Göçek and Fiona Greenland. Routledge.
- Skutnabb-Kangas Tove and Dunbar, Robert (2010). *Indigenous Children's Education as Linguistic Genocide and a Crime Against Humanity? A Global View*. *Gáldu Čála. Journal of Indigenous Peoples' Rights* No 1, 2010. http://www.tove-skutnabb-kangas.org/pdf/Indigenous_Children_s_Education_as_Linguistic_Genocide_and_a_Crime_Against_Humanity_A_Global_View_Tove_Skutnabb_Kangas_and_Robert_Dunbar_grusweb_2010_04_22.pdf.
- Skutnabb-Kangas, Tove & McCarty, Teresa (2008). Clarification, ideological/epistemological underpinnings and implications of some concepts in bilingual education. In Volume 5, *Bilingual Education*, eds Jim Cummins and Nancy H. Hornberger. *Encyclopedia of Language and Education*, 2nd edition. New York: Springer, 3-17.
- Stairs, Arlene (1987). The impact of early primary Inuktitut education in Kativik schools. Summary of report written by Arlene Stairs, May 1987.
- Stairs, Arlene (1988). Beyond cultural inclusion. An Inuit example of indigenous education development. In Skutnabb-Kangas, Tove and Cummins, Jim (eds). *Minority education: from shame to struggle*. Clevedon: Multilingual Matters, 308-327.
- Teare, Robert (in press). 'Manx? That was never a real language!' In Sherris, Ariel &

- Penfield, Susan (eds). *Rejecting Marginalized Status: Educational Projects and Curricula Pushing Back Against Language Endangerment*. Series Linguistic Diversity and Language Rights. Bristol: Multilingual Matters.
- TESOL English Language Bulletin 12 February 2019. "New York goes Bilingual". <https://mail.google.com/mail/u/0/#inbox/FMfcgxwBVglgmcLPcWWdGMrFrqgwsljw> (<https://www.languagemagazine.com/2019/02/04/big-apple-goes-bilingual/>).
- Thomas, Jacob (Chief), with Terry Boyle (2001) [1994]. *Teachings from the Longhouse*. Toronto: Stoddart.
- Thomas, Wayne P. & Collier, Virginia P. (2002). *A national study of school effectiveness for language minority students' long-term academic achievement*. Santa Cruz, CA: Center for Research on Education, Diversity and Excellence, University of California-Santa Cruz. http://repositories.cdlib.org/crede/finalrpts/1_1_final or http://crede.berkeley.edu/research/crede/research/llaa/1.1_final.html
- Thompson, Boni (2016). Review of Walton, F. & O'Leary, D. (2015). *Siviumut: Towards the Future Together*. Inuit Women Education Leaders in Nunavut and Nunavik. Toronto, ON: Women's Press and Canadian Scholars Press. *Canadian Journal of Educational Administration and Policy*, 182, 50-53.
- United Nations (2017 March). *Language Rights of Linguistic Minorities. A Practical Guide for Implementation*. Handbook by the United Nations Special Rapporteur on minority issues. Geneva: Office of the High Commissioner for Human Rights. https://www.ohchr.org/Documents/Issues/Minorities/SR/LanguageRightsLinguisticMinorities_EN.pdf
- [\[The\] Use of Indigenous Languages in Proceedings of The House of Commons and Committees Report of the Standing Committee on Procedure and House Affairs Hon. Larry Bagnell Chair. JUNE 2018 42nd PARLIAMENT, 1st SESSION. House of Commons/Chambre des Communes, Canada](#)
- Walton, Fiona & O'Leary, Darlene (2015). *Siviumut: Towards the Future Together. Inuit Women Education Leaders in Nunavut and Nunavik*. Toronto, ON: Women's Press and Canadian Scholars Press. [see also Cummins 2016].
- Walter, Stephen L. (2008). The language of instruction issue: Framing an empirical perspective. In Spolsky, Bernard and Francis Hult (eds). *Handbook of Educational Linguistics*. London: Blackwell, 129-146.
- Walter, Stephen L. (2010). Mother tongue-based education in developing countries: some emerging insights. <http://www.globalpartnership.org/media/library/blog/Steve-Walter-Mother-TongueInsights.pdf>, accessed 26 September 2012).
- Walter, Stephen & Benson, Carol (2012). Language policy and medium of instruction in formal education. In Spolsky, Bernard (ed.). *The Cambridge Handbook of Language Policy*. Cambridge: Cambridge University Press, 278-300.
- Walter, Stephen and Chuo, Kain Godfrey (2013a). *The Kom Experimental Mother Tongue Education Pilot Project Report for 2013*. Presented to the Ministry of Education in Cameroon.
- Walter, Stephen and Chuo, Kain Godfrey (2013b). *The Kom Experimental Mother Tongue Education Pilot Project Report for 2013*. Presented to the Ministry of Education in Cameroon.
- Williamson, Karla Jessen (1995). Canadian Inuit Teacher Training and Inuit Identity. In *Ilinniarfissuup 1995-imi ukiunik 150-iliilluni nalliuttorsiorneranut atatillugu atuakkiq. Festschrift I anledning af Ilinniarfissuaq's 150-års jubileum i 1995*. Nuuk: Ilinniarfissuaq/Atuakkiorkfik, 402-429.

World Bank (2018). World Development Report 2018: Learning to Realize Education's Promise. Washington, DC: World Bank, 2018. Available for download at: www.worldbank.org/en/publication/wdr2018.

APPENDIX 2

Inuit Language Loss in Nunavut: Analysis, Forecast, and Recommendations

By Ian Martin, Glendon College, York University

March 7, 2017

“That’s the whole reason why the land claims took place, because we were losing our language...I think that’s part of the whole land claims process. Once you have the language the culture is strong.”

--Paul Quassa (2003) current Minister of Education, Nunavut.¹

“Language and culture is very important to us. That is the reason that Nunavut was created. Sometimes we forget why Nunavut was created.”

--Eva Aariak (2008) former Premier, Nunavut.²

“The statistics clearly show Inuit language use and transmission is on a continuing decline. Most troubling is Inuit language use in the home dropped by 12% between 1996 and 2006.

--Sandra Inutiq (2016) former Nunavut Languages Commissioner.³

Introduction

Fear of loss of Inuit Language was a central factor in Inuit leaders’ decision to negotiate a land claim with the Canadian government. As statistical trends cited below show, the leaders were right to be concerned: since 1991, the amount of Inuktitut⁴ spoken in Nunavut homes has experienced a serious decline. This summary report is intended to review some of the history and key data, and assess prospects for the Inuit language in Nunavut.

Assessment of Inuit Language Loss

¹ In A. M. Timpson, “Reconciling Indigenous and Settler Language Interests: Language Policy Initiatives in Nunavut,” *Journal of Canadian Studies* 43, no. 2 (2010): 161.

² Jim Bell, “In Iqaluit, It’s Seven against One on Oct. 27,” *Nunatsiaq News* (Iqaluit, NU), October 24, 2008,

³ Sandra Inutiq, Nunavut Languages Commissioner, *Address to the United Nations International Expert Group*. New York, January 2016.

⁴ Inuktitut is the term now used to encompass both Inuktitut and Inuinnaqtun; in this paper Inuktitut may be referenced in older texts and to describe the Inuktitut of the Eastern Arctic—Kivalliq and Baffin today.

From 1996 to 2011, the number of Inuktitut mother tongue speakers in Nunavut dropped from 88% to 80% . Over the same period, the use of Inuktitut in Inuit homes in Nunavut dropped from 76% in 1996 to a mere 61% in 2011.⁵

At the same time, English spoken mostly in the home has increased from 28.5% in 1991 to 46% in 2011. This steady increase in the percentage of Nunavummiut homes in which English is the most used – means that the percentage today is probably over 50%.

If the home language loss rate of Inuktitut is 12% per decade, then, by 2051, a mere 34 years from now, the Inuit Language will be spoken at home by only 4% of Inuit in Nunavut.

The estimate of 4% of Inuit continuing to use Inuktitut by 2051 may be too generous, however.

Due to “recursion”, a negative feedback loop tends to accompany language loss. That is, the wheel of language loss accelerates as the number of speakers declines and the arenas of Inuit language use inside and outside the home dwindle. For example, as the Inuit language becomes less used in government, schools, and most types of employment, the incentive to sustain Inuktitut is eroded. The latest *Official Languages Annual Report 2015-16*, reports that only 11 of 27 primary schools were able to offer adequate Inuktitut instruction to Grade 3, and only one school used Inuktitut as a language of instruction at Grade 5⁶.

Parallels can be drawn from the French community in Nunavut, who filed a lawsuit in 2015 against the territorial government for insufficient support for a French language school environment. In an interview, Lawyer Doug Garson said that only 40 per cent of the Iqaluit Trois-Soleils Grade 10 to Grade 12 program are offered in French: “If you, as a high school student, want to enjoy a French-language education, you have to be in a totally French environment, where French is spoken in the hallways.”⁷ By way of comparison, zero per cent of the Nunavut high school curriculum is offered in Inuktitut; the percent of Inuktitut spoken in hallways has not been measured, but there is not a single school in Nunavut which would qualify as a “totally Inuktitut environment.”

Inuit Language Decline: The United Nations Assessment

The analysis presented here corresponds, in large measure, with that of UNESCO which regularly surveys the world’s ‘smaller’ languages and assesses their relative potential for survival (“vitality”), to help language communities understand their situation and take appropriate measures if they wish to maintain their language for future generations.

⁵ 2011 National Household Survey "Aboriginal Peoples in Canada: Focus on Inuit in Nunavut" (Released by Statistics Canada - May 8, 2013); and 2011 Census of Population "Mother Tongue and Language Spoken Most Often at Home" (Released by Statistics Canada - October 24, 2012).

⁶ Office of the Nunavut Languages Commissioner, *2015-16 Annual Report* (2017), pg 182.

⁷ Lawsuit demands more resources for Nunavut’s only French-language school- “Why is it unreasonable to seek and to advance our constitutional rights?” Sarah Rogers, Nunatsiaq News. February 20, 2015.

UNESCO evaluates languages according to six levels of vitality:

SAFE -	the language is used by all generations, including children, in all spheres of community life;
VULNERABLE/UNSAFE –	the language is used by some (not all) children, and older generations, but not in all spheres of community life;
DEFINITELY ENDANGERED –	the language is no longer being used at home by all children; parents are preferring to use another language;
SEVERELY ENDANGERED –	the grandparents’ generation are the youngest users;
CRITICALLY ENDANGERED –	the great-grandparents’ generation are the youngest users;
EXTINCT -	there are no speakers left.

In 2015, UNESCO rated Inuktitut (in Baffin and Kivalliq regions) as ‘vulnerable/unsafe’, with Inuinnaqtun (in Kitikmeot region) as ‘definitely endangered’⁸. This means that there are signs of language loss, although it is true that second-language speakers of Inuktitut, uncounted in the UNESCO levels, may carry the language forward in some respects.

The limited use of Inuktitut in government, the absence of the Inuit Language in schools beyond the earliest grades, the rise in the number of Inuit for whom Inuktitut is not a mother tongue, and the trend to more Inuit homes using English, are among the signs that Inuktitut in Baffin and Kivalliq may be on the road toward Definite Endangerment. This direction is diametrically opposite from the direction intended by the Inuit leadership whose intention in carrying out ‘the Nunavut project’ was to make Inuktitut secure.

The Road Not Taken: Inuit Language of Government

Prior to the creation of Nunavut, Inuit organizations and the federal Department of Indian Affairs and Northern Development (DIAND) predicted and planned for a territorial government with public services delivered in the Inuit language. In numerous speeches and negotiations, Inuit leaders expressed concern about the loss of Inuktitut in particular due to the southern-style education system, with its majority staff of monolingual English-

⁸ UNESCO Interactive Atlas of the World's Languages in Danger (www.unesco.org/languages-atlas) 2015.

speakers. The Nunavut Land Claim Agreement (1993) identified the Inuit language as a key factor to be considered by government in its hiring (Article 23).

In Volume 2 of my *Aajiiqatigiingniq* 2000 report⁹, called "Sources and Issues", I reviewed Ron Mackay's report, *The Cost of Implementing Inuktitut as an Official Language in Nunavut* (1984). Mackay's work was commissioned by DIAND in response to the Nunavut Constitutional Forum's 1983 *Building Nunavut* report which asserted that "Inuktitut must be fully protected and enhanced by the Nunavut constitution. Perhaps there is no more fundamental goal of a Nunavut government, nor one more essential to guarantee the survival and unique contribution of Inuit in Canada"¹⁰.

The *Cost of Implementing Inuktitut* was one of two research initiatives commissioned by DIAND to prepare for Nunavut. The second was research to prepare a transition plan to divide the NWT, which culminated in a large report for DIAND by Coopers and Lybrand in 1992¹¹.

The Cost of Implementing Inuktitut as an Official Language in Nunavut gives detailed estimates of the staffing and cost implications of creating a government that could function and deliver public services across all departments in the language of the public: Inuktitut. Mackay estimated the staffing increase required to achieve this objective to be approximately 110 PYs across the entire government. He estimated start-up costs across all government departments to total \$21.5 million in 1984 dollars (\$45.4million in 2016), and the ongoing annual operating and maintenance costs to be \$8.4 million (\$17.7million in 2016 dollars).

In 1993, 1997¹², 1998¹³, and 1999, NTI's leadership informed government that Inuktitut as the language of government had always been a key objective in creating Nunavut and thus should be included as an incremental cost of establishing the new territory or as part of its formula-financing. This was in keeping with the 1996 guidelines established by the federally appointed group overseeing set-up of the new territory, the Nunavut Implementation Commission: "In gauging levels of govt programs and services, formula financing arrangements should take full account of any existing deficiencies in the supply of such programs and services...based on factors outside the control of the Nunavut

⁹ *Aajiiqatigiingniq, A Report on Language of Instruction Volume 2: "Sources and Issues"*, (2000) Ian Martin. Published by the Nunavut Department of Education.

¹⁰ Nunavut Constitutional Forum, *Building Nunavut: A working document with a proposal for an Arctic Constitution*, (Nunavut Constitutional Forum, 1983) p. 18.

¹¹ Coopers and Lybrand Consulting Group (1991) *Financial Impact of Division of the Northwest Territories - Phase I Report* ; and (1992) *An Estimate of Costs - Creating and Operating the Government of Nunavut* .

¹² Natsiq Alainga-Kango, Secretary-treasurer, NTI letter to John Todd, NWT Minister of Finance, and Jack Anawak, Interim Commissioner (Nov. 6, 1997)

¹³ "Any future plans for implementation of the Nunavut Government must address the crucial issue of using Inuktitut as a working language." Natsiq Alainga-Kango, Secretary-treasurer, NTI letter to Jack Anawak, Interim Commissioner (Jan. 7, 1998)

govt...including costs associated with the delivery of govt programs and services in the Inuit language, as well as Canada's official languages.”¹⁴

In 1998, the senior federal advisor in the Office of the Nunavut Interim Commissioner, Marie-Antoinette Flumian, commissioned an estimate of the cost of Inuktitut as a language of government, and the matter was brought forth to be included in briefing binders for the discussions on the first formula financing for the Nunavut territory led by Finance Minister Paul Martin. However, behind closed doors, senior officials in the Federal Finance Department decided to remove Inuit language of government from discussions and “address these issues at a later date”¹⁵. That “later date” never arrived.

The historical record is recounted here in part to lament the road not taken. Had Canada supported the Inuit language with similar levels of funding as it provides to other provinces for English and French services, perhaps the survival of Inuktitut would not be in question today. Canada might also have avoided running afoul of Section 36 of the Canadian Charter of Rights and Freedoms; which guarantees “essential public services of a reasonable quality” to all Canadians. In 1998, citing S.36, Nunavut's Interim Commissioner, Jack Anawak, warned Finance Minister Paul Martin of “startling disparities”¹⁶ between Nunavut public services and those of other provinces, in part due to the failure of financing negotiations to address the language issue.

On the matter of education, for example, the Nunavut Constitutional Forum had demanded “... that Inuktitut be a language of instruction in the Nunavut schools at all levels as soon as practicable”¹⁷. As a result, *The Cost of Implementing Inuktitut* report focused on federal funding for Inuit teacher training and for Inuktitut curriculum development. Had Mackay's report for DIAND been followed, his 13 year implementation time-line (1985-1998) anticipated the training of an Inuit teaching cohort of 260 Inuit teachers, ready for the new Nunavut school system in 2000, for \$15 million (in 2000 dollars). Mackay also recommended that Canada spend \$10m to build an Inuit teacher training facility in Nunavut. The Inuit curriculum development costs for the same period were estimated to be \$8 million (in 2000 dollars). Updating these figures to 2016 yields Inuit teacher training costs of \$21 million, Inuktitut curriculum development costs of \$9.3 million, and a teacher training facility costing \$21 million. Adding up to approximately \$50 million in current dollars, Mackay's was the first, and apparently, the last, detailed calculation of the federal

¹⁴ Recommendation #9-16 (4), *Footprints 2* (NIC, 1996)

¹⁵ “Finance Canada Question 10: Are there other items for which the determination of funding levels should be left open-for finalization at a later date?... GNWT: Yes. A number of items have been identified which we know will have costs associated with them, but the size of the cost is currently not known. The requirement to make Inuktitut a working language in Nunavut is one example.” Margaret Melhorn NWT Deputy Minister of Finance letter to Barbara Anderson, Dept of Finance Canada (Jan. 8, 1998).

¹⁶ Interim Commissioner Jack Anawak letter to Paul Martin, Minister of Finance, Canada (April 28, 1998).

¹⁷ Nunavut Constitutional Forum, *Building Nunavut: A working document with a proposal for an Arctic Constitution*, (Nunavut Constitutional Forum, 1983) p. 18.

transfer necessary to allow the new territory to implement strong Inuktitut bilingualism throughout its K-12 system.

By not funding the delivery of Nunavut public services in the language of the Nunavut public, the federal government appears to have saved itself cumulatively over \$300 million (2016 dollars, over 18 years); however the costs to the Inuit language and culture may prove to be fatal. Speaking before a Senate Committee in 2009, “Witnesses testified that ... government services are provided mainly in English and that this has the effect of making Inuit Language speakers feel like they are strangers in their own land.”¹⁸

Meeting the Article 23 Target – Urgent Need For A Major IEP Commitment

Article 23 of the Nunavut Land Claim Agreement envisioned a majority Inuit public service functioning in Inuktitut, but, as an APTN investigative report recently discovered¹⁹ – Article 23 of the Land Claim Agreement is largely being ignored. This is particularly noticeable in the Education ministry, where a disproportionate number of (monolingual-English-speaking) non-Inuit are occupying senior administration positions and teaching positions.

There is scant evidence of interest from the Nunavut Department of Education in a comprehensive Inuit Employment Plan—one with timelines and targets and conforming to the NLCA. In 2006, the Department of Education published the *Qalattuq 10 Year Educator Training Strategy*²⁰ – a plan for which no action was ever taken. The *Qalattuq Strategy* envisioned training 304 Inuit educators from 2008 to 2012, and was of sufficient scope and urgency that it deserves revisiting and updating.²¹

It is nothing short of scandalous that no detailed IEP was implemented and funded by the Department at the time of the passage of the 2008 Education Act, since without a funded Inuit Teacher Development Plan, the objectives set out in the Act amounted to little more than ‘legislative dead letters’ and existed only on paper. My personal belief is that the vested interests of non-Inuit teachers and administrators trumped the land claim-mandated rights of Inuit. In the years following 2008 there have been no major efforts to increase the numbers of Inuit teachers; meanwhile the reduction of the use of Inuktitut in the schools and the absence of Inuktitut as a language of instruction has reinforced an English-dominant education system—not a bilingual one. Furthermore, although not all new Inuit teacher graduates are sufficiently strong in their language to teach in Inuktitut, I am not aware of any non-Inuit teachers currently qualified as Inuktitut-bilingual. The only

¹⁸ *Language Rights in Canada's North: Nunavut's New Official Languages Act*, Final Report. Standing Senate Committee on Legal and Constitutional Affairs. June 2009. Pg 19.

¹⁹ Kathleen Martens, “APTN Investigates: Article 23.” *APTN*, February 3, 2017; Holly Moore “Article 23: Inuit teaching students say loss of Inuktitut in the classroom leading to vanishing Inuit culture.” *APTN*, January 31, 2017

²⁰ *Qalattuq 10 Year Educator Training Strategy: 2006-2016*. Nunavut Department of Education. July 2006.

²¹ *Qalattuq 10 Year Educator Training Strategy*; pgs 4, 66-74.

educators teaching in Inuktitut are Inuit. So when the Department of Education recruits a majority of its teachers, principals, and senior staff from outside Nunavut, then it is entrenching an English language bureaucracy.

What would an IEP for education need to consider?

The starting point for an IEP would have to be a definition of the demand – the numbers of Inuit teachers needed to reach the 85% Inuit proportion of the teaching workforce as mandated by Article 23. According to the Department’s current Language of Instruction (LOI) figures²², the total number of Inuktitut-bilingual teachers required is 431. Subtracting the number of Inuktitut-bilingual teachers actually working in classrooms—125, all Inuit—the result is 306. The Nunavut system, then, has a shortfall of 306 Inuktitut-speaking Inuit teachers.

Currently, the only supplier of Inuit teachers is the Nunavut Teacher Education Program. NTEP graduates an average of 12 teachers per year; when calculated with a retention rate of 75%²³, that equals 9 Inuit teachers per year that the Dept of Education retains into employment long term. The majority of these teachers are Inuktitut-bilingual; which is a testament to their individual and family effort, since “Nunavut students could not hope to maintain mature, academic Inuit language proficiency when bilingual education end[s] in grade six.”²⁴

Therefore, at this rate, and if NTEP were to offer intensive Inuktitut upgrading, it would take 34 years ($9 \times 34 = 306$) for the program to produce the 306 additional Inuit teachers necessary to deliver Inuktitut schooling K-12. By the year 2051.

However, with the bulk of the current 125 Inuktitut-speaking teachers reaching retirement age before 2051, the actual date of reaching this target is more likely to be 2071 than 2051. Clearly, a “business as usual” approach will not work. Government must swiftly and properly fund and implement a robust IEP for educators. The Department could draw inspiration from the *Qalattuq Strategy*, recalibrated to respond to today’s needs. Qalattuq aimed to add 304 educators over 4 years, therefore there is already a prototype for adding 300 Inuit educators over a short time frame. As for money to fund such efforts, the 2015 *Settlement Agreement*²⁵ between government and Inuit created a \$50 million fund available for this purpose right now. There is a good argument to be made for the majority of the \$50

²² Nunavut Department of Education, Language of Instruction Presentation. July 2016

²³ Ibid.

²⁴ M. Lynn Aylward, “The Role of Inuit Languages in Nunavut Schooling: Nunavut Teachers Talk about Bilingual Education” *Canadian Journal of Education* 33, 2 (2010): pg. 315. I have been informed that NTEP has had to relax its Inuktitut requirement in order to recruit Inuit, as incoming Inuit teacher trainees coming out of Nunavut high schools have lower quality of Inuktitut than previous generations. If this is true, it should be studied, as it is evidence of recursion, the deteriorating cycle of language loss that I mention on pg 2.

²⁵ *Moving Forward in Nunavut: an Agreement Relating to Settlement of Litigation* (May 4, 2015); Nunavut Tunngavik Inc., Government of Canada, Government of Nunavut.
<http://www.tunngavik.com/files/2015/05/FINAL-SETTLEMENT-AGREEMENT-PROOF.pdf>

million to be assigned to Inuit educator IEP and training as the multiplier effect would be felt throughout the public service.

Since the current NTEP supply is far below that required, there must be urgent attention given to different forms of supply. Without rapid increase in funding and training for Inuktitut educators in *all* the various credential streams²⁶, including NTEP, Inuit will never achieve their right to education in their Indigenous language. Without adequate use at school, and without the school interacting with home and community and government (the principal employer) in the Inuit official language, Inuktitut will decline, and be lost. Nunavut schools are contributing substantially to a vicious and accelerating circle of language loss. The schools are essentially acting as engines of assimilation into English.

The Context of Inuktitut Language Maintenance or loss

But even robust Article 23 ‘urgent action’ to increase numbers of Inuit educators, as I have proposed above, will not on their own be enough to counteract the fast-moving forces of linguistic assimilation faced by Inuktitut speakers in the territory.

The most recent statistical analysis done by the Nunavut Languages Commissioner’s office was summarized by former Commissioner Sandra Inutiq in 2016:

“The statistics clearly show language use and transmission is on a continuing decline. Most troubling is language use in the home dropped by 12% between 1996 and 2006. Our efforts since the creation of the territory have not reversed the huge force of past assimilation policies that continue to have hold. Nunavut needs to make a much more aggressive effort to reverse language loss.”²⁷

Indeed, in 2011²⁸, nearly 9,000 Inuit (about 33% of Nunavut Inuit) reported English as their mother tongue and 14,000 (about 50% of Nunavut Inuit) said that English was the language most often spoken in the home. This data shows that Inuktitut language maintenance is increasingly vulnerable to the pressures from English in homes in the very territory where it is (still) the majority language.

This decline of Inuktitut language use in homes, coupled with the present policy of diminishing the presence of Inuktitut in the schools – makes it all the more urgent that citizens and policy-makers heed the Language Commissioner’s call for a much more aggressive effort to expand the use of Inuktitut in all public services in Nunavut.

The Education System

²⁶ Regulations in the 2008 Education Act provide for a variety of credential streams of shorter duration to bring educator trainees into the schools, where they can be mentored and eventually advanced (“laddered”) into degree-equivalent responsibilities.

²⁷ Sandra Inutiq, Nunavut Languages Commissioner, *Address to the United Nations International Expert Group*. New York, January 2016.

²⁸ 2011 Census of Population “Mother Tongue and Language Spoken Most Often at Home” (Released by Statistics Canada - October 24, 2012).

The realization of the dream of Nunavut allowed many Inuit to hope that the future of Inuktitut would be secure, and that by using the new instrument of ‘a public government education system’, the language would be transmitted to younger generations. The *Aajiiqatigiigniq* study (2000) found that there was a desire for a strong bilingual education system in the new territory, with Inuit Language spreading beyond Grade 4. Parents were aware of the importance of English, but they wanted additive, not subtractive, bilingualism in Nunavut schools. Parents wanted Inuktitut to be the language of instruction from kindergarten to grade 12, with opportunities along the way to acquire English as a second language – but not at the cost of failing to fully develop their mother tongue. Parents imagined a future in which Nunavut’s high school graduation rates would be comparable to those in the rest of Canada, but with the added ‘bilingual and bicultural advantage’ of these graduates being fluent in both languages in their spoken and written forms, and with both conversational and culturally-grounded academic competency in each.

However, in practice, the Inuit language has been restricted to the lower grades from 1 to 3, after which English is the sole medium of education. Difficult as it may be for outside observers to believe, there has been no increase in presence of Inuktitut in the schools since before Nunavut was created. Even if there were 100% fluent Inuktitut teachers, there is no set of resources and curricula across all subjects and grades in Inuktitut, and no plan to produce one. Inuktitut is taught only as a subject (not as a language of instruction), sporadically, in some higher level courses with Inuit cultural content. For the most part, without any form of supportive transition from Inuktitut in Grade 3 to English in Grade 4, the experience for Inuit students is described by the current Assistant Deputy Minister of Education as “jarring.” This ‘weak form’ of ‘early-exit’ bilingualism contributes to widespread language loss, and to massive school drop-out. 70% of students do not graduate from high school—the worst rate in North America.

New research by UNESCO’s Global Education Monitoring project reports a strong correlation between non-mother-tongue schooling and lack of reading proficiency. In countries where children are forced to go to schools that do not operate in their mother tongue, almost 90% fail to pass reading proficiency tests.²⁹ There are obvious parallels for Nunavut: the only jurisdiction in North America where the majority of children are forced to go to school in a language that is not their mother tongue.

Younger Inuit are being denied their birthright: an education in their mother tongue, which is the best foundation for them to acquire advanced levels of English, as a second language.

This is both a personal and a collective tragedy. As Mr Justice Thomas Berger said in his 2006 *Conciliators’ Report*³⁰, having Inuktitut as a language of instruction throughout the education system is essential for future generations of Inuit to develop the advanced

²⁹ <https://gemreportunesco.wordpress.com/2017/02/20/multilingual-teaching-does-more-than-just-improve-learning/>

³⁰ Thomas R. Berger. *Conciliator’s Final Report: “The Nunavut. Project”*. (April 6, 2006). The author of this paper served as an advisor on bilingual education for the Berger report.

knowledge of the language necessary to successfully occupy the positions in Nunavut's public service which were promised by Canada in the Nunavut Agreement, and to build a confident new generation of bilingual Nunavut Inuit high school graduates ready to meet the educational and economic challenges of the Canadian Arctic in the 21st century.

Unfortunately, despite passing three important pieces of Inuit language legislation in 2008 (an Official Languages Act, the Inuit Language Protection Act, and the Education Act), the territorial government has made no efforts to develop adequate curriculum across all subjects and grades, nor train Inuit teachers in sufficient numbers, to comply with the legislation. Language investments from Ottawa for Inuit Language education are a mere 10% of the per capita federal government supports for French language schooling in Nunavut³¹: an extreme asymmetry potentially contributing to feelings of discrimination³².

Nunavut is the only jurisdiction in Canada with two official language minorities. Both the Anglophone and Francophone minorities are presumably equally eligible for special funding for school services under Canada's official language minority support program. The Franco-Nunavummiut have done so, but the Nunavut Anglophone population has not exercised this right. The result is that Nunavut's Department of Education has ostensibly decided to fund English-language education for the 'undeclared' Anglophone minority out of a budget that ought to be earmarked for the Inuktitut majority. If the Anglophone minority were defined as an official language minority, and received appropriate dedicated funding, it would permit the repurposing of the majority of Nunavut's education funding to be dedicated to Inuktitut-medium schooling, where it is desperately needed.

However, with all Nunavut schools operating in English after Grade 3 or 4, and with a teaching force composed almost exclusively of English-speaking teachers from southern Canada, there is little incentive for Nunavut Anglophones to self-identify as a minority, since English-speaking students are well-served throughout the territory. English has become the default 'majority' language in all 42 schools in the territory, despite serving fewer than 400 'minority' Anglophone students. It's the 9300 Inuit students who are struggling to find their place and speak their language in what has become a southern-oriented Anglo-dominant Nunavut school system.

With the government's removal of Inuit-run Regional School Boards and the increased marginalization of Inuit Language in schools, the Nunavut public government has allowed previously strong home-school-community relationships to weaken. It is regrettable, but perfectly understandable, that some Inuit parents, seeing the schools limiting Inuktitut to instruction at or close to the level of 'baby talk', to get the message coming from the school that their language has limited value, and increasingly decide to convert their homes into English-speaking homes, so as to conform to the school's Anglo-dominant language model.

³¹ *Language Rights in Canada's North: Nunavut's New Official Languages Act*, Final Report. Standing Senate Committee on Legal and Constitutional Affairs. June 2009. Pg 20.

³² Former Language Commissioner Sandra Inutiq noted this possibility in her January 2016 speech to the United Nations Experts' Meeting.

Of course, in many Inuit homes, the language and culture gap between the home and the school, coupled with the inability of a southern-oriented school system to support young people's emergent Inuit identities, leads to massive rates of school abandonment. Indigenous communities which support language promotion and cultural continuity have lower rates of teen suicide.³³ —a point made by the Prime Minister in a June 2016 APTN interview.

The objective of the Inuit leadership has been consistent over the past four or more decades; they have called for Inuit to have similar rights as those enjoyed by English and French speakers to raise their children in their own language, to have schools offer a full instructional program in their own language, and to allow Inuit to work in and receive public services from a Nunavut government that operates in the majority public language.

"We assert the right to use Inuktitut in all facets of life in Nunavut. ... We insist too that our children have the constitutional right to be educated in Inuktitut."

-- TFN President Paul Quassa (Signing of the Nunavut Agreement-in-Principle with Canada, 1990)

Promoting the Intellectualization of Inuktitut for use "in all facets of life"

"A language is not just a body of vocabulary and a set of grammatical rules; it's a flash of the human spirit, the means by which the soul of a culture comes into the material world. Every language is an old-growth forest of the mind, a watershed of thought, an ecosystem of social and spiritual possibilities. To lose a language is like dropping a bomb on the Louvre." Ken Hale, eminent linguist.³⁴

The Nunavut project required that such a view of Inuit Language be translated into a territory-wide place-based education system which respected the prime importance of the land as a place for learning, even in sedentarized communities. Language extinction comes about not just due to the death of fluent mother tongue speakers, but also due to the decay of the quality of the language and the decay of the philosophical complexity encoded in the language's concepts, and the lack of opportunity to transmit this quality and complexity to the coming generations.

For Inuktitut to survive in the way intended by Inuit leaders, to be used "in all facets of life" in the new territory, there had to be a commitment to adapting the traditional language to a broad range of traditional and modern domains, including medicine, mental health and wellness, midwifery, technology, ecological economics, psychology, sociology, and of course high school and college level curricula. The collective right to one's language includes the

³³ Michael J. Chandler & Christopher Lalonde, "Cultural Continuity as a Hedge Against Suicide in Canada's First Nations." *Transcultural Psychiatry* (Vol 35, Issue 2, 1998).

³⁴ Obituary for Ken Hale: Davis, Wade "A Dead End for Humanity". *Globe and Mail/Opinion* Dec 28, 2000

collective right to one's ontology and epistemology. In Nunavut, this includes the right of young Inuit to knowledge that has come to be called Inuit Qaujimajatuqangit (IQ).

There must be a serious effort undertaken to harness the knowledge and wisdom about these domains from elders and fluent first language speakers, and serious efforts to reform delivery of related services and social functions to incorporate these mother tongue insights and philosophical contributions. Developing such new functional contexts for Inuktitut by drawing upon traditional knowledge and expressions, and ensuring their intergenerational transmission is what will guarantee the relevance and flourishing of the language – “in all facets of life.”

IQ-grounded academic language skills would allow the younger generation to fully participate in conversations with elders and other fluent speakers and thereby acquire the cultural and epistemological ways of thinking available through elder-mentored experience on the land (especially) and apply these ways of thinking in the classroom. This storehouse of conceptual resources is necessary to interpret IQ for the twenty-first century, to enrich modern Inuit identity through traditional conceptual frameworks, so as to be able to manage a modern territorial government, functioning primarily in Inuktitut as the working language of government.

However, 18 years after division, the higher intellectual domains of Inuit language still remain to be developed and deployed in the Nunavut school system, and time is running out. The lack of investment means these fields of Inuit knowledge are dying off with the passing of the last generation of elders capable of transmitting this knowledge. Mr Justice Thomas Berger arrived at this conclusion a decade earlier:

“The Inuit of Nunavut are faced with the erosion of Inuit language, knowledge, and culture. Unless serious measures are taken, there will over time be a gradual extinction of Inuktitut, or at best its retention as a curiosity, imperfectly preserved and irrelevant to the daily life of its speakers.” (The Nunavut Project: Conciliator’s Final Report, 2006.)

A positive development, with the 2008 Inuit Language Protection Act, was the setting up of the Inuit Uqausinginnik Taiguusiliuqit (Inuit Language Authority) to provide authoritative Inuit Language resources for all fields and branches of knowledge, and consequently Inuit Language educators could be supported by a body concerned with ‘intellectualization’.

However, the Authority isn't able to be responsible for intellectualization of Inuktitut on its own. There needs to be a strong research-and-development curriculum body inside the Department of Education, and at Nunavut Arctic College, to translate IQ into prototype instructional units in Inuktitut, which would allow for Inuktitut to be used as a language of instruction throughout the K-12 and college systems. Perhaps the research work could be modelled on the excellent Curriculum and School Services branch under the direction of Shirley Tagalik in Arviat, which flourished in the first decade of the new century. That IQ-practicing unit drew upon the wisdom of elders such as Mark Kalluak, and built upon the

groundbreaking work of the NWT-era Inuuqatigiit Curriculum Project³⁵ as the ethno-epistemological basis for the development of made-in-Nunavut learning materials suitable for grades 4-10. I have every certainty that the majority of Canadian universities would, if asked, accept a Secondary School Certificate of Graduation based on a made-in-Nunavut Secondary School Curriculum, taught through Inuktitut and English as languages of instruction as a pre-requisite to post-secondary studies.³⁶

In this way, 'the Inuktitut stream' would be no less rigorous, academic, and connected to modern fields of knowledge as 'the English stream'. In fact, in a strong 'additive' bilingual system such as the Qulliq model proposed under the 2008 Education Act, the two languages would strengthen each other. Such a commitment to promoting the intellectualization of Inuktitut for educational purposes would require a sustained commitment from the Department of Education to develop both curricular resources and Inuit teachers capable of teaching this curriculum, perhaps along the lines of the successful experience of the Inuit of Greenland or the Sami of Norway.

Recommendations

1. Canada should commit to adequately resourcing and staffing the territorial and federal public services in Nunavut to operate in the Inuit language. The federal bilingualism efforts of the 1970s, reinforced and applied to Indigenous languages by the Truth and Reconciliation Commission's Calls to Action, provide a template for this type of system-wide effort. The federal government should adjust its formula financing for Nunavut to include clear, predictable, adequate, multi-year funding to permit the territory to operate and deliver its public services in the official language of the public: Inuktitut. The implementing of Inuit language rights are an essential part of Aboriginal rights under Section 35 of the Constitution and are required under TRC Calls to Action 10, 13, 14, 15. As Canadian Senators concluded in 2009: "In our view, in exchange for this surrender of territory, the Government of Canada committed itself to supporting the Inuit's rights as an Aboriginal people, including their cultural and linguistic rights. This commitment must be expressed not only through "fine words," but also by providing adequate and sustained financial resources to the citizens of Nunavut and assisting in their efforts to enhance, promote and protect their linguistic heritage."³⁷

³⁵ *Inuuqatigiit: The Curriculum from the Inuit Perspective*. Northwest Territories. Department of Education, Culture and Employment. 1994

³⁶ In 2006, when I was working in the Curriculum and School Services Branch in Arviat under Shirley Tagalik, the office contacted the admissions officers of the seventeen Canadian universities which receive the majority of Nunavut students with this question related to the Curricular material being developed at the time; and we received a 100% rate of agreement. A bilingual made-in-Nunavut IQ-based curriculum was acceptable to all the admissions officers we contacted at that time; and today, in the wake of the Truth and Reconciliation Report, I have no doubt that the response would be equally positive.

³⁷ *Language Rights in Canada's North: Nunavut's New Official Languages Act*, Final Report. Standing Senate Committee on Legal and Constitutional Affairs. June 2009. Pg 20.

2. Canada should update the *Cost of Implementing Inuktitut* report and use a modernized planning schedule and cost estimates to deliver adequate equalization payments to allow the public services of the Nunavut government to function in the language of the public: Inuktitut.
3. Canada should recognize the unique 'dual-minority' status of both official minority language groups in Nunavut, and reform its Charter supports accordingly. Canada should identify and separate funding for schooling for the Anglophone minority population in Nunavut, as it does for the Francophone. This would allow for the bulk of the territory's education funding to be devoted to Inuit language schooling.
4. Canada should contribute to the financing required to support Inuktitut as an official language of the territory to a comparable extent with that which it supports the other official languages of Canada. To do so would be in keeping with the *Calls to Action of the Truth and Reconciliation Commission's Final Report*, which reminds us that Canada spends only \$14 million annually for the preservation and revitalization of (all 90) Aboriginal languages, while the Official Languages Program for English and French cost in the order of \$350 million for the promotion of linguistic duality and the development of official language minority communities across Canada.
5. At the Nunavut territorial level, the three acts of 2008 (the Nunavut Official Languages Act, the Inuit Language Protection Act, and the Education Act) express the need for Inuit language protection activities to be sufficiently funded so that they can be carried out in the way they were intended. If they were properly funded and implemented, they would be the best existing legislation on Indigenous languages anywhere in North America, and arguably in the Western Hemisphere. But the gap between legislative intentions and on-the-ground reality in Nunavut communities is enormous. They can, however, be used as a guide to what is needed.
6. As the largest employer in Nunavut, the territorial government must urgently draft and implement comprehensive Inuit Employment Plans, as detailed in Article 23 of the NLCA, with timelines and targets, and adequate funding levels to achieve their objectives. Specifically, the Department of Education should properly fund and implement a robust IEP for educators. The Department could draw inspiration from the prototype 2006 *Qalattuq Strategy*, which aimed to add 304 educators over 4

years. The difference between 2006 and 2017 is that there is funding available for this purpose right now, namely from the 2015 *Settlement Agreement*.³⁸

7. The Nunavut Department of Education and Nunavut Arctic College, should establish a strong research-and-development curriculum body responsible for intellectualization of Inuktut, converting IQ into prototype instructional units, and developing teaching resources and curricula in Inuktut, which would allow for Inuktut to be used as a language of instruction throughout the K-12 and college systems, and allow the development of intellectually challenging books, resources and curricula for all subject areas and for all school grades.

Conclusion

In the words of former Nunavut Languages Commissioner Sandra Inutiq, “Nunavut needs to make a much more aggressive effort to reverse language loss.”³⁹ The realization of the dream of Nunavut allowed many Inuit to hope that the future of Inuktut would be secure. That hope is receding. Inuktut is in serious decline. Without intensive efforts by the territorial and federal governments, Inuktut will be ‘definitely endangered’ by 2051.

It is incumbent on Canada to ensure that the Nunavut territory can offer the same level of public services as do other provinces and territories. This requires that Canada enable the Nunavut territory to deliver public services in the language of the public. In Nunavut, the language of the public is Inuktut.

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[Professor Martin](#) was author of the 2000 *Aajiqatigiingniq* report on language of instruction in Nunavut schools, a study that contributed to the Nunavut Education Department's first bilingual education strategy 2004-2008. In 2006, he served as a consultant on bilingual education on the Conciliator’s Report on the Nunavut Project, written by Mr. Justice Thomas Berger. In addition to his research, Professor Martin has worked extensively with educators and teachers to train local Inuit researchers on early

³⁸ *Moving Forward in Nunavut: an Agreement Relating to Settlement of Litigation* (May 4, 2015); Nunavut Tunngavik Inc., Government of Canada, Government of Nunavut.

<http://www.tunngavik.com/files/2015/05/FINAL-SETTLEMENT-AGREEMENT-PROOF.pdf>

³⁹ Sandra Inutiq, Nunavut Languages Commissioner, *Address to the United Nations International Expert Group*. New York, January 2016.

childhood language assessment and curriculum. In 2011-12, he was contracted by the Kitikmeot Inuit Association as an applied linguist to work with a team of researchers to develop a KIA Language Revitalization Strategy. In addition to specializing Inuit education and languages, Professor Martin also teaches "Indigenous language policy in the Americas" at York University's Master's program in Public and International Affairs. He is co-author of the Glendon Truth and Reconciliation Declaration on Indigenous Language Policy, a policy paper promoting implementation of the TRC's Calls to Action on language legislation for Canada's Indigenous languages.

APPENDIX 3

As quoted from the Commonwealth Fund, and used on the cover of the Systemic Investigation Report into the Qikiqtani General Hospital's Compliance with the Official Languages Act by the Office of the Languages Commission of Nunavut in October 2015:

“Being able to speak in one’s mother tongue when it concerns health is not asking a favour of health care professionals or organizations. On the contrary, it is a basic issue of accessibility, safety, quality and equality of services.”

Nunavut

Before I delve right into this topic, for those of you who have not had the great fortune to come to Nunavut, I thought I would provide you with a broad context. First, Nunavut, in Inuktitut means ‘Our Land’.

As the NTI President, I represent Nunavut Inuit. Nunavut Inuit make up 85% of the population of Nunavut, 70% identify Inuktitut as their mother-tongue.

There are 25 communities spread across this vast land that make up one-fifth of Canada’s land mass. These 25 communities receive health services through 22 community health centres, regional health centres in Rankin Inlet, Cambridge Bay and the Qikiqtani General Hospital in Iqaluit.

Depending on a patient’s needs and the types and level of care available in a community, patients may be sent to larger centres for treatment of condition. In 2015-2016 just over \$70 million was spent on medical travel (16.7 percent of total departmental expenditures).

Community health centres are typically staffed by a nurse-in-charge and community health nurses. As of March 31, 2016:

- 43 of the 69 community health nurse positions were vacant (62%)
- 5 of the 25 nurse-in-charge positions were vacant (20%)

Casual and agency nurses are used to fill these vacancies and to replace permanent nurses on leave. During 2015-2016, a little over \$30 million was spent on casual and agency nurses.

Inuktitut

In Canada, our language, Inuktitut, is considered to be one of the stronger Indigenous languages. Yet it is declining at 1% per year. At this rate, by 2051 only 4% of us will be speaking Inuktitut at home.

Nunavut is the only jurisdiction in Canada that has a majority language that is not one of the federally recognized official languages – French or English.

Despite this, Inuktitut is not the working language of government nor the language used to provide essential services.

This concerns me. It concerns me that some unilingual Inuktitut speaking Inuit are not receiving equitable public services similar to those of other Canadians.

Historically, we know that Canada funded buildings and personnel to actively strip Indigenous people of their culture including their language through residential school. In my view, Canada should and has the responsibility to fund buildings and personnel to actively rebuild, strengthen and protect Indigenous languages.

Public Services in Inuktitut

I'd like to ask you to take a moment to think about your last trip to the doctor or to the hospital.

"How important is communication to you? How important is language to communicating with your doctor or nurse?" (Inuktitut and English)

Think about your doctor's visit: How big a role does accurate communication and understanding play in what type of health treatment you receive? Pretty big, right?

So imagine living here in Mississauga where the majority public language is English; now imagine that almost none of the health professionals speak or understand that majority language. How would you feel going into that system?

This is our reality.

And, I did not even ask you to imagine the next step, where you needed the expertise of a doctor or services only a hospital could deliver and you had to fly, often unaccompanied, down to Mexico.

Some of the findings of the systemic investigation included:

- Language barriers have a negative impact on quality of care, patient safety and access to health care services
- Patient-provider communication problems may result in a misdiagnosis and relevant follow-up treatment
- Patient confidentiality rights and informed consent may not be protected.

In speaking about interpretation services, one of the contributors stated,

"The worst case I saw is that we had to use other patients as interpreters. Obviously it is a breach of confidentiality, but I also feel that if I use a patient to translate for another patient it transgresses medical rights. You are here to get better and you are being used as staff. Sometimes the patient has to give it a try, but it is the best solution we can come up with."

Public Safety Issue

In Nunavut, we Inuit live under a public government, just like Ontario or Quebec. We pay income tax. We expect to receive public services just like other Canadians. We

want to feel safe when we enter the health system, the school system or the justice system. Do we feel safe? No.

What's the difference? The difference is, our majority public language is Inuktitut.

What happens when a government does not deliver public services in the language of the public? Canadians die. Canadians are hurt. This happens in Nunavut. Would this be allowed to happen in Mississauga, or in Montreal?

This is a public safety issue.

Inuktitut as working language

2018 marks 25 years since Nunavut Inuit achieved a land claims agreement with the crown. It is a good time to reflect on where we are. Is this what Inuit envisioned when they tirelessly negotiated the land claims agreement? Where would we like to see ourselves in the next 25 years? How can we make life better for our children and their children?

When the Government of Canada and the Government of Northwest Territories met 20 years ago to design how to fund the Nunavut's public government and public services, they decided not to fund Inuktitut as the language of our government. This was a decision; it was not an accident or an oversight.

Inuit experience the results of this decision. The results are that we have a health system that does not function in the majority public language, a justice system that does not function in the majority public language, and an education system that does not function in the majority public language.

Inuit are resilient, adaptable and pragmatic. So we cope, we cooperate and we communicate. We do what the public services have chosen not to do. We keep our language alive at home, we interpret for our relatives in the health system. Everyday in hundreds of interactions with public services we help our relatives and community members communicate. I do this. My relatives do this. This is our reality as Inuktitut speaking residents of Nunavut.

Medical Interpreters

Often, informal interpretation services is provided on top of one's own employment or community responsibilities. Recently, I was trying to check in at the Iqaluit airport for my own flight and an employee of an airline at the counter gestured me over to help them speak to an unilingual Inuktitut-speaking passenger. This is in Nunavut. On Inuit homelands. Where the majority public language is Inuktitut.

Providing informal interpretations is an additional burden of being an Inuktitut-speaking Inuk living in Nunavut, that is hardly ever acknowledged and recognized but is very readily **expected** and undeniably necessary. Just because an Inuk is fluent in Inuktitut, the assumption is made that an Inuk will be able to effectively and accurately interpret any discussion even if it has complex technical vocabulary that one has never spoken about in their personal life.

I often wonder what it would have been like if there had been a decision made to fund Inuktitut as the working language of our government.

I want to take a second to dwell on how it is expected. Imagine for instance, if in the airport scenario, although being gestured over, by a person that I do not work with, by a person I do not associate with, I had said no. I was not willing to help the airline employee communicate with the passenger.

- The airline employee would probably be offended and think that I have an attitude and that I was being difficult
- The unilingual Inuktitut-speaking person would probably wonder what kind of an Inuk I was. As Inuit we are brought up to be helpful contributing members of society.
- I would be left feeling guilty and thinking that I was a bad Inuk for not helping out a fellow Inuk

This is another way of maintaining the power imbalance and accepting things that are unacceptable! Imagine if French, an official language of this nation, had been expected to thrive through the goodness of peoples' hearts?

Anecdotally, to bring it back to the health field, I have heard that Inuktitut-speaking nursing students are expected to step up without the additional supports of Inuktitut medical terminology when they are doing their practicum at the hospital. Think about the additional stress! The additional stress that is not placed on non-Inuktitut-speaking mostly non-Inuit students. . . and then the system wonders why Inuit are sometimes less successful.

The March 2017 OAG report on Health Services in Nunavut found that there is a non-mandatory course on medical terminology available for clerk interpreters. Yet the clerk interpreters that they had met had not received such training, had not received it in a timely manner or had not taken training in many years. It states, "Having interpreters with knowledge of medical terminology and vocabulary is important because it helps Inuit patients who do not speak English and their health care providers better understand each other about, for example, the patient's condition."

One of the recommendations coming out of the systemic investigation was, "The Department of Health, in collaboration with Inuit Uqausinginnik Taiguusiliuqtiit (IUT), should develop competency tools to evaluate language proficiency of medical interpreters."

Too often, when an Inuktitut-speaking patient walks into a health care centre in Nunavut they must revert to speaking in English to receive essential health services – even if they are more comfortable in speaking Inuktitut.

Again, from the systemic investigation, it states, "What medical providers must understand is that when one is placed in a situation of vulnerability, it is often difficult to understand medical jargon and to clearly express one's needs, fears, pain, etc. It is even more difficult to express these concepts in a language that is not our own."

This is recognized and most recently expressed in the Coroner's report surrounding the circumstances of the death of Annie Kootoo. The report had two recommendations that highlight to the need to use Inuktitut interpreters when providing health teaching as well as the need to provide written instructions in Inuktitut.

Approach to health service delivery – trauma-informed – culturally appropriate

I have spent much of my talk on language and culturally appropriate health service delivery. I think I also need to speak to the importance of having a trauma informed approach to health services. It is important for any health worker going into our communities to have a general understanding of the types of lived experiences, social history and intergenerational trauma that Inuit carry.

In Nunavut, it is in living history that our family members were living out on the land. It is quite recent that the 25 communities were established. Before that, Inuit lived, as masters of their own destiny, in family groupings in a nomadic lifestyle.

When communities were being established, Qallunaat (non-Inuit) would come to our lands in authoritative positions. Life was disrupted and changed forever.

During this period there was an increase in tuberculosis, As documented in the Qikiqtani Truth Commission report on health care, "By 1955, almost one thousand Inuit had been evacuated to Southern sanatoria. Treatment generally averaged twenty months. This meant that in 1956, one in seven Inuit were in hospitals in the South."

This has an impact on Inuit living today who still carry pain and heartaches about this era. Some Inuit still do not know where their family members were sent and where their remains may be. An Inuk TB patient at a southern sanatorium wrote,

"I really do want to go home. I do want to stay outside. I cannot tell you about my health, as I am not able to understand English. . . I am obeying the medical staff. I take aspirins. . . It is hard to tell. . .Also, I cannot cure myself. . . I very, very much want to speak English. I am trying to obey the directions of the medical people. I want to go home too. Sometimes, I appear not to be listening. . . I want to follow the wishes of the medical people. I, however, do not understand.

It is important that health care professionals understand the context and the reasons behind some of the stigma that exists for instance in the circumstances of tuberculosis.

Building an Inuktitut health care system

In my view, the health care system can play an important role in reconciliation with Indigenous peoples across this nation. In my view, the Nunavut health care system can play a significant leadership role in achieving reconciliation with Inuit. For me, reconciliation includes bringing back dignity to a people.

NTI's 2009 annual report on the Recruitment and Retention of Inuit Nurses in Nunavut states,

“Linguistic and cultural barriers separate health care providers from patients. These barriers can lead to incomplete or incorrect diagnosis and treatment of health problems due to health care providers’ limited understanding of what a patient says. One informant noted that southern public health strategies tend to rely upon printed materials and provision of readings, resources, and web-based information. In Northern communities, the most effective communication is verbal and one-on-one. This approach, however, requires both fluency in the patient’s language and familiarity with culturally relevant communication styles.

Many Inuit have little faith in the current health service delivery model and, to a certain degree, in the staff of health care centres. There is a sense that their needs are not well understood at the community level, and that the communication gap is even greater when they are forced to travel to regional centres for care.

For communities such as Rankin Inlet, with a relatively high proportion of Inuit nurses (five out of a total of seven), informants reported a very positive impact on the impressions of Inuit patients who have been able to access health care in their own language. Several informants noted that the presence of Inuit nurses on staff reduces much of the stress experienced by non-Inuit full-time nurses.”

I know that the Truth and Reconciliation Commission will be discussed later this afternoon. Under the heading of health there are 7 Calls to Action. I am particularly interested in Call to Action 23.

We call upon all levels of government to:

- i) Increase the number of Aboriginal professionals working in the health-care field.
- ii) Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
- iii) Provide cultural competency training for all health-care professionals.

This is so crucially important that at NTI’s AGM in 2006, the membership put forward a resolution calling on the Government of Nunavut to:

- 1) To implement robust and creative measures to increase the number of Inuit primary health care professionals in Nunavut Tunngavik Inc.
- 2) To actively encourage and adequately support the successful completion of Inuit students attending the Nursing Program offered by Nunavut Arctic College
- 3) To evaluate the Department of Health’s efforts to increase recruitment and retention of Inuit nurses.

The theme of this Indigenous Health Conference is “Walking Together’.

How can we better walk together so that an Inuktitut-speaking, culturally competent, trauma-informed health system can be built in Nunavut? So that, Nunavut Inuit can to expect and feel reassured that the health system that serves our health needs recognizes our understanding of the world and delivers it in a language that we understand?

Within Nunavut, the Nunavut Arctic College has a Nursing Program with the intentions of being a space in which home-grown Inuktitut-speaking nurses can attain their accreditation.

In February, through the Northern Ontario School of Medicine, the first Health Careers Camp was held in Iqaluit for Inuit High School students. This was a week long camp that allowed students the opportunity to: hear first hand from individuals (including Inuit) in the health care field; try hands on activities such as setting a cast, going to the laboratory; speaking with an Elder about traditional medical treatments, going to the hospital etc. The hope is that camps such as these would pique the interest of young Inuit to pursue health careers.

I would be remiss in not taking this opportunity to express how extremely proud I am with the Nunavut Inuit who have successfully completed medical school.

Elaine Kilabuk was the first Inuk physician to graduate from McGill University. She was inspired to take up medicine after she watched what her grandmother had to go through when she had a respiratory illness and she had to be moved from Pangnirtung to Iqaluit to Ottawa, without culturally sensitive health care. I am very pleased that her intentions are to provide health services in Iqaluit.

Donna May Kimmaliardjuk who is the first Inuk heart surgeon. She is currently in her fourth year of residency at the University of Ottawa and is also a 2018 Indspire Award recipient.

These are some successes and positive initiatives but certainly, there is much work that still needs to be done in areas of student support for success, medical terminology development, filling vacancies, Inuit nurse supports and medical clerk interpreter supports etc. I would also add that as Inuktitut-speakers, we also have a responsibility to request services in Inuktitut rather than continually reverting to speaking English. The more we demand services in Inuktitut, surely government systems will get the message that we need and expect services in Inuktitut.

I invite each of you – in whatever capacity you are attending this conference – to think about how you can walk with us. How can we make the health care system better for Nunavut Inuit?

Looking to the future

In walking with you and with talking with you, I look forward to the day in which an Inuktitut-speaking Inuk, living in Nunavut can walk into a health centre or the Qikiqtani General Hospital with the self-assuredness that they will be able to receive their health care service in Inuktitut. I look forward to the day in which I see more Inuit walking within Nunavut, in our homelands with their heads held up high – proud to be Inuit, with dignity and without shame, knowing that they can receive services in Inuktitut.

Conclusion

Finally, I wanted to leave the most important for last. I know people most often begin with this but I wanted it to remain fresh in your minds as I concluded my remarks. I want to acknowledge and show appreciation for the people of that land on which we meet today – the Mississaugas of the New Credit First Nations.

If you will indulge me, I would like to take a few minutes to show particular gratitude to the Mississaugas of the New Credit First Nations.

Qujannamiik! Through your financial support you have supported and allowed for Inuit to pursue a higher formal education. Qujannamiik!

APPENDIX 4

**IF YOU CANNOT COMMUNICATE
WITH YOUR PATIENT,
YOUR PATIENT IS NOT SAFE**



Being able to speak in one's mother tongue when it concerns health is not asking a favour of health care professionals or organizations.

On the contrary, it is a basic issue of accessibility, safety, quality and equality of services.

Final Report – October 2015



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SYSTEMIC INVESTIGATION REPORT

INVESTIGATION INTO THE QIKIQTANI GENERAL HOSPITAL'S COMPLIANCE WITH THE *OFFICIAL LANGUAGES ACT*, R.S.N.W.T. 1988

FINAL REPORT

October 2015

Acknowledgments

Many individual people and organizations throughout Nunavut must be thanked for their participation in this investigation and their contributions to this report. Their time and their honesty in responding to questions about health care services at the Qikiqtani General Hospital are much appreciated.

We especially would like to acknowledge all those people at the Qikiqtani General Hospital, in Iqaluit, who took the time to attend interviews and those who shared their experience with us.

We also thank people who attended the public consultation, everyone who helped to arrange interviews and the people who responded to the call for reports and documents early in the project.

Sandra Inutiq
Languages Commissioner

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1. INTRODUCTION

The Office of the Languages Commissioner of Nunavut (hereinafter “OLC”) has received for many years concerns from citizens regarding their inability to communicate with and receive services in the official language of their choice from the Qikiqtani General Hospital (hereinafter “QGH”). As the non-compliance of language rights is recurrent and seems to be an endemic issue, the procedure under these circumstances is to conduct a systemic investigation to understand the situation and establish the facts.

The first part of this report describes the systemic investigation that took place following the concerns received from citizens and from interviews. It assesses the availability of services and communications in Inuktitut and French between March 1, 2012 and March 31, 2013, and the compliance of the *Official Languages Act*, R.S.N.W.T. 1988,⁴ (hereinafter “OLA”) at the Qikiqtani General Hospital.

The second part of the report sheds light on the existence of language barriers and the impacts of these barriers. We realized that the situation in the hospital went beyond that of the linguistic rights of patients and obligations of the hospital to communicate with and provide services in the patients’ official language of choice, as stipulated in the *Official Languages Act*. From the data collected during the interviews, the reading of the documents provided by the Department of Health and Social Services⁵ (hereinafter “HSS”) and the reviewing of research and studies on language barriers in health care, it is clear that there has been an impact of language barriers on the health of citizens of Nunavut: on patient safety, quality of care and accessibility to health care services.

1.1. Objectives

- To determine whether the QGH complied with its linguistic obligations as stated in OLA, between March 1, 2012 and March 31, 2013.
- To describe the repercussions of language barriers on the quality of care and access to health care services.
- To make recommendations to fix the language issues.

1.2. Approach

- To inform the population and those stakeholders involved and targeted by this investigation, including the Department of HSS and the managers of QGH, that a systemic investigation will be conducted;

⁴ The OLA is the existing, and still in force in 2012, *Official Languages Act*, R.S.N.W.T. 1988.

⁵ The Department of Health and Social Services was renamed Department of Health in 2013.

- To hold a public consultation;
- To prepare the systemic investigation, identify respondents, design questionnaires for interviews, and initiate the process with targeted respondents and stakeholders;
- To conduct individual interviews with the people affected by or involved in language issues: public, local organizations, members of the hospital staff;
- To collect data from:
 - interviews conducted by the OLC;
 - documentation received from HSS;
- To review the research and studies on the Nunavut's health care situation;
- To review the research and studies on the impact of language barriers on the quality of health care and access to services;
- To analyze data and information collected in order to establish an overview of the situation with regard to communications and the delivery of services at QGH;
- To write a preliminary report that will be sent to the Department of Health for comments and responses;
- To release a final report including these comments and responses from the Department of Health.

1.3. Chronology of Events

1.3.1. Public

- Ads were placed via local newspapers and radio stations to invite the public to share their experience at QGH with the Office of the Languages Commissioner;
- A public consultation was held on May 16, 2012, in Iqaluit. The event was publicized via radio stations and notices were placed throughout the community of Iqaluit. A total of seven participants attended the event, including three participants from the media and two from the general public;
- We were interviewed by Nunatsiaq News, CBC North, News North and CFRT on details of the investigation.

1.3.2 Department of Health and Social Services

- A meeting was held with the deputy minister of Health and Social Services to discuss the systemic investigation;
- Several requests for legal advice were made to our legal counsel and numerous steps to obtain documentation required for the investigation had to be taken.

Below are the steps taken by the OLC:

February 6, 2012: A letter was sent to the deputy minister of Health and Social Services, informing them that a systemic investigation would be conducted. Obtaining no response, we then contacted the Access to Information and Protection of Privacy (hereinafter "ATIPP") Office and again contacted HSS. Below are the details of these unsuccessful attempts:

July 4, 2012: Our legal counsel sent a request to the ATIPP Office. The following documents were requested in order to proceed with the systemic investigation:

1. Copy of the operation and procedures manual for the reception staff;
2. Copy of the language plan for the Qikiqtani General Hospital;
3. Minutes of the Safety Committee meetings from the beginning of its operation to present (March 2013);
4. Information about how funds received for language services (French and Inuktitut) are allocated to the Qikiqtani General Hospital, as well as a detailed report on how it was utilized;
5. Records indicating the number of employees that work for the Qikiqtani General Hospital and, among them, what number can speak French and what number can speak Inuktitut.

August 2012: The Languages Commissioner sent another letter to the deputy minister of Health and Social Services, identifying the OLC's legal authority to access the required information and asking for the following documents before September 15:

1. Procedure manual at the reception of QGH;
2. Language plan for QGH;
3. Minutes of the Patient Safety Committee since the beginning of its operation;
4. Quality assurance and safety policies and procedures;
5. Medical interpreters schedule;
6. Accreditation Report 2011-2012;
7. Translator/Clerk Interpreter job description;
8. List of available language training for QGH staff and participants in 2011-2012;
9. The 2011-2012 QGH Annual Report;
10. List of positions that receive the language bonus and the second language spoken for each position.

November 1, 2012: The OLC's legal counsel confirms that they were unable to obtain any documentation from HSS regarding the requests.

November 5, 2012: An e-mail was sent to the ATIPP Office, indicating that the deputy minister had not forwarded the documents required. That same day, our office received a reply stating that the deputy minister would send all required documents by the end of the day.

November 7, 2012: Another e-mail was sent to the ATIPP Office to inform them that we had not received the documents from the deputy minister and that we would like to appeal to the Information and Privacy Commissioner. That same day, we received a phone call from the deputy minister requesting a meeting. This meeting was scheduled for November 23, 2012.

November 9, 2012: A letter was received from HSS stating that we would not have to contact the ATIPP Office and that they would produce the documents requested directly to us.

November 23, 2012: The Languages Commissioner met with the deputy minister who agreed to forward some documents, without specifying which documents.

January 9, 2013: A letter was sent to the deputy minister, stating that no documents had been received. Also, an e-mail requesting another meeting was sent in order to explain the steps of the systemic investigation and the relevance of the documents. The deputy minister did not reply to this e-mail.

February 5, 2013: The new Languages Commissioner who took Office mid-January 2013, met with the deputy minister to introduce herself and discuss our office's activities, including this investigation.

March 5, 2013: Six of ten requested documents were received from the deputy minister's office.

Several letters and notices sent to the deputy minister of HSS as a reminder of the OLC's requests were ignored. Many documents of primary importance to conducting the investigation were not released by the deputy minister's office. It took thirteen months after the first letter issued by our office to obtain certain files required for the investigation.

2. PART 1

2.1. ALLEGATIONS

Between 2000 and 2011, we recorded six concerns relating to language services offered by the Department of Health and Social Services. Of the six concerns, three were from the Inuit community and three from the French community. The concerns are:

2001: the health care information was in English only (Inuit community).

2003: the verification notices sent out for the Nunavut Health Care Card Renewal included forms in English, Inuktitut, Inuinnaqtun and French, but the forms must be filled out in English only (Inuit community).

2010: the health care information was in English only (French community).

2011: an individual was denied being the escort of a family member because of being unilingual although the policy did not state that language is a requirement for an escort (Inuit community).

2011: an individual was turned down trying to submit his resume for a maintenance position at the Qikiqtani General Hospital because of his poor command of English (French community).

2011: the Nunavut Health Care Plan brochure distributed when people need to renew their health care card was not available in French (French community).

During the investigation, we interviewed 51 people. Below, we summarized the allegations from six cases related to language rights.

Please note that in an investigation report, it is important to retain the wording of the allegations as close as possible to how it was communicated to us and as faithfully as possible. In addition, to protect the identity of patients and facilitate reading, we used the masculine where it was possible to do so.

Case 1

This case involves a couple whose wife was pregnant. They are bilingual, comfortable with the consultations that took place in English most of the time. However, in spite of their good understanding of the English language, they sometimes did not understand the full meaning of medical terms, especially when it came to acronyms and medical jargon. The wife asked her husband to take part in the consultations in order to properly understand all the information, but they had to resort to the internet to understand the meaning of some terms.

During birth, the mother was told in English that she would have to have a C-section delivery. She did not understand the English term “C-section” (short for caesarean) and what was going to transpire. Thirty minutes later, she was in the operating room for the procedure. As her husband was not allowed to be present, he was unable to help her understand what was happening. The patient said she was in shock, confused and very vulnerable. The whole procedure took place in English and interpreting services were never offered her.

Case 2

An elderly person came to the hospital because he had difficulty breathing, which sometimes happened. The patient met with a doctor and, because the conversation was held in English, he didn't understand some of the questions. He asked the doctor to repeat and the doctor subsequently became irritated and berated the patient. When the patient asked him why he was upset, the patient said the doctor answered: “I can't understand you, I will send you someone else,” and he left, leaving the patient alone with his breathing problems. The patient added that, normally, when he went to the hospital because he had trouble breathing, he was immediately given an oxygen mask.

Case 3

The doctor asked for an ultrasound for a woman who was three months pregnant and saw a possible abnormality with the foetus. He wanted to send the patient to Ottawa for further tests. The patient had to have tests done before the 15th week of pregnancy in the event it would be necessary to interrupt the pregnancy. The couple requested that their file be sent to a hospital in Québec so that they could receive services in French. The process was begun and the dossier was transferred. Subsequent examination revealed an abnormality and the pregnancy was terminated.

The following year, when this woman learned she was pregnant, she consulted the doctor and was once again directed to Ottawa for further tests. The attending physician requested that the file from Québec be sent to Iqaluit as it contained relevant information for the terminated pregnancy. This physician had to return South and he left instructions for the doctor who was replacing him for this patient.

When only three weeks remained before the end of the 15-week period required to do testing, and not having received any information, the couple contacted the physician responsible for follow-up to learn that he had not received any communications from the office that handles medical transfers.

It was while investigating to find out what had happened that the doctor learned that the file had in fact been transferred to Iqaluit, but that the person who received it had put it aside because it contained documents written in French and the employee did not understand what they contained. The employee did not attempt to have the file translated, nor forward the file to a

French-speaking person. When the documents were located, unfortunately, it was too late for further tests. While the pregnancy should have been welcomed with joy and excitement, this couple lived through it in fear and confusion.

Case 4

A patient went to the emergency unit because he had a swollen throat. He waited five hours before seeing a doctor and he was the only person in the emergency room.

On another occasion, he arrived at the emergency unit at 8 in the morning and was the only person in the waiting room. He was finally able to see a doctor at 1 pm, as the file had been misplaced. It was a nurse who, after seeing him sitting alone for several hours, finally helped him get processed. The patient believes that the delay was due to the fact that he was Francophone.

He had an operation and no follow-up was ever made.

He stated that, even if French service is available, one must wait two weeks to receive services from a physician or specialist who speaks and understands French. He had asked for an interpreter on a previous occasion and it had taken several hours for the interpreter to arrive.

He believes that if the patient speaks French, getting an appointment take longer and so does the wait time. He said that he knows that several Francophones do not telephone the hospital because of language barriers. Moreover, the QGH's voicemail message is not available in French and he says that, anyway, English is favoured at QGH. He also stresses the fact that information is rarely available in French.

Case 5

A person learned that he had lung cancer. He underwent several tests and waited to learn about the treatment available to him. Because he didn't speak any English at all, he was accompanied by his daughter who acted as interpreter. During his transfer to Ottawa, the man's family contacted the Department of Health because they wanted the man's wife to accompany him to Ottawa so that his daughter could remain home. The nurse insisted that it was absolutely necessary for the escort to be able to speak English.

The patient had to end his treatments in Ottawa because his wife was not able to speak English. A concern was filed with the Office of the Languages Commissioner; we have contacted the deputy minister in order to find a solution immediately in favour of the applicant.

Case 6

A person arrived at admissions early one morning. He spoke French and the attendant answered him in English. Seeing that the patient continued speaking in French, the employee tried to contact a Francophone or someone who could speak French to have him/her come and act as interpreter. As there was no answer, and not knowing what to do, the attendant became agitated, and in her frustration she told the patient: “Well, you have to be reasonable and speak English.”

In English, the patient told the employee about *e-health*, an initiative from the Department of Health that advocates that a patient’s preferred language of communication be indicated in the patient file. The patient stated that the attendant had no idea what he was talking about and did not care. Once he got to the required service, he was greeted with a big sigh when he talked about requesting the service in French.

The patient said he went to the hospital a few times and each time, as there is no French-speaking interpreter, the staff in admissions do not know what to do when bilingual staff are not available.

2.2. ISSUE

The objective of the systemic investigation is to determine whether the Qikiqtani General Hospital respects its obligations under section 11 of the *Official Languages Act*, R.S.N.W.T. 1988 with regard to communications with the general public (oral and written) and the provision of services. In addition, the investigation will determine whether the language rights of citizens, as provided for under sections 14 (1) and (2) of this Act, are also respected.

2.3. LEGAL CONTEXT

2.3.1. Language Laws

The systemic investigation was conducted while the *Official Languages Act*, R.S.N.W.T. 1988, was in force. Even the *Official Languages Act* of Nunavut came into effect in April 1, 2013, it does not affect the authority to investigate and make findings.

2.3.2. Right to Make an Informed Decision

In addition to general rights legislation, there are specific legal and ethical provisions guaranteeing patient rights in medical decision making, including the right to be informed of treatment options and make an informed voluntary decision about treatment.⁶

⁶ Etchells, et al., 1996, quoted in Sarah BOWEN. *Language Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, p.19.

Common law in Canada has recognized that where a patient does not speak or master an official language, it is incumbent on the physician to ensure that the patient understands the information that is communicated before administering treatment (Decision in *Champion*, 2000)⁷.

2.3.3. Precedent for Liability

Applicants at the root of this systemic investigation submitted their concerns to the Office of the Languages Commissioner; they could also decide to go to court to enforce their language rights. Here is an example of a judgment where there was an appeal: case *Suzanne Houde vs Stanton Regional⁸ Hospital*, Northwest Territories. The plaintiff alleged that she was not able to communicate with or receive health care services in French from hospital staff. She decided to go to court to assert her rights. A financial compensation was awarded to the plaintiff. You can read the full text: *Northwest Territories (Attorney General) v. Fédération Franco-Ténoise*, 2008 NWTCA 6 (CanLII).

2.3.4. Mandate of the Languages Commissioner

As stipulated in section 20 (1) of the *Official Languages Act*, R.S.N.W.T. 1988:

“It is the duty of the Languages Commissioner to take all actions and measures within the authority of the Languages Commissioner with a view to ensuring recognition of the rights, status and privileges of each of the Official Languages and compliance with the spirit and intent of this Act in the administration of the affairs of government institutions, and notably the promotion of Aboriginal languages in the territories.”

Under section 21 (1):

“The Languages Commissioner shall investigate any reasonable complaint made to the Languages Commissioner arising from any act or omission to the effect that, in any particular instance or case, in the administration of the affairs of any government institution:

- (a) the status of an Official Language was not or is not being recognized;
- (b) any provision of any Act or regulation relating to the status or use of the Official Languages was not or is not being complied with; or
- (c) the spirit and intent of this Act was not or is not being complied with.

⁷ *Ibid.*

⁸ Now called Stanton Territorial Hospital.

2.3.5. Jurisdiction of the Systemic Investigation

2.3.5.1. Qikiqtani General Hospital: a Territorial Institution

In 1999, the Government of Nunavut's Department of Health and Social Services took over the duties of the Boards of Management that had been under the Government of Northwest Territories and thus took full control of the "management, control and operation" of the hospital. The QGH is therefore managed by the Department of Health and Social Services which is a "territorial institution" for the purposes of ILPA⁹ and the new OLA,¹⁰ and a "government institution" for the purposes of current OLA. Any documents pertaining to the operation of the QGH would thus be in the possession or control of a "territorial institution", namely, the Government of Nunavut (via the Department of Health and Social Services), and subject to investigation by the Languages Commissioner.

2.3.5.2. Languages Commissioner's Power to Investigate

Under section 20 (2) of the *Official Languages Act*, R.S.N.W.T. 1988, it states:

"... the Languages Commissioner may conduct and carry out investigations either on his or her own initiative or pursuant to any complaint made to the Languages Commissioner, and may report and make recommendations as provided in this Act."

2.3.5.3. Systemic Investigation

It would have been a massive undertaking to conduct an investigation on HSS including all bodies providing health services delivered within the territory (general practitioners, dentists, opticians, pharmacists, etc.). For this reason, we decided to focus the investigation on the Inuit and French languages within the primary care at the Qikiqtani General Hospital in Iqaluit. The main reason of our decision: primary care is the starting point for most of us with the health service.

An investigation may take the form of a systemic investigation when non-compliance of language rights is seen as an endemic problem. The decision to conduct a systemic investigation is based on a list of criteria that follows ombudsman practices in Canada.

⁹ ILPA for *Inuit Language Protection Act*.

¹⁰ The new OLA is the *Official Languages Act* of Nunavut not yet in force in 2012. The current OLA is the existing and still in force *Official Languages Act*, R.S.N.W.T. 1988.

In the case of QGH, this type of investigation was chosen for the following reasons:

- a) The number of concerns received is important.** As seen previously, six concerns were registered between 2000 and 2011 regarding language services provided by the Department of Health and Social Services, three from the Inuit community and three from the Francophone community.

Factors for consideration regarding the number of concerns received:

- Communication barriers can stop or discourage patients from filing a concern;
- Patients may also not know their rights or the procedure for filing a concern;
- Some patients may be afraid of filing a concern, fearing there may be repercussions on the care they may require in future;
- Cultural factors must also be considered. Many Inuit are unfamiliar or uncomfortable with the formal “complaint” process because it has negative connotations and is something many adults were discouraged from doing as children;
- One data is important: according to statistics from the Office of the Commissioner of Official Languages, for one registered concern, there are approximately 21 people affected who do not register their concern.

One would think that a greater number of concerns would have been filed with us, or that lawsuits against the hospital would have been filed.

- b) A large number of people are potentially at risk.** QGH is a regional hospital located in Iqaluit that also serves the communities of the Qikiqtaaluk region (also called Qikiqtani or Baffin), comprising an estimated population basin of 18 397 people in 2012 (18 852 in 2013).

The table below was provided by the hospital and illustrates the number of patients seen at the hospital yearly:

	2009	2010	2011
Minor surgery	678	727	787
Emergency	16 004	16 589	17 651
Clinic	17 740	17 523	16 201
Psychiatry	150	121	180
Medicine	644	601	540
Obstetrics	496	459	449
Paediatrics	288	238	244
Surgery	165	161	130
Births	398	387	383
Total	36 563	36 806	36 565

- c) **The situation concerns major strategic issues.** There are two important issues: sustainability and compliance with linguistic laws.

Sustainability

Language is a cultural heritage and the ongoing expression of a population's identity. It is the foundation necessary to a sustainable future for the Inuit of Nunavut as a people of distinct cultural and linguistic identity, and for Francophones as a French-language community in a minority setting.

For the Inuit community, use of the Inuit language is an indispensable element to improving the social, economic and cultural welfare of the Inuit, as provided for in the Nunavut Land Claims Agreement. Positive steps are required to protect and promote Inuit culture, of which language is an essential element.

The Francophone community is very present and dynamic in Iqaluit and, like any French-language community in a minority setting, the sustainability of the language goes hand in hand with its vitality. The linguistic and cultural minority situation greatly undermines this community and its preservation requires the protection and promotion of the French language.

Compliance with linguistic laws

The Government of Nunavut has to commit to meeting its obligations as a public government, notably by protecting and promoting language rights and the right to equality and non-discrimination.

The absence of legal provisions, limited accessibility and quality of language provided by the territorial institutions, when they must communicate with and offer services to the public, is contravening the requirements of OLA.

- d) It is a recurring problem.** There has been language issues at the Qikiqtani General Hospital for several years and the time spent shows no improvement of language services. In fact, three studies were conducted for the years 2004, 2006 and 2009. The first study was prepared by Julie Beaulieu, the second by Réseau de santé en français for the Association des francophones du Nunavut, and the third study was published by Nunavut Tunngavik Incorporated (NTI).

The 2004 study¹¹ on the health needs of Nunavut's Francophone population was conducted among 90 Francophones (86 in Iqaluit and 4 from other communities) using telephone surveys; below are their main findings:

- Lack of health care professionals who can provide services in French: 35% of respondents stated they had difficulty obtaining health care in French and 70% believe that there are no health care professionals who can provide services in French;
- In 2004, 89% of the services offered by professionals (clinic or hospital) were offered in English. The majority of respondents first consult their family doctor (88% of services provided in English), followed by pharmacists (100% in English) and then nurses (90% in English);
- Very few respondents (13%) participated in health promotion or prevention activities because these activities are only available in English. The same applies to prenatal and postnatal programs.

The 2006 study¹² was conducted through interviews among the Francophone population (33 Francophones from Iqaluit and two neighbouring communities), 7 health care professionals and providers offering services in French and among 8 HSS managers, primarily Anglophones.

Their study confirmed the results of the 2004 study with regard to the French community's needs and expectations and helped to identify primary health care service priorities.

¹¹ Quoted in RÉSEAU DE SANTÉ EN FRANÇAIS (Résefan). *Des services de santé en français dans un Nord en mutation*, Iqaluit, Association des francophones du Nunavut, 2006.

¹² RÉSEAU DE SANTÉ EN FRANÇAIS (Résefan). *Des services de santé en français dans un Nord en mutation*, Iqaluit, Association des francophones du Nunavut, 2006.

Here are some of their findings:

- 60% of the respondents (population) are unsatisfied with health care services: high turnover for physicians, loss of medical follow-up that results, directives for blood sampling, lab tests and drug doses in English only and many services only available in English;
- 95% of the hospital's patients are Inuit, who have a difficult time receiving services in their language;
- Some Anglophone managers say that all Francophones are bilingual, that they can access services in English with no difficulty and that, consequently, accessibility is not a problem;
- Some Anglophone managers said that Francophones are not a priority;
- Accessibility to health care services in French varies from one location to the next and from time to time, according to the availability of bilingual or French-speaking health care professionals.

The 2009 NTI report¹³ outlined the health care situation for Inuit language speakers as follows:

“Linguistic and cultural barriers separate health care providers from patients. These barriers can lead to incomplete or incorrect diagnosis and treatment of health problems due to health care providers’ limited understanding of what a patient says. One informant noted that southern public health strategies tend to rely upon printed materials and provision of readings, resources, and web-based information. In Northern communities, the most effective communication is verbal and one-on-one. This approach, however, requires both fluency in the patient’s language and familiarity with culturally relevant communication styles.

Many Inuit have little faith in the current health service delivery model and, to a certain degree, in the staff at health care centres. There is a sense that their needs are not well understood at the community level, and that the communication gap is even greater when they are forced to travel to regional centres for care.

¹³ NUNAVUT TUNNGAVIK INCORPORATED. *Recruitment and Retention of Inuit Nurses in Nunavut*, Iqaluit, 2009.

For communities such as Rankin Inlet, with a relatively high proportion of Inuit nurses (five out of a total of seven), informants reported a very positive impact on the impressions of Inuit patients who have been able to access health care in their own language. Several informants noted that the presence of Inuit nurses on staff reduces much of the stress experienced by non-Inuit full-time nurses.”

e) The recommendations made by the Languages Commissioner’s Office were ignored. The first of the Languages Commissioner’s recommendations to the Department of Health and Social Services was included in the 2003-2004 Annual Report:

“I recommend that the department of Health and Social Services take all steps necessary to bring their communications practices into compliance with the *Official Languages Act* of Nunavut. They must take appropriate measures to ensure that Nunavummiut can communicate to them in person, in writing or by any other means in the Official Language of the citizen’s choice. I further recommend that the department assign one of their assistant deputy ministers to oversee compliance of the department’s communications to the *Official Languages Act*, thus ensuring that the department does not ignore its obligations under the Act in the future.”

Subsequently, on September 7, 2010, a telephone investigation was conducted by OLC among the 29 central administrations of HSS to evaluate language services. Recommendations were made following this investigation and the 2011-2012 Annual Report mentioned that these recommendations had not been implemented:

- The voicemail system of QGH and its central offices do not have a message in all official languages;
- Basic services, promotional activities and active offer are not available in Inuktitut and in French, nor are health care services;
- A slight improvement has been noticed regarding display notices. While displays and notices are available in all official languages, they are often posted in random order and do not afford the same visibility for all official languages.
- There is very little ongoing training for Inuit language medical interpreters. The participation rate in Nunavut’s Arctic College translator/interpreter program is negligible.

2.4. METHODOLOGY

2.4.1. Interviews

A questionnaire (Appendix 1) was designed and we conducted individual interviews with 51 people:

- 4 physicians;
- 8 clerk interpreters;
- 6 nurses;
- 10 supervisors/managers/directors at QGH;
- 12 members of the public from different communities, including 8 Inuktitut speakers and 4 French speakers;
- 3 laboratory technicians;
- 8 Nunavut organizations and third parties from different communities.

Fifty verbal interviews were recorded with the respondent's verbal consent, and one respondent preferred to answer the questions in writing.

Members of the public are people who contacted our office to share their experience at QGH.

An initial written questionnaire (Appendix 2) had first been sent to all of the hospital's physicians, but none of them responded. Thus, we had to meet some of them in person to conduct an interview. Someone at the hospital did the coordination for all interviews. Also, we wrote a letter explaining the investigation and this letter was sent to all employees.

A third questionnaire was designed to conduct the interviews with nursing agencies (Appendix 3).

2.4.2. Documentation

Several letters and notices forwarded to the deputy minister of HSS were met with no response. Many documents of critical importance to conducting the investigation were not released by the deputy minister's office; it took more than seven months following the initial request made by the OLC's legal counsels to obtain some dossiers required for the investigation, almost thirteen months following the OLC's first correspondence with the deputy minister.

Among the requests for documentation (ten documents), only the following were received from HSS (March 5, 2013) to allow us to conduct the systemic investigation:

1. Copy of the operation and procedures manual for the reception staff;
2. Copy of the language plan for the Qikiqtani General Hospital: we received only a copy of e-mails of discussion related to this matter;
3. Minutes of the Safety Committee meetings from the beginning of its operation to present (March 2013);
4. Accreditation Report 2011-2012;
5. Information about how funds received for language services (Inuktitut and French) were allocated to the Qikiqtani General Hospital, as well as a detailed report on how it was utilized: we received only a copy of e-mails of discussion related to the French language funds and no document was provided in regards to Inuit language funds;
6. Records indicating the number of employees that work for the Qikiqtani General Hospital and, among them, what number can speak Inuktitut and what number can speak French: we received only an e-mail giving the number of speakers (staff only, no information on the position).

2.5. INFORMATION CONSIDERED WITHIN THE SCOPE OF THE INVESTIGATION

Please note that the following comments were pertaining to the existing situation at the QGH between March 1, 2012 and March 31, 2013 and were stated during the interviews. In an investigation report, it is important to retain the wording of the allegations as close as possible to how it was communicated to us. To maintain the spirit of the allegations, we have to remain impartial and avoid misinterpretation.

Following a review of the interviews conducted by us and the documentation received from HSS, the information considered within the scope of the investigation is:

2.5.1. Language Policy and Active Offer

- The hospital has no language plan or policy.

“If you ask me to give you a policy, I won’t be able to do that. I have to admit I have not seen one. But when people request services in their language of choice, we make every effort that can happen.”

- There is no awareness of language training being offered. Those who wish to take language courses have a lot of difficulty doing so because of their work schedule;

- For training, a culture orientation is provided, but is limited:

“The plane arrives at 12:00. In the afternoon, there is an orientation. There are three pages on the Inuit culture, the Inuit way of life, typical things relevant to the Inuit. There is nothing on languages.”

- There is no active offer at the hospital: the patient is not informed of his/her right to request an interpreter, nor are the services of an interpreter actively offered;
- Written notification and documents, such as consent form, are not in all official languages;
- During the admission process, it is possible to enter the patient’s preferred language of communication in the computer file; unfortunately, some patients say that they are not asked this question, or the information is not recorded;
- In spite of the hospital’s efforts to hire Francophone or French-speaking staff, as it has already been the case, managers state that they face resistance:

“We tried to post that [French Services Coordinator job] and the DM, who is no longer here, canceled it saying that I was violating the Land Claims Agreement by trying to put a French person in the role. And I was required to put a beneficiary in there. My administrative assistant, for example, is supposed to be designated as a French language speaker. The Department kind of overruled that. So the position was supposed to be French originally and our Department chose to have it more as an Inuktitut position. ”

- Every manager of each department (of the hospital) is in charge of recruiting his own staff through Human Resources;
- For the fiscal year 2011-2012, HSS received funding from the Department of Culture and Heritage to promote the French language (\$90,000) at the hospital. No document was provided in regards to Inuit language funds;
- During the interviews, an important point that surfaced was the fact that people are not aware of the language laws, not only among managers, directors and hospital staff, but also among the staff and management of HSS.

2.5.2. Language Barriers

- As stated by a physician during an interview:

“A lot of our patients are unilingual as well. We drop the ball and we are not really providing the best services because we can’t understand them and they can’t understand us. It is not acceptable at all.”

- Some of the members of the medical staff we interviewed say they are uncomfortable with the fact that they cannot communicate with patients due to language barriers. They are aware of current and potential problems resulting from a lack of proper communication between them and the patient. They say they try to assist the patient as best as they can and establish best communication practices given the lack of resources available to them;
- Problems relating to safety, informed consent and the administration of medication exist at the hospital;
- However, we must specify that during the interview process, patients noted the understanding and efforts of some medical staff members to overcome communication barriers.

2.5.3. Interpretation

- For some managers, language interpretation is a “luxury that cannot be offered” and “we have more important concerns than languages”;
- The interpreters who are working at the hospital are clerk interpreters.
- There are six English-Inuktitut clerk interpreters and no English-French clerk interpreter. The majority of them have not been trained to intervene in the medical environment and have little or no knowledge of medical terminology and the vocabulary used to describe anatomy. No medical terminology training is offered to clerk interpreters;
- Members of the public are asked to act as interpreters;
- There is a high level of absenteeism among clerk interpreters;
- Outside of normal business hours (weekends, evenings, nights), clerk interpreters are not available;

- Interpreters are not always on site:

“At times, there is nobody in this building that speaks Inuktitut. We don’t function well when we don’t have someone. This year, it has been very bad, at the point we only had one interpreter. She only worked one shift and we have four shifts to fill; three shifts went on without someone being here....What I see from being in the North a long time is that Inuit are really accepting but it is certainly not a reason not to serve them in their language.”

- Several employees spoke about the lack of bilingual staff and qualified interpreters. They expressed their discomfort with the fact that they could not communicate with some patients. They mention that they are aware of the risks involved for the health and safety of patients who do not speak English.

“The patient is at risk if there is a communication gap and the patient is at risk if nobody seems to get the message right: it should not be about the quantity of care but about the quality.”

- People who are asked to act as an interpreter rely on gestures to try to understand the patient when verbal communication is difficult;
- When a patient who speaks Inuktitut is not accompanied by a family member or friend, a request is made for an interpreter and this one is not on site, it is primarily the other patient in the room, housekeeping staff or security staff who are called in to interpret. Other people who may be asked to act as interpreter are nurses and clerical staff who speak Inuktitut, if they are available.

“The worst case I saw is that we had to use other patients as interpreters. Obviously it is a breach of confidentiality, but I also feel that if I use a patient to translate for another patient it transgresses medical rights. You are here to get better and you are being used as staff. Sometimes the patient has to give it a try, but it is the best solution we can come up with.”

- When a patient who speaks French is not accompanied by a family member or friend, it is said that it is primarily Francophone and French speaking staff from the laboratory who are called in. Other people who may be asked to act as interpreter are Francophone nurses and doctors or interns, or other bilingual Francophone medical staff, if there are any and if they are available;
- We noted, within the minutes and through interviews, the difficulty of working with interpreters not qualified to work in a medical setting and the discomfort at the idea of using laboratory staff as interpreters for Francophone patients;

- The consequences of displacing employees from their regular duties to act as an interpreter include decreased performance in their respective responsibilities, imposing an increased workload on their colleagues and demotivating these employees and coworkers in their own work;
- In reading the minutes, we noticed that the lack of interpreters is a concern and that solutions have been identified, such as: establishing and distributing a list of bilingual staff and interpreters. Unfortunately, most of the time, people said they are not aware of this list;
- There is a common belief that the bilingual bonus is automatically offered to those staff members who speak Inuktitut and English. Those who can communicate in French and asked to act as interpreters say they had to fight with Human Resources for more than two years to obtain the bonus.

2.6. FINDINGS

In light of the facts, concerns are well-founded and the systemic investigation allowed us to see that the Qikiqtani General Hospital does not respect its language obligations as provided for under section 11 of the *Official Languages Act*, R.S.N.W.T. 1988, and violates the language rights of citizens, as granted under sections 14 (1) and (2) of this same Act.

Below are the findings drawn from the systemic investigation:

2.6.1 Language Policy and Active Offer

1. There is no language policy or procedure in effect at the Qikiqtani General Hospital;
2. There is no active offer in effect at the Qikiqtani General Hospital;
3. The large majority of communications with patients and services offered is in English only;
4. Management at QGH are facing resistance from Human Resources as their policies promote the hiring of beneficiaries, thus limiting the possibility of hiring Francophone staff;
5. Training is offered only on Inuit language and culture while other cultures are present, primarily in Iqaluit, and nothing is said about language laws or legal requirements;

6. Every manager of each department (of the hospital) is in charge of recruiting his own staff through Human Resources.

Recommendation 1

The Department of Health should:

- develop a language plan and directives;
- integrate language skills requirements in quality and safety standards;
- identify the practical steps that could be taken to ensure continuous improvement.

Recommendation 2

The Department of Health and the Department of Finance should review hiring policies that consider priority hiring to include those with the ability to communicate in French and English, after considering Land Claims Agreement obligation.

Recommendation 3

The Department of Health should ensure that:

- all their employees are aware of language rights and that language choice is understood as a meaningful practice;
- it is incorporated in day to day practice.

Recommendation 4

The Department of Health should provide and promote an active offer and enable it to be implemented systematically and effectively across primary care services, including escorts and medevac services.

Recommendation 5

The Department of Health should build and implement accountability measures within their senior management on language obligations.

2.6.2 Language Barriers

7. Language barriers do exist at the Qikiqtani General Hospital;
8. Patients who speak Inuktitut and French language are faced with significant and serious language barriers;
9. Inuit and Francophone patients do not benefit from the same health care ethical standards as English patients;
10. Language barriers have a negative impact on quality of care, patient safety and access to health care services;
11. Patient-provider communication problems may result in a misdiagnosis and relevant follow-up treatment;
12. Patient confidentiality rights and informed consent may not be protected.

Recommendation 6

The Department of Health should establish strategies that outline the methods used to eliminate language barriers which would facilitate access to health care services and improve health care.

Recommendation 7

The Department of Health should develop a clear goal on the importance of providing equality of primary health care services to all official language groups.

2.6.3 Interpretation

13. Clerk interpreters for Inuktitut speaking patients have very little or no training to work in the medical field. Anatomical and medical terminology and jargon are not understood;
14. There are no professional French language interpreters;
15. Outside of normal business hours (weekends, evenings, nights), there are no clerk interpreters;
16. Members of the public are asked to act as interpreters;
17. There is a high level of absenteeism among clerk interpreters;

18. People are asked to act as interpreter when there are no interpreters available:
- a. For Inuit language speaking patients: family members, housekeeping and security staff, patients in the room, nurses and clerical staff (if available);
 - b. For French speaking patients: family members, laboratory staff, nurses, physicians, medical staff (if some and if available).
19. There is no alternative plan in place in the event a clerk interpreter is not available.

Recommendation 8

The Department of Health should establish standards of services regarding interpretation at QGH for all hours. Interpretation / translation services should be available to patients all times.

Recommendation 9

The Department of Health should ensure that once a patient has chosen to communicate in an official language, it is followed through the chain of services, including escorts and medevac services.

Recommendation 10

The Department of Health should address the need for bilingual (Inuktitut-English, French-English) workforce planning and for professional interpreter hiring.

Recommendation 11

The Department of Health and the Department of Finance should review hiring policies to comply with the language legislation and to emphasize the recruitment of skilled bilingual health professionals.

Recommendation 12

The Department of Health and the Department of Finance should give interpreters a professional status to address pay equity issues to facilitate the recruitment and the retention of interpreters.

Recommendation 13

The Department of Health, in collaboration with Inuit Uqausinginnik Taiguusiliuqtiit (IUT), should develop competency tools to evaluate language proficiency of medical interpreters.

Recommendation 14

The Department of Health should work with the Department of Finance, language training providers and Nunavut Arctic College (NAC) to train employees at QGH in order to meet language provision requirements in the primary care sector.

3. PART 2

Part 2 of the report presents the health care situation in Nunavut, the needs of the Inuit and French communities, the importance of a good communication in a patient-practitioner relation and the impacts of language barriers in health care.

3.1. Health Care Situation in Nunavut

3.1.1. Health Care Network

The information contained in this section was obtained from Canada Health Act Annual Report 2012-2013 and the Progress Report 2013 on Health Care Renewal in Canada drafted by the Health Council of Canada (May 2013).

Nunavut has very few primary care practitioners for its size: approximately 1 doctor for every 3000 residents, compared to 1 doctor for 400 residents in Canada's southern regions. In 2012, only 46 nurses and nurse practitioners served the whole region.

The Department of Health has three regional offices that manage the provision of health care services at the regional level. In 2012-2013, guaranteed hospital services were provided in 28 facilities located throughout the region, including a general hospital (Iqaluit), two regional health care centres (Rankin Inlet and Cambridge Bay), 22 community health care centres, two public health facilities (Iqaluit and Rankin Inlet) and a family medicine clinic (Iqaluit). Rehabilitation services are offered at the Timimut Ikajuksivik Centre in Iqaluit.

The provision of health care in Nunavut is based on a primary health care model, delivered by family doctors, nurse practitioners and community health nurses. For example, consultations with family doctors, nurses and nurse practitioners, and advice received from pharmacists are considered common primary health care services.

Nunavut recruits and hires its own family doctors and, for the most part, calls upon specialized centres in Ottawa, Winnipeg and Yellowknife for specialist services. Nunavut has agreements in place with a number of out-of-territory regional health authorities and specific facilities to provide medical specialists and other visiting health practitioner services.

When insured services are unavailable in some places in Nunavut, the patient is referred to another jurisdiction to obtain the insured service. Nunavut has in place health service agreements with medical and treatment centres in Ottawa, Winnipeg, Churchill, Yellowknife and Edmonton. These are the out-of-territory sites to which Nunavut mainly refers its patients to access medical services not available within the territory.

The Ikajuruti Inungnik Ungasiktumi (IIU) Telehealth Network has existed in Nunavut since 1999 and telehealth services are available in the communities. Telehealth is vital to the delivery of health care services in the territory's three regions; it facilitates communication between patients and health care centres in Manitoba and Ontario for consultation with specialists.

Qikiqtani General Hospital (QGH)

Located in Iqaluit, the Qikiqtani General Hospital is the only short-term health care facility in Nunavut that provides a wide range of hospital services to hospitalized patients and out-patients within the meaning of the *Canada Health Act*. The hospital has a total of 35 beds available for acute, rehabilitative, palliative and chronic care services; currently, 20 general purpose beds are in use due to capacity and need. There are also four birthing rooms and six day surgery beds. The facility provides in-patient, out-patient and 24-hour emergency services (including obstetrics, paediatrics and palliative care), surgical services, laboratory, diagnostic imaging and respiratory therapy; it also produces medical dossiers and health information.

In 2012, QGH reports directly to the Department of Health and Social Services (HSS), renamed the Department of Health in 2013, and activities in Iqaluit are managed separately. There is no governance structure for this organization and some essential support services, including human resources, finance, procurement, communications, information technology and property management, are external services provided through the Government of Nunavut.

On-site physicians provide emergency services on rotation. Medical services provided include an ambulatory care/out-patient clinic, limited intensive care services and general medical, maternity and palliative care. Surgical services provided include minor operations in orthopaedics, gynaecology, paediatrics, general surgery, emergency trauma, otorhinolaryngology, ophthalmology and urology. Patients requiring specialized surgeries are sent to other jurisdictions.

In 2011, the department noted that wait times for transportation to another jurisdiction often reached 12 hours, which could result in up to 16 hours before receiving medical care. A new contract for medevac services was awarded to a supplier that uses jet aircraft, which reduces the waiting time to about 4 hours.

3.1.2. Groups Affected by Language Barriers

In Nunavut, the health care system has to provide its services to citizens from multiple linguistic groups but it must above all meet the linguistic needs of citizens from the Inuit language community, French language community and the English language community.

Communications and the provision of services are for long been offered primarily in English, in spite of the language laws in effect in Nunavut. Two communities may encounter language barriers when accessing health care and services: Inuit and Francophones.

3.1.3. Needs of the Communities

Inuit and French language communities must be able to ask for and receive care in the official language of their choice, in order to clearly explain their pain, understand professionals' questions, their diagnosis, follow prescribed medications and properly follow recommended treatment.

The quality of care has to be equal to that offered to the Anglophone community, throughout the health care process, from admissions, treatment, notices to documentation. When a patient must go for a blood sample, but returns home because he or she does not know how to say "blood sample" in English, there is a problem. How can the patients follow instructions that are only available in English? How can they clearly understand and sign a consent form that is only written in English? This is a question of health care safety and quality.

The need to properly understand and be understood is very important for those who often require health care services because they are more liable to use a variety of services for which interpretation is required (visits to the doctor's office, to a public health facility, health promotion and prevention activities). This is especially true for those suffering from chronic illnesses, mothers with young children and the elderly.

Moreover, these community groups must have access to health promotion and prevention in their own language to be able to prevent future health issues.

3.1.4. Language: a Key Factor

In Nunavut, citizens whose mother tongue is not English, or who do not master this language, are more at risk and may be confronted with barriers in terms of the quality of care and accessibility of health care services.

Testimonies clearly reveal to what point those Inuktitut and French speakers interviewed believe it is essential to have access to health care services in their language. Various factors such as pain, vulnerability or stress sometimes result in having a patient who has a good command of Inuktitut and English, or French and English, to lose the ability to clearly express themselves in their second language under certain circumstances. In that case, the patient is becoming unable to understand health care professionals or make themselves understood.

Specialists and doctors do not always realize that the patient has not understood a word of what they discussed. They are not always aware that from a given moment, patients, or their families, no longer fully understand what is happening. Speaking about a particularly traumatizing medical situation, a patient told us that “Even if up to then I hadn’t requested interpreting services, I must say that right then I could have used it tremendously.” Most of the patients whose mother tongue is not English fear that they have not made the right decision.

Studies indicate that even those who perfectly master an official language may face communication problems during a medical consultation. The complexity of certain cases and their level of emotional stress can, in specific situations, influence their ability to communicate in a second language.

These communication problems can have serious consequences for the patient who does not have access to health services in their language and can lead to an incorrect diagnosis that results in inappropriate treatment. Language barriers can thus have a direct impact on the patient’s safety and quality of care received.

An interpreter may not be required for a minor visible injury, but when it concerns understanding a more serious diagnosis and recommended treatment, the patient may require an interpreter. Moreover, in the literature dealing with the subject¹⁴ and during our interviews, mental health and sexuality were recognized as health sectors where the need for interpretation services are the greatest given cultural values and beliefs, and the emotionally charged content of consultations.

¹⁴ Stevens, 1993b; Dolman et al., 1996; Jackson, 1998; Betancourt & Jacobs, 2000, quoted in Sarah BOWEN. *Language Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, p.34.

What medical providers must understand is that when one is placed in a situation of vulnerability, it is often difficult to understand medical jargon and to clearly express one's needs, fears, pain, etc. It is even more difficult to express these concepts in a language that is not our own.

Studies and research also indicate that many who lack proficiency in an official language underutilize prevention programs in general or avoid seeking services where interpreters are not available. Estimates of need based on current service utilization of one institution may therefore dramatically understate the actual need.¹⁵

3.2. LANGUAGE BARRIERS AND HEALTH CARE

In Nunavut, there are many challenges in the health care sector and added to these is the importance of offering Inuit and Francophones services in their mother tongue and this, for their safety, to obtain quality health care equal to that provided Anglophones and the respect of citizens' linguistic rights. The *Canada Health Act* stipulates that all citizens must have equal access to health care.

According to studies on this subject, linguistic and cultural competency is essentially a question of service quality. For Sarah Bowen, cultural competence is defined as the "provision of health care that responds effectively to the needs of patients and their families, recognizing the racial, cultural, linguistic, educational and socio-economic backgrounds within the community".¹⁶

An equitable society recognizes and respects the right of all its citizens to obtain the health care they require and ensures that these cares are provided equally, regardless of who requests it or who receives treatment. To accomplish this, health care services must be accessible and every patient must be able to communicate (understand and be understood) with all providers. Other elements to consider include outpatient services, emergency services, signage, admission procedures, documentation, as these are factors that favour access to health care services.

The Canadian Medical Protective Association identifies communications as the major source of lawsuits against its members; other issues related to malpractice claims are delays and diagnostic errors, which are also more likely when a language barrier is present¹⁷.

It is generally agreed that the best communication is obtained when providers and patients speak the same language. Nevertheless, language interpretation services will always be required for some patients.

¹⁵ Sarah BOWEN, *Languages Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, p. 35.

¹⁶ D^r Ralph Masi, quoted in Sarah BOWEN, *Introduction to Cultural Competence in Pediatric Health Care*, Ottawa, Health Canada, 2000.

¹⁷ THE CANADIAN MEDICAL PROTECTIVE ASSOCIATION, [<https://www.cmpa-acpm.ca/en/home>].

Linguistic and cultural competence is important because it:

- Allows equal access to primary health care;
- Reduces disparities in health care services;
- Impacts on the health of groups from diverse cultures;
- Responds to changing demographics in Nunavut, an increasingly diversified population.

3.3. IMPACT OF LANGUAGE BARRIERS

3.3.1. Direct Effects on Health Care

Our interviews, the documents received from HSS and the studies on this subject allowed us to note that language barriers are systematically mentioned as a major barrier, if not the most important barrier to health care services.

More precisely, according to these studies and our findings, language barriers have the following impact:

- ✓ **On quality of care:** language barriers may result in misdiagnoses, medical errors, lengthy delays and often improper medication in treating pain. The patient is less protected and less safe when provider-patient communication is poor, thus affecting the quality of care received.

Language barriers can also result in increasing the length of the hospital stay and significantly increasing the wait time to obtain an appointment or to access emergency services.

- ✓ **On initial access to health care:** if people must face significant barriers when establishing first contact with a variety of providers, it may result in a delay in receiving care or lead some patients to avoid accessing regular care. These first contacts are: reception, booking appointments, admission, information on services provided. Asking basic questions like where to go, who to meet, steps to take for blood samples and other tests, become additional barriers. Not to mention the telephone system and voice recording that do not allow everyone to properly understand instructions and leave a message in the official language of their choice. In short, these barriers can hinder a person from showing up for an examination and treatment.
- ✓ **On confidentiality:** any lack of respect for confidentiality can have disastrous consequences for patients. The use of untrained, ad hoc interpreters (family members, friends, volunteers, members of the public, maintenance staff, patient in next bed, hospital staff, etc.) compromise confidentiality. These untrained

interpreters not only run the risk of improperly interpreting key concepts, but they may also distort the message by omission or by direct intervention in the process, thus increasing the risk of a misdiagnosis and inappropriate treatment. Also, this situation affects the confidence citizens have in the medical system.

- ✓ **On respecting ethical standards and the provision of services:** respecting professional ethics means obtaining informed consent and ensuring confidentiality. However, open and frequent communication is essential for informed consent to occur. When patient and provider do not share the same language, there is an immediate barrier to informing the patient of his/her situation and the choices available.

When compromises are made with regard to respecting ethical standards, it affects the quality of health care. There may be failure to provide care to the same standard as received by other patients, failure to protect patients' confidentiality and failure to adequately ensure patients' informed consent to treatment. When professional standards are not adhered to, there is a higher risk of legal sanctions.

Documentation is also important and the patient must be able to understand the forms he/she signs. At the time of the investigation, the consent form was only available in English.

- ✓ **On access to mental health services and consultation:** language barriers greatly reduce access to mental health services, especially given that nonverbal signals vary from one culture to another and that we are dealing with complex and very emotional situations where the quality of verbal communication between patient and provider is a very important factor.

Canadian researchers have identified language as the most ubiquitous barrier to accessing appropriate mental health services¹⁸. There is perhaps no other health area where diagnosis and treatment is as dependent on language and culture, and the risks of inadequate interpretation have been raised by a number of authors.

As one of the greatest risks of using untrained ad hoc interpreters is compromising confidentiality, this risk is particularly high when dealing with sensitive areas like mental health, sexuality and reproductive health issues, HIV/ AIDS counselling and testing, or counselling for a number of issues including addictions and family violence¹⁹. Fear of losing confidentiality when professional interpreters are not

¹⁸ CANADIAN TASK FORCE ON MENTAL HEALTH ISSUES AFFECTING IMMIGRANTS AND REFUGEES (1988). *After the Door Has Been Opened: Mental Health Issues Affecting Immigrants and Refugees*, Ottawa, Minister of Supply and Services Canada, 1988.

¹⁹ CANADIAN COUNCIL ON MULTICULTURAL HEALTH. *Substance Abuse and Cultural Communities: Report of the Provincial Health Promotion Workshops*, 1990.

available may result in both avoidance of care and reluctance to disclose information that may be embarrassing or stigmatizing.

- ✓ **On patient observance of and compliance with the treatment plan:** language barriers threaten the treatment plan and follow-up when patients do not understand the instructions given to them. The same applies to following prescriptions. At the time of the investigation, all recommendations, instructions, prescriptions and other types of related information, both verbal and written, were available in English only.

The research conducted on provider-patient communication indicates that communication is a key factor to patients following the treatment plan²⁰. Language barriers make it difficult to obtain accurate information, while good communication may be a source of motivation, comfort and support, and an opportunity to clarify expectations. In addition, when the patient does not follow the recommended treatment, this increases the probability that less than optimal levels of medication will be maintained, resulting in poorer symptom control and higher risk of acute episodes.

- ✓ **On the effectiveness of providers:** language barriers also have a negative impact on providers' effectiveness. Finding a solution to eliminate these barriers would lead to less frustration, less risk of malpractice and lawsuits, fewer unnecessary interventions, better diagnoses and increased satisfaction among patients and providers.

Language barriers to accurate diagnosis and informed consent may also place a provider at greater risk of liability. A case in British Columbia illustrates these risks. The B.C. Supreme Court found a doctor negligent in his examination and diagnosis of a man whose leg was amputated as the result of this misdiagnosis. The ruling stated that the patient's language difficulty should have made the doctor especially careful in conducting his physical examination. The patient was awarded \$1.3 million²¹.

- ✓ **On patient satisfaction:** patient satisfaction is the most recognized and widely used measure of effectiveness of provider-patient communication. It goes without saying that a patient who cannot, or has difficulty speaking in English, or who is not clearly understood, is at higher risk of receiving a misdiagnosis with all the resulting complications. As patient satisfaction is proportional to the quality of care received, patients who do not receive the best of care are unsatisfied.

²⁰ Sarah BOWEN. *Languages Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, Executive Summary, p. VII.

²¹ *Ibid*, p. 90.

Respondents to a study on the subject indicated that communication with the provider included 5 aspects²²: 1) “medical staff listen to what you have to say,” 2) “they answer your questions,” 3) “they provide explanations about prescribed medications,” 4) “they provide explanations about tests and procedures,” and 5) “your doctor and support staff reassure you and provide support.”

- ✓ **On equality:** a health care system must ensure that services offered do not vary according to personal characteristics such as gender, language, ethnicity, culture, geographical location or socio-economic status. When health care services are not easily accessible, often the resulting effect is that patients do not adopt preventive care measures and avoid or delay going for treatment.
- ✓ **On costs:** language barriers may have important effects on health care costs, through their impact on service utilization and health outcomes. Facts indicate that in many cases, use of services increases when there is no common language between the patient and provider. Studies on the subject indicate that adults who did not speak the same language as their provider had a 70% greater chance of being admitted to hospital than patients who spoke the same language²³. The authors of these studies proposed that a provider, when treating patients with whom she/he could not communicate effectively, would be more likely to admit them to hospital as a precautionary measure. These studies also found that when an interpreter was used, the risk of admission decreased.

Another hypothesis was that providing interpretation services, as an input variable for limited English-speaking patients, would save money by avoiding delayed care. This would result in reduced complications, reduced hospitalizations and hospital emergency department utilization, reductions in laboratory work and reductions in the number of unnecessary tests²⁴.

In spite of limited research on the costs and benefits of health interpretation, some hospitals have concluded that, based on a partial analysis, provision of paid interpreters is saving money. A quick look at the various costs of language barriers (e.g. reallocated staff time, use of diagnostics, missed appointments, drug complications, hospitalizations, physiological health outcomes, inefficiency, delays in work and excess workload for work colleagues when a staff member must stop work to act as interpreter somewhere else in the hospital) is making the provision of interpretation programs more attractive.

²² *Ibid*, p. 76.

²³ *Ibid*, p. 70.

²⁴ *Ibid*, p. 93.

Advantages for patients include a reduction in the chances of death attributable to medical complications and less suffering resulting from inadequate treatment or misdiagnoses.

3.3.2. Indirect Effects on Health Care

Among those who face language barriers, research has shown an increase in the number of additional tests ordered to compensate for inadequate communication between the provider-patient, and much lower participation rates in preventive and screening programs, health promotion activities and first aid courses. Language is a barrier to participation and not the lack of interest in prevention programs.

Other services affected include the pharmacy, ambulance services and medevac services. Understanding English increases access to these services, while the inverse is true for those who do not master this language.

According to the Department of Health policies, when a unilingual Inuk must be transported outside the territory for medical reasons, or must travel to an authorized centre that does not provide interpreting services, a travel escort is authorized. It is the patient's responsibility (or legal guardian) to submit a request for a travel escort. The Nunavut physician will approve the request or indicate the reasons for refusal then the request must be approved by the regional director of the Department of Health.

The medical travel policy applies to all residents of Nunavut with a valid Nunavut health care card and a referral from a Nunavut practitioner. However, in the case of an escort, there are no measures in the policy governing medical travel, which specifies that an escort may be authorized for a Francophone patient. According to the supplier, on a medevac flight there is a good chance (not a guarantee) that onboard staff will speak French. Despite that, there is a good chance that the patient will require an English speaker since there will be no interpreter at the point of arrival.

In summary, language barriers have negative effects on service quality and on the efficiency and effectiveness of the health care system. Language barriers create risks for patients, because they jeopardize their safety. Communication problems may lead to²⁵:

- lowered probability of following treatment;
- reduced access to preventive care/services;
- mistaken diagnoses and medical errors;
- increased number of tests and medical consultations;
- negative health repercussions;
- critical incidents;
- lowered patient and provider satisfaction;
- higher healthcare costs.

²⁵ Sarah BOWEN and Jeannine ROY, *Intégration des services d'interprétation dans la gestion de risques*, Winnipeg, 2009, p. 6.

3.4. INTERPRETATION: THE RISK OF USING UNTRAINED INTERPRETERS

In the studies and research on the subject, the authors outlined the risks of using untrained interpreters such as family or community members, or employees who do not have any interpreter training. In addition to errors that can be made, using a patient from the next bed, housekeeping staff or security agents as interpreters presents a high risk. We are dealing here with professional medical care where the safety of individuals is at stake. The first responsibility of hospital management is to ensure respect for ethical standards, the Code of Ethics and quality of care provided, from admissions to healing.

Typical errors made by these ad hoc interpreters have been listed in various studies and include the following²⁶:

- Omission of facts provided by the patient or provider;
- Adding more information to what the patient or provider has stated;
- Substitution of words, concept or ideas;
- Use of inadequate terminology for anatomy, symptoms or treatment;
- Refusal to interpret a message;
- Inappropriate comments;
- Role substitution (e.g. assume the role of health care provider).

The risks relating to the use of untrained persons are as follows:

- Distortions related to the interpreter's language skills and ability to translate;
- Distortions related to the interpreter's lack of medical knowledge;
- Distortions related to the interpreters attitude.

Results:

- Technical terms incorrectly translated;
- Sentences incorrectly translated or not translated at all;
- Poor interpretation of the patients words;
- Distortion of the message;
- Increased risk of misunderstanding when there are cultural differences. For example, the meaning of the word 'consent' may vary from one culture to another;
- Breach of the code of ethics regarding confidentiality and informed consent;
- Impact on diagnosis and possibility of medical errors;
- Impact on treatment with real or potential chemical consequences;
- Issue from an ethical point of view when it is family members who act as interpreters: obligation to translate, stress, uneasiness, imposed responsibility, ignorance of medical terms.

²⁶ Sarah BOWEN, *Languages Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, p. 80.

As regards to using bilingual staff members, if these individuals are not members of the medical staff, there is a risk that they will not know the medical jargon or medical terminology. Working in the hospital does not make these employees doctors or medical interpreters. Just because a person speaks French or Inuktitut, it does not mean that they can act as a medical interpreter.

Lastly, Canadian research indicates that there is a much higher satisfaction rate with professional interpreter compared to volunteer interpreters. A survey conducted by the Montreal Interregional Interpreters Bank of 68 patients found that 76% of patients preferred dealing with a professional interpreter when consulting medical personnel; 88% had more confidence in the accuracy of interpretation provided by professional interpreters and 83% had more confidence in the discretion of a professional interpreter.

3.5. LANGUAGE SERVICES

"Health services – and the barriers to access of these services – function as determinants of health. When health systems fail to provide equitable care, or equitable access to care, they may worsen social disparities and be a factor in lowered health status."²⁷

Offering professional language services could have the following advantages²⁸:

- For patients: obtaining informed consent, a better description of the illness, improved diagnoses, elimination of unnecessary interventions, better clinical results, increased safety and satisfaction;
- For providers: less frustration, reduced risk of misconduct;
- For administrators and managers: reduced responsibility and increased effectiveness;
- For the health care system: better use of services and improved clinical results;
- For the general population: better health care for citizens, greater accessibility to services and more confidence in the health care system.

In order to assist those parties concerned prepare a strategic action plan that addresses the recommendations, in the next section, we described what an active offer is.

²⁷ HEALTH CANADA. *Certain Circumstances: Issues in Equity and Responsiveness in Access to Health Care in Canada*, Ottawa, 2001, Foreword.

²⁸ Sarah BOWEN, *Languages Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, p. 95.

3.5.1. Active Offer

“Providing service of equivalent quality in [...] official languages is a matter of professionalism, respect, integrity and social justice.”²⁹

The definition of active offer varies among provinces and territories. Essentially, actively offering a service means indicating spontaneously and clearly to the public that they can receive services of comparable quality in either official language.³⁰

Under section 12 (7) (a) of the *Official Languages Act* of Nunavut, there is a definition of active offer:

“The administrative head of a territorial institution [...] shall take appropriate measures consistent with this Act, including posting such signs, providing such notices or taking such other measures as are appropriate

- (a) to provide an active offer of the services in question, making it known to members of the public that they have the right to communicate and receive available services in their Official Language of choice;
- (b) to ensure that the services in question are
 - (i) available to members of the public on request,
 - (ii) delivered with attention to cultural appropriateness and effectiveness, and
 - (iii) of comparable quality”

An active offer is also a matter of justice: ethics requires all persons to be treated with the same level of integrity, dignity, equality and justice. A patient must not be subjected to an unwelcoming response or gesture, longer wait time, inferior quality service or longer suffering period just because he or she requests service in Inuktitut or French rather than in English. Accessibility is one of the fundamental principles of the Canadian healthcare system.

The public has to be made aware of the active offer during initial contact. This may be through a display and welcome in all official languages, by telephone, or in person. All communications intended for the public, all documents, correspondence, voicemail messages, signage, e-mail messages, website and other means of communication with the public must be offered in all official languages.

²⁹ Dyane ADAM, *National Report on Service to the Public in English and French: Time for a change in Culture*, Office of the Commissioner of Official Languages, Ottawa, 2001, p.4.

³⁰ TREASURY BOARD OF CANADA SECRETARIAT, *Policy on Active Offer*, p.1.

An active offer must ensure that once a patient has chosen an official language of choice, it is followed through the chain of services, including escorts.

An active offer is an offer focussed on the patient. An active offer of quality health care services is not limited to simply offering services in the patient's language, it also involves an overall approach to planning and providing health care services to Nunavut's three distinct language communities. The targeted goal is to improve the quality of care for all patients.

4. CONCLUSION

4.1. Observations

4.1.1. Quality of Health Care

On July 16, 2014, on CBC, there was a news saying that an Elder was hurried into the hospital, shaking, pale and in a lot of pain. The Elder, nurse and doctor all looked at an Inuk patient desperately to interpret because there was no interpreter in the whole hospital. The on-call interpreter couldn't come for another 45 minutes.

On November 6, 2014, a CBC investigation reveals a history of complaints about a nurse and a government that refused to fire her. Entitled "Death and Denial in Cape Dorset", this article was about a baby in a Nunavut hamlet who died of a lung infection in 2012.

The issues raised in this news story are troubling, about the manner in which the government handled concerns about the services being provided at Cape Dorset Health Centre.

We retain the following of these news stories:

- the link between how the Department of Health handled these concerns and the denial of the seriousness of the situation regarding the major impacts of language barriers on the health of two linguistic communities;
- the language barriers still exist at QGH and this systemic investigation report is still relevant.

During our investigation, we noted that there were three factors influencing the quality of health care: the language barriers, the refusal to see that patient safety is not ensured and the lack of willingness to find solutions.

4.1.2. Production of Documents

Although there is a four month period where the Languages Commissioner position was vacant, this should not have affected the prolongation time the Department of Health and Social Services took to produce the requested documents.

4.2. Shared Responsibilities

The Government of Nunavut, the Department of Health, hospital managers and care providers must be made aware of the existence of language rights and their importance with regard to accessibility to health care services, quality of care and, consequently, patient safety.

The issue of language and cultural proficiency greatly exceeds the individual responsibility of stakeholders in the field of health care. The problem is complex and engages the responsibility of stakeholders on several levels: the health care system, organizations and individuals.

- ✓ **The responsibility of the health care system and organizations** includes establishing an environment, policies, resources and training to offer services adapted to the language of patients.
- ✓ **The responsibility of health care professionals** includes developing attitudes, behaviours and knowledge to allow them to create a quality therapeutic relationship with patients and their families, when they come from a different culture and speak a different language.

Both the Department of Health and QGH authorities must :

- Ensure there is a clear commitment on the part of directors and decision-makers, both at QGH and the Department of Health;
- Establish standards governing responsibility and accountability;
- Promote the cultural and linguistic diversity we find in Nunavut, through ongoing training for management and all personnel;
- Introduce changes that are manageable, measurable and viable (step-by-step strategy);
- Work with the Department of Finance to review the human resources employment policies in accord with the *Official Languages Act* and to the *Inuit Language Protection Act*;
- Work with local organizations that are active in the health care sector to better understand current needs and better match available means.

Accessibility forms part of the basic principles of the Canadian health care system and the active offer is one of the ways to improve health care accessibility and quality. It is a matter of safety, quality and legitimacy, and an inherent question of ethics.

Sarah Bowen is a Canadian researcher who conducted three major studies for Health Canada. She stated:

“Codes of ethics that regulate the conduct of health and social service professions stress the need for the provider to obtain informed consent, provide explanations, ensure confidentiality, and refrain from practicing the profession under conditions that may impair service quality. This means that in addition to a requirement to comply with external regulations defined in law, professionals are also required to meet the standards of their professional associations. **For these ethical standards to be achieved, it is necessary to address language barriers.**”³¹

In order to improve the active offer of quality health care services in the official languages, **a cultural change must be implemented** within the department and the hospital. Health care professionals cannot be solely responsible for this transformation. Improvements will have to be met with a spirit of common understanding, collective accountability and collaboration.

Various approaches must be taken to ensure that there is an active offer of services in all official languages. It is important that health care providers establish policies, procedures and practices that clearly reflect the importance and presence of an active offer that is consistent and continual throughout various services: a person seeing a doctor, going to the lab or having an X-ray, receiving medication, etc. should receive services in the official language of his/her choice.

It is up to **decision-makers, as Government of Nunavut**, to maintain and strengthen their efforts to support the implementation and improvement of health care programs and services in all official languages in health care facilities. This is a necessary condition to facilitate satisfactory access to health care services in an ethical and equitable manner.

³¹ Sarah BOWEN, *Language Barriers in Access to Health Care*, Ottawa, Health Canada, 2001, p.20. (Emphasis added by the OLC).

5. RECOMMENDATIONS

5.1. LANGUAGE POLICY AND ACTIVE OFFER

Recommendation 1

The Department of Health should:

- develop a language plan and directives;
- integrate language skills requirements in quality and safety standards;
- identify the practical steps that could be taken to ensure continuous improvement.

Recommendation 2

The Department of Health and the Department of Finance should review hiring policies that consider priority hiring to include those with the ability to communicate in French and English, after considering Land Claims Agreement obligation.

Recommendation 3

The Department of Health should ensure that:

- all their employees are aware of language rights and that language choice is understood as a meaningful practice;
- it is incorporated in day to day practice.

Recommendation 4

The Department of Health should provide and promote an active offer and enable it to be implemented systematically and effectively across primary care services, including escorts and medevac services.

Recommendation 5

The Department of Health should build and implement accountability measures within their senior management on language obligations.

5.2. LANGUAGE BARRIERS

Recommendation 6

The Department of Health should establish strategies that outline the methods used to eliminate language barriers which would facilitate access to health care services and improve health care.

Recommendation 7

The Department of Health should develop a clear goal on the importance of providing equality of primary health care services to all official language groups.

5.3. INTERPRETATION

Recommendation 8

The Department of Health should establish standards of services regarding interpretation at QGH for all hours. Interpretation / translation services should be available to patients all times.

Recommendation 9

The Department of Health should ensure that once a patient has chosen to communicate in an official language, it is followed through the chain of services, including escorts and medevac services.

Recommendation 10

The Department of Health should address the need for bilingual (Inuktitut-English, French-English) workforce planning and for professional interpreter hiring.

Recommendation 11

The Department of Health and the Department of Finance should review hiring policies to comply with the language legislation and to emphasize the recruitment of skilled bilingual health professionals.

Recommendation 12

The Department of Health and the Department of Finance should give interpreters a professional status to address pay equity issues to facilitate the recruitment and the retention of interpreters.

Recommendation 13

The Department of Health, in collaboration with Inuit Uqausinginnik Taiguusiliuqtiit (IUT), should develop competency tools to evaluate language proficiency of medical interpreters.

Recommendation 14

The Department of Health should work with the Department of Finance, language training providers and Nunavut Arctic College (NAC) to train employees at QGH in order to meet language provision requirements in the primary care sector.

6. RESPONSE FROM THE DEPARTMENT OF HEALTH

The Department of Health was provided with an opportunity to make representations concerning our preliminary findings, conclusion and recommendations. We received a letter from the Deputy Minister of the Department of Health indicating what steps the Department would be undertaking to implement our recommendations. The response is attached at Appendix 4 of this report.

The Department did not comment on the findings, conclusion and recommendations included in the report. As the Department provided single responses to several recommendations, for this reason, we cannot present a table showing their response to each recommendation.

The responses from the Department do not deal with the substantive and immediate issues at hand, which leaves too much room for continuation of language rights violations. This means continued barriers to access health care for Inuktitut and French language speakers. More work needs to be done identifying a plan for the short, medium and long term on how services and communications in Inuktitut and French will be delivered, with the same quality as services in English.

We think that our report should serve as an excellent road map to the Department to build on the measures they have already taken, and will have to take, to strengthen compliance with the *Official Languages Act*, accountability and availability of services and communications in Inuktitut and French at the Qikiqtani General Hospital. We will continue to monitor its progress in implementing the recommendations.

Appendix 1 : Questionnaire For Patients

SUBJECT: QGH SYSTEMIC INVESTIGATION
TOPIC: QUESTIONNAIRE - PATIENTS

Interview with patients at the Qikiqtani General Hospital

Anonymity of interviewed persons will be protected. However, you should be aware that we cannot guarantee it. The information gathered during the interview will be used for the purposes of the investigation and can be published in the final report of the investigation that will be made public.

Information / Statistics

Name of the organization:

Last and first name of the respondent:

Region of origin:

Respondent's age:

How many years in Nunavut?

Main language:

Second language and proficiency in the second language:

Personal experience at the hospital

Are you familiar with the hospital?

Do you know anybody who works at the hospital?

Which services have you used at the hospital?

Was language a problem on each occasion when you had to use the services at the hospital?

If a situation was a problem

Can you explain for me, preferably in chronological order, what happened during each of the visits? Begin with the hour you went to the hospital; what happened in detail? This could include:

Why were you at the hospital?

Who was with you?

Who gave you the treatments and how were you treated?

Did you ask for services in your language?

How long did you stay in the hospital?

If admitted, details on the stay.

Did you make any attempts to receive services in the language of your choice?

What happened? Did you resort to the use of translation services?

What was their comprehension?

What were your expectations?

Were you aware of any available or visible notices or brochures in the language of your choice?

Were you informed of the translation and interpretation policies in place and the reasons why they could not be applied?

What happened when the employee realised that you had difficulty understanding what you were saying, and what was his or her reaction?

Were the instructions on how to take one or more drugs available in the language of your choice?

Witnesses

Who else was with you when this happened?

Documents

Do you have letters, documents, notes etc. that would be relevant to the investigation?

Impacts

What were the impacts of the lack of services in the language of your choice?

Did you have positive experiences at the hospital?

Solutions

If there is a problem, what, in your view, would be a reasonable solution?

Another person

Do you know anybody else who has had a positive or negative experience with respect to language services at the hospital?

Documents/Persons

Is there anybody else who has relevant evidence that we should talk to?

Are there documents or other subjects that would be relevant to what happened to you and that you think we should examine?

Others

Would you like to add another element to the interview?

Consent to obtain the hospital record if necessary:

Is it possible to get your consent to access your hospital record? It is not essential for this investigation, but it would be very useful to determine who treated you. The hospital record will be confidential.

Reprisals

Do you fear reprisals? If yes, why?

Appendix 2 : Questionnaire For Physicians

SUBJECT : QGH SYSTEMIC INVESTIGATION
TOPIC : QUESTIONNAIRE - PHYSICIANS

Interview with physicians at the Qikiqtani General Hospital

Thank you for your time and valuable collaboration. Anonymity of interviewed persons will be protected. However, you should be aware that we cannot guarantee it. The information gathered during the interview will be used for the purposes of the investigation and can be published in the final report of the investigation that will be made public.

Upon your arrival in Iqaluit, did you attend an orientation session?
Please specify:

If so, were you introduced to the official languages and linguistic rights of Nunavut?
Please underline: Yes or No

How was your first day at the hospital?
Please specify:

What type of orientation would you have liked to receive on your first day at the hospital?
Please specify:

When you were contacted for an interview, were you offered to pass this interview in the official languages of your choice?
Please underline: Yes or No

Do you have access to a list of interpreters available at all time at the hospital?
Please underline: Yes or No

In your opinion, are there enough French interpreters at the hospital?
Please underline: Yes or No and specify if necessary.

In your opinion, are there enough Inuit interpreters at the hospital?
Please underline: Yes or No and specify if necessary.

Did you ever encounter a situation where you had no access to an interpreter or the interpreters were simply not available?
Please underline: Yes or No

If yes, what did you do?
Please specify:

How did you react?
Please specify:

Did you ever encounter a situation where you had to ask a patient to interpret for another patient?
If yes, please specify:

Did you ever encounter a situation where you had to ask a maintenance person, a lab technician, a cook or a clerk to act as an interpreter for a patient?
Please underline: Yes or No and specify if necessary.

If yes, what was the position of this or those people?
Please specify:

How did you react?
Please specify:

If such a situation occurred, did you address your concerns to your supervisor?
Please underline: Yes or No

If yes, how did he or she react?
Please specify:

Do you know about the language legislation and linguistics rights of Nunavut?
Please specify:

Were you offered to take Inuit language courses by your employer?
Please specify:

Were you offered to take French language courses by your employer?
Please specify:

Are you eligible to the Government of Nunavut bilingual bonus?
Please underline: Yes or No

Do you have access to medical terminology tools?
Please underline: Yes or No and specify if necessary.

How did you learn about the availability of doctor positions in Iqaluit?
Please specify:

Does your employer raise your awareness to the importance of the language services in a hospital environment?

In comparison with previous experiences, do you find the Qikiqtani General Hospital linguistic practices and procedures consistent with Canadian medical standards?

Please add any comments or suggestions:

Please suggest any document that could be useful or necessary to this investigation:

Appendix 3 : Questionnaire For Nursing Agencies

SUBJECT: QGH SYSTEMIC INVESTIGATION
TOPIC: QUESTIONNAIRE – NURSING AGENCIES

Interview with Nursing Agencies providing services to the Qikiqtani General Hospital

Anonymity of interviewed persons will be protected. However, you should be aware that we cannot guarantee it. The information gathered during the interview will be used for the purposes of the investigation and can be published in the final report of the investigation that will be made public.

How many nurses are hired for QGH each year? You hire mostly nurses? What is your mandate?

Is your agency aware of its obligations under the Nunavut's language legislation and if so, which procedures or policies are in place for your agency in order to fulfil its obligations? Is there any directives given by the Department of HSS?

Are there any clear directives or policies from the GN about promoting the hiring of bilingual staff that speak both of the official languages in Canada as well as the official languages in Nunavut (French, English and Inuit language)?

Are there any clear directives or policies from the Department of HSS directed to your office regarding hiring priority in Nunavut? If not aware already, Article 23 (2) (1), Land Claims Agreement states that:

Are there any clear directives or policies from the Department of HSS on where advertise positions in Canada? Or is it left to your discretion.

What if you can't find any nurses beneficiaries? Are positions being advertised in other regions in Canada where the Inuit language is spoken?

Where are the positions at QGH generally advertised? Any particular reasons for this?

Are you aware of your obligations as third party under the Inuit Language Protection Act? Would you like one of our staff to discuss it with you?

To conclude, anything you would like to add?

Appendix 4: Response from the Department of Health



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Building *Nunavut* Together
Nunavut iᑭᑭᑭᑭᑭᑭᑭᑭ
Bâtir le *Nunavut* ensemble

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Department of Health
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Ministère de la Santé

- F. Submit the medical interpreter and clerk interpreter positions for job evaluation to ascertain that individuals in these roles are compensated at a level that is commensurate with their responsibilities and training requirements according to the Government of Nunavut guidelines;
- G. Review scheduling and staffing levels with a view of rendering QGH interpretation services available 24/7.

We thank you for the recommendations put forward in your preliminary investigation report.

You can be assured of the Department of Health's full collaboration in any future matter your office may wish to investigate.

Sincerely,

Colleen Stockley
Deputy Minister of Health

CC: Paul Okalik, Minister of Health

Office of The Deputy Minister
Department of Health, Government of Nunavut
P.O. Box 1000, Stn. 1000
Iqaluit, NU X0A 0H0
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BIBLIOGRAPHY

AUCOIN, Léonard. *Compétences linguistiques et culturelles des organisations de santé : analyse critique de la littérature*, Ottawa, Société Santé en français, 2008.

BEACH, Mary Catherine, Somnath SAHA and Lisa A. COOPER. *The Role and Relationship of Cultural Competence and Patient-Centeredness in Health Care Quality*, The Commonwealth Fund, October 2006.

BETANCOURT, Joseph R. *Improving Quality and Achieving Equity: The Role of Cultural Competence in Reducing Racial and Ethnic Disparities in Health Care*, The Commonwealth Fund, October 2006.

BOELEN, Charles. *Towards Unity for Health : Challenges and Opportunities for Partnership in Health Development*, Geneva, World Health Organization, 2000.

BOUDREAU, Armand and Hubert GAUTHIER. *Recrutement médical francophone bilingue au Nunavut - Rapport d'activités et de résultats au 31 mars 2012*, Iqaluit, Réseau de santé en français du Nunavut (Résefan), 2012.

BOUDREAU, Armand. *Service d'accueil des professionnels francophones et bilingues - Étude de faisabilité et élaboration des composantes principales*, Iqaluit, Réseau de santé en français du Nunavut (Résefan), 2011.

BOWEN, Sarah. *Access to Health Services for Underserved Populations in Canada*, Ottawa, Health Policy and Communications Branch, Health Canada, 2000.

BOWEN, Sarah. *Language Barriers in Access to Health Care*, Ottawa, Health Canada, 2001.

BOWEN, Sarah. *Introduction to Cultural Competence in Pediatric Health Care*, Ottawa, Health Canada, 2000.

BOWEN, Sarah and Jeannine ROY. *Intégration des services d'interprétation dans la gestion des risques*, Winnipeg, 2009.

CANADIAN COUNCIL ON MULTICULTURAL HEALTH. *Substance Abuse and Cultural Communities: Report of the Provincial Health Promotion Workshops*, 1990.

CANADIAN INSTITUTE FOR HEALTH INFORMATION. *Canadian Hospital Reporting Project – Technical Notes for Clinical Indicators*, Ottawa, 2012.

CANADIAN INSTITUTE FOR HEALTH INFORMATION. *Supply, Distribution and Migration of Canadian Physicians in 2010*, Ottawa, 2011.

CANADIAN TASK FORCE ON MENTAL HEALTH ISSUES AFFECTING IMMIGRANTS AND REFUGEES (1988). *After the Door Has Been Opened: Mental Health Issues Affecting Immigrants and Refugees*, Ottawa, Minister of Supply and Services Canada, 1988.

COLLEGE OF NURSE OF ONTARIO. *Consent*, Toronto, 2013.

CONSEIL CANADIEN DE LA SANTÉ. *Profils des secteurs de compétence dans la perspective du renouvellement des soins de santé : Annexe du Rapport de progrès 2013 – Nunavut*, Ottawa, 2013.

CONSORTIUM NATIONAL DE FORMATION EN SANTÉ (CNFS). *Reference Framework, Training for Active Offer of French Language Health Services*, Ottawa, 2012.

CONSORTIUM NATIONAL DE FORMATION EN SANTÉ (CNSF). *Document de réflexion pour le DVD « Quand la santé c'est aussi la langue ! »*, Ottawa, 2011.

CONSORTIUM NATIONAL DE FORMATION EN SANTÉ (CNSF) et SOCIÉTÉ SANTÉ EN FRANÇAIS (SSF). *La santé des francophones en situation minoritaire : un urgent besoin de plus d'information pour offrir de meilleurs services*, 2010.

FÉDÉRATION DES COMMUNAUTÉS FRANCOPHONES ET ACADIENNE DU CANADA. *Pour un meilleur accès à des services de santé en français*, Ottawa, Comité consultatif des communautés francophones en situation minoritaire, 2001.

FORGUES, Éric, et al. *The Offer of Health Services in French in Minority Context*, Moncton, Canadian Institute for Research on Linguistic Minorities (CIRLM), 2011.

HEALTH CANADA. *Certain Circumstances : Issues of Equity and Responsiveness in Access to Health Care in Canada*, Ottawa, 2001.

HEALTH CANADA. *Health Care System. Official Languages Act*, Ottawa, 2004.

HEALTH CANADA. *Canada Health Act Annual Report 2012-2013*, Ottawa, 2013.

HEALTH COUNCIL OF CANADA. *Progress Report 2013: Health care renewal in Canada*, Ottawa, 2013.

HEALTH COUNCIL OF CANADA. *Canada's most vulnerable – Improving health care for First Nations, Inuit, and Métis seniors*, Ottawa, 2013.

MCIVOR, Onowa, Art NAPOLEON and Kerissa M. DICKIE. *Language and Culture as Protective Factors for At-Risk Communities*, Victoria (B.C.), Journal of Aboriginal Health, November 2009.

NOVA SCOTIA DEPARTMENT OF HEALTH. *A Cultural Competence Guide for Primary Health Care Professionals in Nova Scotia*, Halifax, 2005.

NUNAVUT DEPARTMENT OF HEALTH. *Health Services Medical Travel Policy*, Iqaluit, June 2013.

NUNAVUT DEPARTMENT OF HEALTH. *Guideline 2 – Medical Escort*, Iqaluit.

NUNAVUT DEPARTMENT OF HEALTH. *Patient Relations Service*, Iqaluit, 2014.

NUNAVUT DEPARTMENT OF HEALTH. *Information on Medical Travel*, Iqaluit, [<http://www.gov.nu.ca/health/information/medical-travel>]

NUNAVUT DEPARTMENT OF HEALTH. *Medical Care Act - Annual Report 2012-2013*, Iqaluit.

NUNAVUT DEPARTMENT OF HEALTH. *Rapport annuel 2012-2013 sur le fonctionnement du régime d'assurance-maladie*, Iqaluit, 2014.

NUNAVUT DEPARTMENT OF HEALTH AND SOCIAL SERVICES. *Business Plan 2011-2014*, Iqaluit.

NUNAVUT DEPARTMENT OF HEALTH AND SOCIAL SERVICES. *Community Voices: A Report from the Regional Community Health and Wellness Meetings*, Iqaluit, March 2010.

NUNAVUT DEPARTMENT OF HEALTH AND SOCIAL SERVICES. *Developing Healthy Communities – A Public Health Strategy for Nunavut 2008-2013*, Iqaluit.

NUNAVUT DEPARTMENT OF HEALTH AND SOCIAL SERVICES. *Health and Social Services Departmental Orientation Handbook*, Iqaluit, 2008.

NUNAVUT DEPARTMENT OF HEALTH AND SOCIAL SERVICES. *Nunavut Nursing Recruitment and Retention Strategy*, Iqaluit, 2007.

NUNAVUT DEPARTMENT OF HEALTH AND SOCIAL SERVICES. *Health Integration Initiative Project in Nunavut*, Iqaluit.

NUNAVUT DEPARTMENT OF HUMAN RESOURCES. *Medical Travel Leave*, Iqaluit, August 2009.

NUNAVUT TUNNGAVIK INCORPORATED. *Annual Report 2011-2012, 2012-2013 on the State of Inuit Culture and Society*, Iqaluit, 2013.

NUNAVUT TUNNGAVIK INCORPORATED. *Recruitment and Retention of Inuit Nurses in Nunavut*, Iqaluit, 2009.

OFFICE OF THE COMMISSIONER OF OFFICIAL LANGUAGES. *Leadership Competencies Profile for Official Languages*, Ottawa, 2011.

OFFICE OF THE COMMISSIONER OF OFFICIAL LANGUAGES. *National Report on Services to the Public in English and French: Time for a Change in Culture*, Ottawa, 2001.

OFFICE OF THE COMMISSIONER OF OFFICIAL LANGUAGES. *Official languages at the Heart of Our Identity: An overview of the Official Languages Act*, Ottawa, Public Works and Government Services Canada, 2010.

RÉSEAU DE SANTÉ EN FRANÇAIS DU NUNAVUT (Résefan). *Rapport annuel 2011-2012*, Iqaluit, 2012.

RÉSEAU DE SANTÉ EN FRANÇAIS DU NUNAVUT (Résefan). *Propositions de projets et d'activités pour le MSSS*, Iqaluit, 2011.

RÉSEAU DE SANTÉ EN FRANÇAIS DU NUNAVUT (Résefan). *Nouvelle Loi sur la santé publique du Nunavut - Commentaires et recommandations*, Iqaluit, 2011.

RÉSEAU DE SANTÉ EN FRANÇAIS (Résefan). *Des services de santé en français dans un Nord en mutation*, Iqaluit, Association des francophones du Nunavut, 2006.

ROBINEAU, Anne et autres. *La vitalité des communautés francophones dans les territoires*, Ottawa, Institut canadien de recherche sur les minorités linguistiques, 2010.

SANTÉ CANADA. *Consultation des communautés francophones en situation minoritaire: l'horizon 2013-2018*, Ottawa, 2011.

SANTÉ CANADA. *Plan stratégique sur la santé des Premières nations et des Inuits : Un parcours partagé vers l'amélioration de la santé*, Ottawa, 2012.

SOCIÉTÉ SANTÉ EN FRANÇAIS (SSF). *Santé en français, communautés en santé : Une offre active de services de santé pour une meilleure santé des francophones en situation minoritaire*, Ottawa.

THE CANADIAN MEDICAL PROTECTIVE ASSOCIATION, [<https://oplfrpd5.cmpa-acpm.ca/home>].

TREASURY BOARD OF CANADA SECRETARIAT, *Policy on Active Offer*, [http://www.tbs-sct.gc.ca/archives/hrpubs/ol-lo/chap1_2-eng.asp]

WALLACE, Susan. *Inuit health: Selected findings from the 2012 Aboriginal Peoples Survey*, Statistics Canada, Minister of Industry, 2014.

WELSH LANGUAGE COMMISSIONER. *My Language, My Health: The Welsh Language Commissioner's Investigation into the Welsh Language in Primary Care, Wales*, 2014.

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APPENDIX 5

**INUIT TAPIIRIIT KANATAMI'S PROPOSED AMENDMENTS TO BILL C-91
(INDIGENOUS LANGUAGES ACT)**

The text of Bill C-91 is amended by inserting the following provisions immediately after section 11:

- X1. *The Minister must pursue, in close consultation with relevant Indigenous governing bodies, the development of a separate Annex to this Act in relation to Inuktitut.*
- X2. *The Annex referred to in section X1 may address the following:*
- (a) status of Inuktitut in a specified community, region, or other geographic area;*
 - (b) collaboration with one or more indigenous governing bodies or organizations;*
 - (c) use of Inuktitut in the delivery of federal programs and services;*
 - (d) in a manner consistent with the powers and jurisdictions of the provinces, measures to support the provision of Inuktitut language programs and services in relation to education, health, and the administration of justice;*
 - (e) use of Inuktitut in the federal public service in a specified community, region or other geographic area;*
 - (f) standards to govern federal financial support for Inuktitut, and specified levels of support;*
 - (g) the role of an indigenous governing body or organization in the negotiation of intergovernmental agreements in relation to Inuktitut;*
 - (h) timelines and schedules for implementation measures; and*
 - (i) any other similar matters consistent with the purposes of the Act.*
- X3. *The Minister may, by order, amend the Inuktitut Annex, with the consent of the relevant Indigenous governing body.*
- X4. *The Governor in Council may make regulations to assist in the implementation of the Inuktitut Annex.*

[Note: Annex to be adopted as Part of the Act.]

ANNEX: INUKTUT

Introduction

1. *In addition to the provisions of all other parts of this Act, the provisions of this Annex shall apply to Inuit and Inuit Nunangat.*

Principles

2. *Interpretation and implementation of this Annex are guided by the following principles:*
 - (a) *Inuit Nunangat is the Inuit homeland in Canada;*
 - (b) *Inuktitut is an original language of Canada, and is spoken as the first language of the majority of Inuit Nunangat residents; and,*
 - (c) *effective public administration in Inuit Nunangat is optimized by delivery of programs and services in the first language of recipients.*

Definitions

3. *In this Annex,*

“Inuit Nunangat” means the Inuit homeland in Canada. It is a distinct cultural, political, and geographical area composed of the four Inuit regions whose boundaries have been defined in treaty and statute;

“Inuit region” means the Inuvialuit Settlement Region, the Nunavut Settlement Area, Nunavik, and Nunatsiavut;

“Inuktitut” means the Indigenous language spoken by Inuit in Canada, including Inuinnaqtun, Inuktitut, Inuttut, Inuvialuktun, and associated dialects and subdialects.

Status of Inuktitut

4. (1) *Parliament hereby recognizes the status of Inuktitut as an original language of Canada, the original language of Inuit Nunangat, and the first language of the majority of Inuit Nunangat residents.*
- (2) *The Government of Canada is committed to taking such initiatives, and to applying such resources, as to sustain and enrich that status.*
- (3) *As part of those initiatives, the Government of Canada commits, consistent with regulations relating to the commencement, scope, priority and timing of delivery, to the delivery of federal programs and services in Inuktitut in Inuit Nunangat to the extent that demand requires and capacity allows.*
- (4) *The reference to limitations of capacity in subsection 4(3) does not detract from the federal commitment to build such capacity.*
- (5) *The Government of Canada must apply the provisions of this Annex with respect to the use of Inuktitut outside Inuit Nunangat where numbers of Inuktitut speakers warrant.*

Close Collaboration
5. *The Government of Canada must pursue the objectives, and meet its commitments, in relation to this Annex in close collaboration with Inuit governing bodies.*

Funding

6. *In providing funding resources that are adequate, sustainable, and long-term in relation to Inuktut, the Government of Canada must also ensure that such resources:*

- (a) are culturally appropriate;*
- (b) meet the actual and specific needs of Inuit;*
- (c) aim to advance Inuktut as the primary language spoken by every sector of society in Inuit Nunangat;*
- (d) are comparable in terms of quality and accessibility to the services offered to other Canadians; and*
- (e) are equitable, on a per capita basis, with funding support provided for minority English and French language education in Inuit Nunangat and other parts of Canada.*

7. *The Government of Canada must pursue the negotiation, conclusion, and maintenance of a separate funding agreement, with relevant Inuit governing bodies indicating specific levels of funding for a term of five years or more, with a view to completing such an agreement within twelve months of the coming into force of the Act.*

Education, Health, and Justice

8. (1) *The Government of Canada must take effective measures to support the advancement and implementation of education in Inuktut within Inuit Nunangat.*

(2) *The Government of Canada must take effective measures to support the advancement and implementation of health services in Inuktut.*

(3) *The Government of Canada must take effective measures to support the advancement and implementation of justice in Inuktut within Inuit Nunangat.*

Language of Work in Federal Departments and Agencies

9. (1) *The Government of Canada must ensure that its workforce in Inuit Nunangat reflects, at all levels, the Inuktut speaking proportion of the residents of Inuit regions and communities.*

(2) *Every federal department and agency has the duty to ensure a workplace environment in Inuit Nunangat that supports, accommodates and encourages the use of Inuktut by its officers and employees, giving appropriate priority and weight to Inuktut language skills and making effective use of Inuktut language training and upgrading.*

Intergovernmental Agreements

10. *The Government of Canada must include an Inuit representative organization as a party to any new or renewed intergovernmental agreement with a provincial or territorial government department or agency in relation to Inuktut, including any intergovernmental funding agreement in relation to Inuktut.*

**INUIT TAPIRIIT KANATAMI'S MODIFICATIONS PROPOSÉES AU PROJET DE LOI C-91
(LOI SUR LES LANGUES AUTOCHTONES)**

Le texte du projet de loi C-91 est modifié par l'insertion des dispositions suivantes immédiatement après l'article 11:

- X1.** *Le ministre doit poursuivre, en étroite concertation avec les instances dirigeantes autochtones concernées, l'élaboration d'une annexe distincte de la présente loi en ce qui a trait à l'inuktitut.*
- X2.** *L'annexe mentionnée à la section XI peut porter sur les points suivants:*
- a) le statut de l'inuktitut dans une communauté, une région ou une autre zone géographique particulière;*
 - b) la collaboration avec un ou plusieurs organes directeurs ou organisations autochtones;*
 - c) l'usage de l'inuktitut dans la prestation des programmes et services fédéraux;*
 - d) de manière compatible avec les pouvoirs et les compétences des provinces, des mesures visant à soutenir la fourniture de programmes et de services en langue inuktitut dans les domaines de l'éducation, de la santé et de l'administration de la justice;*
 - e) l'usage de l'inuktitut dans la fonction publique fédérale dans une communauté, une région ou une autre zone géographique spécifiée;*
 - f) les normes régissant le soutien financier fédéral accordé à l'inuktitut et les niveaux de soutien spécifiés;*
 - g) le rôle d'un organe directeur ou d'une organisation autochtone dans la négociation d'accords intergouvernementaux concernant l'inuktitut;*
 - h) les échéanciers et les calendriers des mesures de mise en œuvre; et*
 - i) toute autre question similaire compatible avec l'objet de la Loi.*
- X3.** *Le ministre peut, par arrêté, modifier l'annexe sur l'inuktitut, avec le consentement de l'organisme gouvernemental autochtone compétent.*
- X4.** *Le gouverneur en conseil peut prendre des règlements pour faciliter la mise en œuvre de l'annexe sur l'inuktitut.*

[Note: L'annexe à être adoptée en tant que partie intégrante de la Loi.]

ANNEXE: L'INUKTUT

Introduction

1. *Outre les dispositions de toutes les autres parties de la présente loi, les dispositions de la présente annexe s'appliquent aux Inuit et à l'Inuit Nunangat.*

Principes

2. *L'interprétation et la mise en œuvre de la présente annexe sont guidées par les principes suivants:*
 - (a) *l'Inuit Nunangat désigne les terres traditionnelles des Inuit au Canada;*
 - (b) *l'inuktut est une langue originale du Canada et est la première langue parlée par la majorité des habitants de l'Inuit Nunangat; et,*
 - (c) *l'administration publique efficace dans l'Inuit Nunangat est optimisée par la fourniture de programmes et de services dans la langue maternelle des bénéficiaires.*

Définitions

3. *Dans cette annexe,*

« Inuit Nunangat » s'entend des terres traditionnelles des Inuit au Canada. Il s'agit d'une zone culturelle, politique et géographique distincte, laquelle est composée des quatre régions inuit dont les limites ont été définies dans les traités et les lois;

« Région inuit » s'entend de la région désignée des Inuvialuit, la région du Nunavut, le Nunavik et le Nunatsiavut;

« Inuktut » s'entend de la langue autochtone parlée par les Inuit du Canada, y compris l'inuinnaqtun, l'inuktitut, l'inuttut, l'inuvialuktun et les dialectes et sous-dialectes associés.

Statut de l'inuktut

4. (1) *Le Parlement reconnaît par la présente le statut de l'inuktut en tant que langue originale du Canada, langue d'origine de l'Inuit Nunangat et première langue de la majorité des habitants de l'Inuit Nunangat.*

(2) *Le gouvernement du Canada s'est engagé à prendre les initiatives et à utiliser les ressources qui permettront de maintenir et d'enrichir ce statut.*

(3) Dans le cadre de ces initiatives, le gouvernement du Canada s'engage, conformément aux règlements concernant le début, la portée, la priorité et le moment de la prestation, à fournir, au sein de l'Inuit Nunangat, les programmes et les services fédéraux en inuktitut, dans la mesure où la demande l'exige et la capacité le permet.

(4) La référence aux limites de capacité figurant au paragraphe 4 (3) n'enlève rien à l'engagement du gouvernement fédéral à renforcer cette capacité.

(5) Le gouvernement du Canada doit appliquer les dispositions de la présente annexe en ce qui a trait à l'usage de l'inuktitut à l'extérieur de l'Inuit Nunangat lorsque le nombre de ses locuteurs le justifie.

Collaboration étroite

5. En ce qui concerne la présente annexe, le gouvernement du Canada doit poursuivre les objectifs et respecter ses engagements en étroite collaboration avec les instances dirigeantes inuit.

Financement

6. En fournissant des ressources financières qui sont adéquates, durables et à long terme en ce qui a trait à l'inuktitut, le gouvernement du Canada doit également veiller à ce que ces ressources:

- a) soient culturellement appropriées;**
- b) répondent aux besoins réels et spécifiques des Inuit;**
- c) visent à faire de l'inuktitut la principale langue parlée dans tous les secteurs de la société au sein de l'Inuit Nunangat;**
- d) soient comparables en termes de qualité et d'accessibilité aux services offerts aux autres Canadiens; et**
- e) soient équitables, par habitant, avec le soutien financier apporté à l'instruction dans la langue des minorités anglaise et française dans l'Inuit Nunangat et dans d'autres régions du Canada.**

7. Le gouvernement du Canada doit poursuivre la négociation, la conclusion et le maintien d'un accord de financement distinct, les instances dirigeantes inuit compétentes indiquant des niveaux de financement spécifiques pour une durée de cinq ans ou plus, en vue de compléter un tel accord de financement dans les douze mois suivant l'entrée en vigueur de la Loi.

Éducation, santé et justice

8. (1) Le gouvernement du Canada doit prendre des mesures efficaces pour favoriser l'avancement et la mise en œuvre de l'éducation en inuktitut au sein de l'Inuit Nunangat.

(2) Le gouvernement du Canada doit prendre des mesures efficaces pour favoriser l'avancement et la mise en œuvre de services de santé en inuktitut.

(3) Le gouvernement du Canada doit prendre des mesures efficaces pour favoriser l'avancement et la mise en œuvre de la justice en inuktitut au sein de l'Inuit Nunangat.

Langue de travail dans les ministères et organismes fédéraux

9. (1) Le gouvernement du Canada doit veiller à ce que sa main-d'œuvre dans l'Inuit Nunangat reflète, à tous les niveaux, la proportion d'inuktitut parlé par les résidents des régions et des communautés inuit.

(2) Chaque ministère et organisme fédéral a le devoir de créer, dans l'Inuit Nunangat, un milieu de travail qui soutient, facilite et encourage l'usage de l'inuktitut par ses agents et ses employés, en accordant la priorité et le poids appropriés aux compétences linguistiques de l'inuktitut et en utilisant efficacement la formation linguistique et la mise à niveau de l'inuktitut.

Accords intergouvernementaux

10. Le gouvernement du Canada doit inclure un organisme représentant les Inuit en tant que partie à tout accord intergouvernemental nouveau ou renouvelé avec un ministère ou un organisme gouvernemental provincial ou territorial concernant l'inuktitut, y compris tout accord de financement intergouvernemental concernant l'inuktitut.

APPENDIX 6

Amendments to Bill C-91
Presentation by
NTI President, Aluki Kotierk
House of Commons Standing Committee on Canadian Heritage
February 26, 2019

Thank you, Madam Chair, and thank you to the Committee for inviting me to speak today about Bill C-91.

First, I would like to applaud the committee for recognizing that Indigenous languages must be written into Canadian law. This is essential if Canada is going to grow into its Arctic identity.

Inuktitut is one of the healthier Indigenous languages in Canada, reportedly spoken by 84% of residents in Inuit Nunangat, the Inuit homeland in Canada. This makes Inuit Nunangat the largest Indigenous language area in Canada.

In Nunavut, the Nunavut Act gives the Nunavut Legislature the power to make laws in relation to Inuktitut. As a result, Inuktitut is an Official Language at the territorial level, and we have a territorial Inuit Language Protection Act and a Languages Commissioner. Our 1993 treaty --- the Nunavut Agreement also contains some limited Inuktitut language provisions.

Most importantly, and most optimistically, Nunavut is the only province or territory in which an indigenous language is spoken by a majority of the public as their mother tongue.

I come from Igloolik. The Hall Beach DEW line site is a distance just longer than a marathon away. The DEW line, an American military installation built across 10,000 kms of the Arctic in two years served as a strategic military position to warn the US of airborne danger from the then USSR. They were built in the days of no runways or hotels. There are still no ports.

Today the threats are different. Globalization limits innovation and creativity. I am here today, born and raised 70 kms from the Hall Beach DEW line site, to give you an early warning from the distance.

Despite the existing protections, Inuktitut is a language at risk. Every year, the number of Inuit language speakers in Nunavut declines by 1%.

It is a devastating reality that Inuit cannot access essential programs and services in our own language.

Language barriers between Inuit patients and health professionals are a life and death matter, long recognized by Inuit, and now in at least one Coroner's report.

The 97% Inuit student body in Nunavut is taught by over 75% non-Inuktitut speaking teachers – a virtual death sentence for the language.

The people of Inuit Nunangat urgently need a federal language act. The Government's initiative in this respect is welcome, and Bill C-91 contains recognition and objectives that NTI supports.

In particular, NTI has long sought the positive interpretive principle contained in section 3, and is pleased with the recognition of section 35 language rights.

Unfortunately, these provisions are not enough to save and sustain Inuktitut.

The Inuit have offered the Government a number of concrete and, we believe, reasonable proposals.

Which brings me to NTI's disappointment with the Bill both in terms of process and content. You heard much of this from Natan Obed, President of Inuit Tapariit Kanatami. It bears repeating.

Since 2017, Inuit sought to be constructive partners throughout the legislative process: sharing position papers, drafting a comprehensive Inuktitut bill, and showing a willingness to compromise on legislative content.

On the content of the Bill, there are a number of central weaknesses, including:

- The Bill does not contain any actual funding commitments. Rather, references to funding are included in purposes, consultation and future agreement provisions.
- Unlike Nunavut's Official Languages Act, Bill C-91 contains no actual rights or duties respecting the delivery of federal services in Inuktitut.
- And so the Bill does not ensure that essential services and programs required for a healthy Inuit population and a prosperous Northern economy – services such as education, health, and the administration of justice -- will be available in Inuktitut, where numbers warrant.

In short, with the greatest respect for the intentions behind it --- Bill C-91 is a largely symbolic effort.

Symbols are important, but they fall far short of what is needed and short of what is called for in the Truth and Reconciliation Commission's Final Report.

Our preference is for a stand-alone federal Inuktitut Act, in recognition of Inuktitut's unique status as the majority language of the Territory.

As it stands, Bill C-91 would be considerably improved by the following amendments, which you have before you:

- Recognition of Inuktitut as an original language of Canada, and the first language of the majority of Inuit Nunangat residents.
- A commitment to the delivery of critical federal programs and services in Inuktitut in Inuit Nunangat -- to the extent that demand requires, capacity allows, and numbers warrant.
- Close collaboration with Inuit bodies in meeting the Government of Canada's commitments under the Act.
- A commitment to funding that will ensure services comparable to those enjoyed by other Canadians.

I invite you to see that Bill C-91 could be so much more. On the basis of Inuit language rights, reconciliation and our nation's ability to remain innovative, Canada must invest in the future of Inuktitut. This is achievable.

Thank you and I am happy to take questions

APPENDIX 7

- **Our language is central to our identity, but it is also part of Canada's identity as a nation.**
- **Our language is a gift, not a burden; it's future should be a source of hope and inspiration, not defeat and resignation.**
- **As you know, I had the opportunity to speak to the House of Commons Standing Committee on Heritage, on this Bill. I would invite those of you who may have not had the chance to review my comments and answers to questions there, but I do not intend to repeat all of them here.**
- **Rather, I would like to use my time with you to underscore four key points:**
 - **First and it pains me to say this, our language is disappearing**
 - **Secondly, this bill, as it stands, will not change that unhappy reality**
 - **Thirdly, the House of Commons Committee, in failing to make needed amendments to this Bill, failed us and the people of Canada**
 - **And fourthly, the amendments that we proposed to the House of Commons, that we are once again proposing to you are sound, reasonable and necessary, and we urge you to adopt them.**
- **My first point, our language is disappearing.**
- **This is no less true because it is so unwelcome.**
- **You will hear from Professor Ian Martin who has concluded that the use of the Inuit language in the home is dropping steadily at the rate of approximately 1% per year; at the current rate of decline, the Inuit language will be spoken at home by only 4% of Inuit in Nunavut by 2051.**
- **In short, more of the status quo will just be dangerous for our language, in all probability, it will be fatal.**
- **This leads to my second point: this bill, as it stands, will not change the status quo in the way needed.**

- In concluding that, I do not say that the Bill is without some positive and welcome features.
- Some of the preamble provides a helpful context, and the statement that section 35 of the 1982 Constitution Act already recognizes some common law aboriginal rights in relation to language may shape public opinion on these matters. An Indigenous Languages Commissioner may lead to more focused federal bureaucratic support or may just become a place where problems are parked and initiative and creativity are dissipated. The Bill has some nice principles about funding support, but these appear to be entirely dependent on future annual budget priorities.
- But on the things that really matter, things such as the provision of federal programs and services in Inuktitut, use of Inuktitut in public sector workplaces, and the enormous importance of investing in education, including teacher training, the Bill falls far, far short.
- I would like nothing better than to say to you, with confidence, that this Bill, if adopted as it is, will stop and then reverse the projected erosion and loss of our language.
- But it will not.
- Failing to make the necessary changes will not have the required impact
- That leads to my third key point: the House of Commons Standing Committee reviewing this Bill did not meet the challenge of making this Bill what it should be for Inuit.
- As part of the team of Inuit organizations working on this legislative project for more than two years, we offered, throughout that time, a wealth of legislative provisions which could be added to the Bill to make it work more effectively for Inuktitut and for Inuit.

- Even when our more optimistic proposals were dismissed without proper consideration, we put together a core of legislative amendments for consideration by the Commons Standing Committee, they are attached to my written presentation.
- You can imagine our disappointment, and frustration, that those amendments do not appear to have even been seriously examined by that Committee.
- When I appeared as a witness at the Committee, I did not even get any questions about our proposals, why they might be important, or how they might work.
- No one suggested that our proposals were unworkable on practical grounds ... or exceeded the authority of Parliament ... or would intrude on provincial or territorial laws ... or be implemented according to an unrealistic timetable ... or would impose unworkable financial demands ... or would cause injustice to current federal workers ... or anything of that sort.
- Rather, they were just ignored.
- Much has been said, by judges as well as by political leaders, about the “Honour of the Crown” in its relations with indigenous peoples.
- Surely, putting aside the law but embracing the moral issues, this concept is as relevant to how Parliament makes laws in relation to Indigenous peoples, particularly laws that are said to be products of “co-development”, as it is relevant to the executive actions of the Crown.
- That leads me to my fourth and final key point.
- I believe, I sincerely believe that when you read carefully the amendments that we have been proposing, and continue to propose, to this Bill, you will satisfy yourselves that each and every one is well

conceived, straightforwardly expressed, and entirely amenable to staged implementation.

- Indeed, I could easily turn that conclusion on its head by inviting any of you, upon careful reading of what we have proposed, to identify any particular problems that you believe would result from adopting these amendments.
- In looking at our proposals, you will see that page one is a total of four provisions to be added to the body of the Bill. They would require the Minister to enter into a separate Inuktitut Annex to the Act. The proposed Inuktitut Annex follows on the next two pages.
- Two additional Annexes could be added for First Nations and Metis peoples, if they wish.
- The Annex relates principally to the delivery of certain government services and programs in Inuktitut, over time, to the extent that demand requires and capacity allows.
- You will see that we are being both practical and realistic, while including what is absolutely necessary for the delivery of essential services in a way that is equitable and comparable to what the speakers of Canada's Official Languages now enjoy. Since the delivery of essential services in Inuktitut is a matter of justice, and indeed a matter of life and death for Inuit in the case of medical services, we cannot ask for less, and we ask you to do the same.
- In closing, Inuit take pride in being an original people of Canada, and, beyond our fierce determination to retain and apply our own identity as Inuit, we are determined to contribute as much as we can to the health and well-being of this country as a whole.

- **We have not developed our legislative proposals out of some narrow agenda of maximizing our interests at the expense of anyone else, or of setting in motion commitments that could only lead to logjams or ill-will.**
- **Our proposed amendments are not only sound and timely. They are necessary. They appeal to what is best in this country, not what is most fearful.**
- **We invite this Committee to show leadership and courage in adopting them.**

APPENDIX 8

Tuesday, April 30, 2019

The Standing Senate Committee on Aboriginal Peoples has the honour to table its

SIXTEENTH REPORT

Your committee, which was authorized to examine the subject matter of Bill C-91, An Act Respecting Indigenous languages, and has, in obedience to the order of reference of February 28, 2019, examined the said subject-matter and now reports as follows:

Indigenous languages are deeply connected to the homelands, identities, cultures, laws and worldviews of Indigenous Peoples. Indigenous languages are Canada's first languages, spoken long before the arrival of settlers. In the past, the Government of Canada implemented policies aiming to assimilate Indigenous Peoples into Canadian society and suppress their languages and cultures. These policies, including residential schools and the Sixties scoop, among others, contributed to the critical state of the 70 Indigenous languages spoken in Canada today. The vitality of Indigenous languages varies across the country, but no Indigenous language is safe. The committee recognizes that, given their critical state, work to revitalize, protect and promote Indigenous languages is an urgent task necessary to ensure that Indigenous youth for years to come can learn their own Indigenous language(s). Further, Algonquin Elder Claudette Commanda, the Executive Director of the First Nations Confederacy of Cultural Education Centres, suggested that revitalizing Indigenous languages could have a positive impact on the health of First Nations communities and the self-esteem of First Nations youth.

During its pre-study, your committee heard from over 30 witnesses who shared their hopes, concerns and perspectives regarding Bill C-91. Despite their involvement in the co-development process, Inuit were particularly concerned that, the bill was not distinctions-based, did not reflect Inuit priorities and did not take into account the unique status of Inuktitut as a language spoken by many Inuit in their homelands. Many other witnesses supported Bill C-91 as a positive step towards language revitalization.¹ However, your committee was concerned that many felt they had little choice but to support the bill, given the limited time remaining in the parliamentary session.² Recognizing that

¹ See for example, Senate, Standing Committee on Aboriginal Peoples [APPA], *Evidence*, 1st Session, 42nd Parliament, 4 April 2019 (Karon Shmon, Director, Publishing and David Morin, Curriculum Developer, Gabriel Dumont Institute of Native Studies and Applied Research); APPA, *Evidence*, 1st Session, 42nd Parliament, 20 March 2019 (Perry Bellegarde, National Chief, Assembly of First Nations).

² APPA, *Evidence*, 1st Session, 42nd Parliament, 2 April 2019 (Ellen Gabriel, Representative (Kontinónhstats - The Mohawk Language Custodian Association from Kanehsatà:ke); APPA, *Evidence*, 1st Session, 42nd Parliament, 19 March 2019 (Clément Chartier, President, Métis National Council).

generations of Indigenous Peoples have advocated for legislation to protect their languages³, these witnesses saw Bill C-91 as an important opportunity not to be missed, one that might not arise again for many years. For this reason, some witnesses believed it important to pass the legislation as a starting point, with the hope that it be amended in the future to address ongoing concerns and further support Indigenous work towards language revitalization.⁴

In response to the critical state of their languages, Indigenous Peoples across Canada have developed unique approaches to revitalize, strengthen and protect them. Ultimately, the committee believes that Indigenous Peoples are best positioned to lead language revitalization efforts. To support this work, any Indigenous language legislation or strategy must provide adequate resources while recognizing the autonomy and self-determination of Indigenous Peoples including jurisdiction over their languages. Indigenous women and Elders play a vital role in passing on language to future generations and it is predominantly women who are leading work to reclaim Indigenous languages in their communities through the development of immersion schools, curriculum in Indigenous languages, language nests, and on-the-land programs. In many cases, programming is delivered through Indigenous institutions and local/regional organizations such as friendship centers and First Nations cultural centres. Post-secondary institutions support this work by offering programming in Indigenous languages and supporting the creation of resources like dictionaries and textbooks.⁵ Many witnesses believe that sufficient, long-term funding would increase the number of fluent speakers by supporting these initiatives, often operating with limited budgets and few resources.⁶

Funding

Algonquin Elder Claudette Commanda reminded the committee that Bill C-91 does not guarantee funding for Indigenous languages. While there is no funding amount included in the legislation, the government has announced funding to implement its measures. Budget 2019 proposes to invest \$333.7 million over five years, beginning in 2019–2020, with \$115.7 million per year ongoing to “support the proposed Indigenous Languages Act.”⁷ However some witnesses felt that this funding was inadequate given the needs in Indigenous communities. The representative from the First Peoples’ Cultural Council shared

³ APPA, *Evidence* 1st Session, 42nd Parliament, 3 April 2019 (Tracey Herbert, Chief Executive Officer, First Peoples’ Cultural Council); APPA, *Evidence*, 1st Session, 42nd Parliament, 20 March 2019 (Natan Obed, President, Inuit Tapiriit Kanatami).

⁴ See for example: APPA, *Evidence*, 20 March 2019 (Perry Bellegarde) and APPA, *Evidence*, 1st Session, 42nd Parliament, 2 April 2019 (Karen Sandy, Director, Six Nations of the Grand River).

⁵ APPA, *Evidence*, 1st Session, 42nd Parliament, 2 April 2019 (Jordan Lachler, Director (Canadian Indigenous Languages and Literacy Development Institute)).

⁶ See for example: APPA, *Evidence*, 1st Session, 42nd Parliament, 19 March 2019 (Robert Bertrand, National Chief, Congress of Aboriginal Peoples and Jocelyn Formsma, Executive Director, National Association of Friendship Centres).

⁷ *Investing in the Middle Class, Budget 2019*, p. 138.

that based on their experience in language revitalization, adequate funding for language revitalization should be between \$200 and \$900 million per year.

In addition to the adequacy of funds, their distribution was also a source of concern, as Algonquin Elder Claudette Commanda emphasized the lack of clarity in the bill about eligibility for funding and how it will be disbursed between First Nations, Inuit and Métis peoples. The Minister of Canadian Heritage confirmed that funding for Indigenous languages would flow through agreements between the Government of Canada and Indigenous governments and communities, enabling Indigenous Peoples to determine the priorities and projects that would receive funding. However, it is not clear how funding proposed through Budget 2019 will be distributed, nor is it clear how future budgets will adapt to meet language revitalization needs in Indigenous communities.

In the absence of clarity around funding, witnesses identified characteristics they believe are essential to ensure funding contributes to language revitalization. Funding must be permanent, long-term, and reflect the diversity of Indigenous Peoples and languages, including those living off-reserve and in urban centres. As emphasized by the Native Women's Association of Canada, "funding must be consistent with Jordan's Principle⁸ to ensure there are no jurisdictional disputes. As Jordan's Principle ensures Indigenous children receive essential public services, regardless of where they live, Indigenous languages must be considered an essential service."⁹ Further, witnesses felt that funding should be distributed to Indigenous Peoples undertaking language revitalization work, as opposed to national political organizations.

Another important characteristic raised by witnesses is that funding for Indigenous languages not duplicate existing services or create more bureaucracy. Bill C-91 proposes to establish an Office of the Commissioner of Indigenous Languages. Helen Klengenber, the Official Languages Commissioner of Nunavut, stated that the proposed Office of the Commissioner of Indigenous Languages "will be a duplication of services and an unwise use of public funds that instead could be used to enhance what is already in place in Canada."¹⁰ To avoid duplication of services, the committee feels that existing infrastructure and institutions could provide services and programs. For example, the committee was reminded that friendship centres across Canada could provide language programming if funding were provided.

⁸ Jordan's Principle is named after Jordan River Anderson, a First Nations child, who passed away in a hospital in 2005 while the federal and Manitoba governments disagreed over who would pay for his at-home care. In 2007, Parliament adopted a motion that called on the government to "adopt a child first principle, based on Jordan's Principle, to resolve jurisdictional disputes involving the care of First Nations children." (House of Commons, *Journals*, No. 36, 12 December 2007, M-296).

⁹ APPA, *Evidence*, 1st Session, 42nd Parliament, 19 March 2019 (Francyne Joe, President, Native Women's Association of Canada).

¹⁰ APPA, *Evidence*, 1st Session, 42nd Parliament, 4 April 2019 (Helen Klengenber, Official Languages Commissioner, Office of the Official Languages Commissioner of Nunavut).

Finally, witnesses emphasized that funding must be core funding rather than project-based. Core funding would enable Indigenous communities to plan for the future and pursue long-term projects, such as writing their own curricula.¹¹ Project-based funding forces Indigenous communities into “exhaustive reporting measures”¹² and is not accessible to all, since organizations or communities may not have the capacity and resources to hire a professional grant writer. Regardless, grant-writing is time consuming and may take time away from program delivery. At T'selc'éwtqen Clleq'mel'ten, a Secwepemc immersion school in British Columbia, the principal prepares grant proposals, diverting time from preparing educational plans and further land-based research. Project-based funding, offered on a year-to-year basis, does not enable Indigenous communities to develop their own curricula, plan for future projects, or retain staff.¹³

It is clear from witnesses that revitalizing languages depends upon adequate, sustainable and long-term funding. Your committee is concerned about the lack of clarity regarding funding for Indigenous languages, and therefore urges Canadian Heritage to work with Indigenous communities and organizations involved in Indigenous language revitalization to ensure that their funding concerns are addressed.

Consultation

Although the Minister of Canadian Heritage stated that the bill was co-developed with the Assembly of First Nations, Inuit Tapiriit Kanatami and the Métis National Council, some witnesses felt they had the opportunity to meaningfully participate in the process, while others did not. Some organizations, such as the Métis National Council, the Assembly of First Nations, and the First Peoples' Cultural Council described positive consultation experiences. Organizations participated in the co-development process in different ways. For instance, the Gabriel Dumont Institute led engagement sessions to provide background on Michif and recommendations on content that should be included in the bill.¹⁴

However, other organizations and communities, felt that they were not meaningfully involved in the co-development process. The Congress of Aboriginal Peoples and Six Nations of the Grand River described a lack of consultation. While some organizations were provided with opportunities to obtain feedback from their members on the development of the legislation, they sometimes faced tight time constraints. For instance, the Native Women's Association of Canada stated that they were not “meaningfully consulted,” reporting that they were only provided with about five months to undertake community engagement sessions and an online survey. Prior to the bill being tabled, they were also given 36 hours to review the text and provide recommendations.¹⁵

¹¹ APPA, *Evidence*, 1st Session, 42nd Parliament, 3 April 2019 (Robert Matthew, Principal, T'selc'éwtqen Clleq'mel'ten/Chief Atahm School).

¹² APPA, *Evidence*, 2 April 2019 (Ellen Gabriel).

¹³ APPA, *Evidence*, 2 April 2019 (Ellen Gabriel); APPA, *Evidence*, 3 April 2019 (Robert Matthew).

¹⁴ APPA, *Evidence*, 4 April 2019 (Karon Shmon).

¹⁵ APPA, *Evidence*, 19 March 2019 (Francyne Joe).

The committee was concerned that organizations representing Indigenous Peoples who are often overlooked, such as women and non-status First Nations, continued to be left out. This exclusion was particularly troubling, given the vital role of women in the transmission of Indigenous languages to future generations. The Métis Settlements General Council, a group not represented by national or regional organizations, was also left out. Despite their exclusion from the process, many Indigenous organizations fought to ensure their voices were heard by requesting meetings and submitting documents to Canadian Heritage. However, in some cases, their suggestions were not reflected in the bill¹⁶, and these witnesses are now advocating for amendments to it.

The committee was deeply concerned that Inuit Tapiriit Kanatami (ITK), though initially hopeful about the co-development process, quickly became frustrated and disappointed. Throughout the process, ITK consistently emphasized several Inuit priorities they believed must be reflected in the legislation in consideration of the unique situation of Inuktitut, which is spoken by many people in Inuit Nunangat. ITK told the committee that no one from Canadian Heritage provided feedback to suggest that it would not be possible to include Inuit priorities in the legislation. When ITK realized they had a different vision for the legislation than the other co-development partners, they continued to participate by meeting bilaterally with federal government officials.¹⁷ In the end, Bill C-91 does not reflect Inuit priorities, leaving ITK to push for amendments to the bill to address their concerns in the limited time remaining before the end of the parliamentary session. ITK proposed amendments to add an annex to the bill. These amendments were shared with Canadian Heritage, and a Ministerial special representative has been appointed to work with Inuit. Although the Minister of Canadian Heritage told the committee that every effort was made to meet with Inuit, ITK and Nunavut Tunngavik Inc. both stated there had been no progress to date in addressing Inuit concerns.

The committee believes that Bill C-91 must better meet Inuit needs and priorities. Otherwise, the title of Bill C-91 is misleading and should be changed. In the time remaining, the committee urges Canadian Heritage to work collaboratively with Inuit to resolve their concerns, including providing feedback on ITK's proposed annex. To ensure that this takes place in a timely manner, the committee will be writing to the Minister to ask for an update on progress and will likely recall the Minister and the Ministerial special representative to appear before the committee prior to clause by clause.

Should Bill C-91 pass, there are provisions that require the Minister to consult on funding and on the appointment of the Commissioner of Indigenous Languages. When undertaking this work, the committee believes that Canadian Heritage could learn from previous consultation experiences and ensure that, this time, feedback on proposals is provided in a timely manner and diverse groups of Indigenous Peoples (such as women, non-status First Nations people, urban Indigenous Peoples, and those not represented by national or regional organizations such as the Métis Settlements General Council) are provided with

¹⁶ APPA, *Evidence*, 1st Session, 42nd Parliament, 3 April 2019 (Claudette Commanda, Executive Director, First Nations Confederacy of Cultural Education Centres).

¹⁷ APPA, *Evidence*, 1st Session, 42nd Parliament, 20 March 2019 (Tim Argetsinger, Political Advisor, Inuit Tapiriit Kanatami).

opportunities for meaningful participation. Should Bill C-91 pass, your committee will closely monitor the implementation process as it unfolds, to ensure that it is meaningful and constitutes true co-development for all Indigenous Peoples and communities.

Education

Your committee heard that Indigenous-language learning in schools is essential to language revitalization. Many witnesses lamented that this was not addressed in the bill and referred to a number of barriers that limit access to Indigenous-language learning in schools. The lack of recognition of the rights of First Nations, Inuit and Métis children to be educated in public schools in their languages may contribute to the decline in Indigenous languages. As explained by Lorena Fontaine, Indigenous Academic Lead and Associate Professor at the University of Winnipeg: “[t]his right includes a duty for the government to take effective measures, whether inside or outside their community.” Some witnesses referred to Article 14 of the *United Nations Declaration on the Rights of Indigenous Peoples* as providing these rights. Others looked to the experience of other countries, suggesting that legislation in Bolivia, Norway, Finland, the Philippines and Peru recognizes children’s rights to be educated in their ancestral language.¹⁸ Witnesses referred to Canada’s history and experience of providing and protecting minority language education for English and French.¹⁹

Another barrier relates to the limited number of speakers who can transmit language in schools. The committee heard that more support is needed for certifying teachers, but fluent speakers, who may not be certified teachers, could also play an important role in sharing the language in schools.

Your committee heard that issues relating to language education are particularly acute in Inuit Nunangat. While there are promising initiatives, such as programming offered by Nunavut Arctic College, and the Inuit teacher education program in Nunatsiavut, witnesses described challenges relating to implementation of Nunavut laws to promote and extend the use of Inuktitut in schools, as well as barriers to implementing strategies to increase the number of Inuktitut-speaking teachers. Barriers include inadequate support for the training of certified teachers and limits on how non-certified language speakers can promote Inuktitut in schools.

Outside of schools, given the close connection between Indigenous languages and cultures, language learning takes place in many ways. Language nests, family programs, mentoring, ceremonies, storytelling and on-the land programs provide Indigenous Peoples with the opportunity to learn their language and connect to their cultures. As discussed earlier, women and Elders play a vital role in language transmission and community-based language learning. As emphasized by Francyne Joe, President of the Native Women’s Association of Canada, “Indigenous languages preservation and

¹⁸ APPA, *Evidence*, 1st Session, 42nd Parliament, 3 April 2019 (Lorena Sekwan Fontaine, Indigenous Academic Lead, Associate).

¹⁹ APPA, *Evidence*, 3 April 2019 (Lorena Fontaine); APPA, *Evidence*, 1st Session, 42nd Parliament, 2 April 2019 (Ian Martin, Professor, Glendon College, York University, As an Individual).

revitalization must embrace the traditional ways of passing on languages from generation to generation. This means Indigenous women must lead the development of community-based language learning programs.”²⁰ Your committee implores the Government of Canada to ensure that any Indigenous languages legislation or strategy recognizes the critical role of women, mothers and grandmothers in language transmission.

Service Delivery in Indigenous languages

Another issue raised by many witnesses in the context of Indigenous language reclamation and revitalization is accessing federal government services in their language. The committee heard that, while some areas have so few fluent Indigenous-language speakers that providing translation services is not possible, in areas with a larger population of Indigenous-language speakers, it would be important for federal institutions to provide interpretation services and translation in Indigenous languages.²¹

The committee heard that in Inuit Nunangat, people whose mother tongue is Inuktitut do not have access to federal services in their language, even in Nunavut and Nunavik where Inuktitut-speakers are the majority. The lack of federal services in Inuktitut affects Inuit in many ways. As Aluki Kotierk, President of Nunavut Tunngavik Incorporated told your committee, “there are many examples of life-and-death situations, whether it be in the health care system, the justice system or the school system, where Inuit are put in a vulnerable and disadvantaged position because they are unable to understand what is going on around them because the language spoken is not their first language or a language that they don’t understand.”²² Your committee also heard that low numbers of Inuktitut speakers within the Canadian Coast Guard poses risks to public safety.²³ In *When Every Minute Counts - Maritime Search and Rescue*,²⁴ the Standing Senate Committee on Fisheries and Oceans noted that there was currently a lack of Inuktitut speakers at the Marine Communications and Traffic Services centre in Iqaluit. That committee encouraged the Canadian Coast Guard to recruit speakers of local languages so that staff in those centres could “effectively community with locals and those in distress.”²⁵

As Aluki Kotierk, President of NTI, told the committee, “what we want to see in Inuit Nunangat [is] that Inuit are able to walk with dignity and receive services that are available and comparable to other Canadians who receive services, but in their own language rather than relying informally on relatives, whether it be a niece, nephew, grandchildren or children.” President Kotierk also expressed that this is

²⁰ APPA, *Evidence*, 19 March 2019 (Francyne Joe).

²¹ APPA, *Evidence*, 3 April 2019 (Tracey Herbert).

²² APPA, *Evidence*, 1st Session, 42nd Parliament, 2 April 2019 (Aluki Kotierk, President, Nunavut Tunngavik Incorporated).

²³ APPA, *Evidence*, 20 March 2019 (Natan Obed).

²⁴ Senate, Standing Committee on Fisheries and Oceans, *When Every Minute Counts - Maritime Search and Rescue*, Eleventh Report, 1st Session, 42nd Parliament, November 2018.

²⁵ *Ibid.*, p. 17.

a basic human right that should be available to all Canadians.²⁶ To address the issue of service provision in Inuktitut, ITK proposed amendments adding an Annex to the bill, which includes the requirement for federal programs and services to be delivered in Inuktitut “to the extent that demand requires and capacity allows.”²⁷

The committee heard that under the *Inuit Language Protection Act*, organizations (which include public sector bodies, municipalities or private sector bodies) in Nunavut must provide certain services in Inuktitut. Ms. Klengenberg reported that she had obtained a legal opinion stating that the Government of Canada was required to comply with the *Inuit Language Protection Act* by providing services in Inuktitut in Nunavut. Given the impacts on Inuit families and communities, your committee is deeply concerned that many individuals in Nunavut are unable to access federal services in Inuktitut. We encourage the Government of Canada to ensure that in providing these services, they do so in a manner that is respectful of the dominant language in the region, and in compliance with Nunavut’s language laws.

Conclusion

Your committee recognizes the critical importance of Indigenous language reclamation and revitalization and understands that federal legislation to support Indigenous languages plays a key role in supporting future generations of Indigenous-language learners. However, your committee is gravely concerned about key issues raised by witnesses.

Many witnesses were concerned about the adequacy of funding. Your committee notes this concern; however, it is mindful about the limitations of the Senate’s ability to amend legislation that would require an additional appropriation or levy a tax. Your committee urges the Government of Canada to take this concern seriously and continue to address it as Bill C-91 is implemented. Furthermore, it remains unclear how funding will be disbursed to First Nations, Inuit and Métis organizations. We believe that to truly support Indigenous language revitalization, with respect to funding, priority should be given to communities and community-based organizations undertaking this work, rather than to political organizations

The co-development process led to significant disappointment for many participants, including ITK and the Métis Settlements General Council. Your committee believes that the concerns raised by them must be included in the bill. These concerns include, for example, suggested amendments to the bill to ensure the Métis Settlements inclusion under this Act, as well as, addressing the lack of federal services in Inuktitut in Inuit Nunangat. In addition, organizations representing or providing services to Indigenous women and urban Indigenous people, felt that they were overlooked in the development of Bill C-91.

²⁶ APPA, *Evidence*, 2 April 2019 (Aluki Kotierk).

²⁷ ITK *Submission to the House of Commons Standing Committee on Canadian Heritage*, 21 February 2019.

The committee believes that Bill C-91 must better meet Inuit needs and priorities. In the time remaining, the committee urges Canadian Heritage to work collaboratively with Inuit to resolve their concerns, including providing feedback on ITK's proposed annex. To ensure that this takes place in a timely manner, the committee will be writing to the Minister to ask for an update on progress and will likely recall the Minister and the Ministerial special representative to appear before the committee prior to clause by clause.

The Government of Canada is seized of these matters and we expect these issues to be resolved. However, if the issues flagged in this report are not addressed, your committee may wish to recommend amendments to the bill during its clause-by-clause consideration of Bill C-91.

To conclude, your committee has emphasized that there need to be significant improvements made to Bill C-91. In addition, should the bill pass both Houses of Parliament and receive Royal Assent, your committee will continue to monitor its implementation, and progress to ensure that the concerns raised by witnesses are addressed.

Respectfully submitted,

Senator Lillian Eva Dyck

Chair