

## Language, learning, & the promise of Nunavut

Laurie Pelly

We must teach our children their mother tongue.  
 We must teach them what they are  
 and where they come from.  
 — John Amagoalik

Our ideas of human rights, of strength in diversity,  
 of a Northern destiny merge in the promise of  
 Nunavut. It is a promise we must keep.  
 — Thomas Berger

In 1993, following almost 20 years of negotiation, the *Nunavut Agreement* — a modern treaty — was ratified by Parliament. Nearly 300 pages in length, the *Nunavut Agreement* is complex and detailed, as well as comprehensive. Each promise in it confers a right protected by Canada's *Constitution Act, 1982*, enforceable through the courts. The *Nunavut Agreement* is accompanied by a detailed Implementation Contract, with implementation activities and funding levels to be negotiated every ten years. Implementing the *Nunavut Agreement* is a substantial effort, requiring the co-operation and commitment of the federal and Nunavut governments, Inuit organizations, resource co-management institutions, and others. While much has been accomplished through the *Nunavut Agreement*, many implementation challenges remain. In December 2006, Nunavut Tunngavik Inc. launched a lawsuit seeking \$1 billion in damages for the failure of the Government of Canada to implement various articles of the *Nunavut Agreement*. That case is winding its way through the courts.

This short paper addresses one significant component of the implementation challenge — Article 23 — which deals with Inuit Employment within Government, and the closely related issue of Inuit education.

Article 23's stated objective is to increase Inuit participation in government employment in Nunavut to a level reflecting the ratio of Inuit to the total population of Nunavut — about 85%, in all occupational groupings and levels. Article 23 was, and is, an integral element of the Inuit goal of self-determination through public government, reflecting the long-held view that government workforces must reflect the Inuit culture and use the Inuit language. It is the logical companion to Article 4, which resulted in the 1999 division of the Northwest Territories

to create the new territory of Nunavut, with its legislative assembly elected by vote of a population that is 85% Inuit. Implementation of Article 23 would also boost private sector Inuit employment and Inuit economic self-sufficiency, as employees inevitably move between the public and private sectors.

Twenty years after the *Agreement* was ratified, Article 23's constitutionally-protected objective of a representative Inuit public service is still far from realization. As of 2010, Inuit employment in the Nunavut government was around 52%. At management and professional levels, it was around 26%,<sup>1</sup> as it is in the Nunavut federal public service as a whole.

In 2001, NTI and the Governments of Canada and Nunavut began implementation negotiations for the second ten-year period of the *Nunavut Agreement*, 2003-2013. Article 23 was a major component of these negotiations, and it became a major obstacle. During the first ten year period, the federal government had never undertaken the detailed Inuit labour force analysis, which the *Nunavut Agreement* obliged it to deliver by January 1994 as the foundation for pre-employment training and Inuit employment plans. Without a maintained and regularly updated labour force analysis, government lacked and continues to lack critical information on the existing skill levels and qualifications of the Inuit work force. Unable to match such data against the numbers, skills and qualifications needed in the public service, government has been ineffective in developing training and employment plans to fill the gaps in Inuit employment over the short, medium and long terms.<sup>2</sup> Despite these early and acknowledged failings, the chief federal negotiator had no mandate to fund these Article 23 requirements for 2003-2013. As a result of this and other funding disputes, the implementation negotiations ended without agreement in 2003.

In 2005, the parties appointed Thomas R. Berger, former Justice of the Supreme Court of British Columbia, as the conciliator to help resolve the funding disputes between Nunavut Tunngavik and the Government of Canada. Berger's March 2006 Conciliator's Final Report, *The Nunavut Project*,<sup>3</sup> was intended to — but didn't — resolve the deadlock. A renewed implementation contract was never concluded. Jim Prentice, Minister of Indian Affairs and

Northern Development at the time, never met with Berger to discuss the Conciliator's *Report*. The federal government never adopted the recommendations made in the *Report*, or, indeed, ever formally acknowledged or responded to them.

Berger had addressed funding for the Nunavut resource management institutions in his August 2005 Interim Report. But he reserved the entirety of his 66-page Final Report for, as he put it: "a subject of even greater import, a subject with profound implications: Article 23 of the *Nunavut Agreement*. Article 23 lies at the heart of the promise of Nunavut."<sup>4</sup> He posited that, consistent with the honour of the Crown, "a new approach requires a greater regard for objectives and less for the fine print of obligations."<sup>5</sup> In his words: "Article 23 is entrenched in the Constitution. It is there and remains unfulfilled. It is always speaking; it will continue to speak until it is fulfilled."<sup>6</sup>

Implementation of the objectives of modern treaties, rather than a focus on narrow obligations, has also been endorsed in the 2003 and 2007 reports of the Auditor General of Canada,<sup>7</sup> and in a 2008 report of the Standing Senate Committee on Aboriginal Peoples.<sup>8</sup> In an analysis that brought home the marriage of modern treaty objectives and obligations, Berger concluded that two critical failings led to the deficiency in achieving a representative public service in Nunavut: (1) inadequate Inuit training, and (2) ineffective bilingual language education.



### **Inadequate Training**

As a result of a number of detailed projections, the Government of Canada was well-aware, prior to entering into the *Nunavut Agreement* in July 1993, that the cost of implementing Article 23 between 1992 and 2008 could be expected to be in the neighbourhood of \$212 million (in 1992 dollars).<sup>9</sup> In 1996, the federal Cabinet made available \$39.8 million over four years for education and training initiatives under the cooperatively developed Nunavut Unified Human Resources Development Strategy. NUHRDS had some success, largely in training management staff through intermediate management courses,<sup>10</sup> which unsurprisingly became the primary focus of funding in the run-up to 1999. Significant shortcomings, however, undermined achievement of larger capacity-building objectives. These shortcomings included inadequate tracking of NUHRDS program graduates, a failure to match program graduates with available jobs, insufficient upgrading and bridging programs in smaller communities, and importantly, the program's short-time frame.<sup>11</sup>

NTI was adamant that a more aggressive, direct and longer term approach was needed to optimize Inuit employment in a skilled workforce. It pushed for a detailed labour force analysis, and an integrated and coordinated training plan that would link individuals' training with specific positions and qualifications.<sup>12</sup> Following division and the end of NUHRDS in January 2000, however, there were no more targeted Article 23 training initiatives. Since 1999, the GN has received only \$10,000 per year to implement its Article 23 obligations.<sup>13</sup>

Ten years ago, NTI asked PricewaterhouseCooper<sup>14</sup> to look at the costs of not implementing Article 23. PwC determined that not having a trained Inuit workforce in Nunavut is actually costing \$137 million per year in lost Inuit wages, the costs of importing southern workers into Nunavut, and social assistance payments to Inuit. This doesn't include the financial and human costs of disempowerment, in terms of health, alcohol and drug addiction, and suicide. In 2006, Berger prescribed triage: "for immediate action," a federal commitment of \$20 million a year for five years, to specific Inuit training initiatives, including community career counseling, internships, scholarships, and programs for summer students and mature students. The federal government, however, chose not to fund those initiatives.

When it comes to teacher training, Inuit under-representation in the public service has led to an unfortunate circular problem. As of 2007, only 117 of 467 Nunavut teachers were reportedly Inuit — about 25%, and only 13% of school principals were Inuit.<sup>15</sup> With such low ratios of Inuit teachers, effective Inuit language bilingual education is not possible. And, as Berger discovered, without effective bilingual education, Nunavut's schools are, by and large, failing to produce Inuit graduates qualified to work in the public service.



### **Ineffective Bilingual Education**

To achieve long-term success in Inuit employment, Nunavut needs sufficient numbers of Inuit high school graduates. Over 70% of Inuit students, however, are leaving high school without graduating. To explain this shocking statistic, Berger conducted extensive research and consultation with experts on indigenous languages in Canada and abroad. He concluded that language of instruction is the principal culprit. Put simply, the main language of instruction in Nunavut schools is English, whereas the first language spoken by most Inuit is Inuktitut. In his words:



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*Street in Iqaluit, Nunavut, 2010.*

Today in Nunavut, Inuktitut is the language of instruction from kindergarten through Grades 3 /4. In Grades 4/5 Inuktitut is abandoned as a language of instruction, and Inuit children are introduced to English as the sole language of instruction. Many of them can converse in English. But they can't write in English, nor are their English skills sufficiently advanced to facilitate instruction in English. In Grade

4, they are starting over, and they find themselves behind. Their comprehension is imperfect; it slips and as it does they fall further behind. By the time they reach Grade 8, Grade 9 and Grade 10, they are failing (not all of them, to be sure, but most of them). This is damaging to their confidence, to their faith in themselves. For them, there has been not only an institutional rejection of their language and culture,

but also a demonstration of their personal incapacity. The Inuit children have to catch up, but they are trying to hit a moving target since, as they advance into the higher grades, the curriculum becomes more dependent on reading and books, more dependent on a capacity in English they simply do not have... In Nunavut this reinforces the colonial message of inferiority. The Inuit student mentally withdraws, then leaves altogether.<sup>16</sup>

In a similar vein, the Auditor General recently noted that Nunavut attendance reports revealed that students attended classes less than 50% of the time, with attendance dropping as low as 27%. At such rates, students with average attendance will have missed the equivalent of more than three full academic years by the end of high school.<sup>17</sup> Looked at through the lens of cultural and language alienation, such critically low attendance rates may be viewed as symptoms of systemic malfunction, rather than as the sole cause of student failure.

As Berger explained, the Nunavut system “is a bilingual system in name only, one that produces young adults who, by and large, cannot function properly in either English (because they never catch up with the English curriculum) or Inuktitut (because they learn only an immature version of their first language before switching to English).”<sup>18</sup> Turning to the language experts for the solution, Berger explained that:

the foundations of language during the crucial early years of education are best developed using the child’s native tongue as the language of instruction. In other words, if you want children speaking Inuktitut to develop real skills in English, it is better to focus on Inuktitut to provide a firm anchor of learning during those developmental years.<sup>19</sup>

In a 2000 research paper for the Government of Nunavut, Professor Ian Martin of York University described the historical evolution of language of instruction in the Northwest Territories inherited by Nunavut. From about 1945 through 1970, the main period of residential schooling, there was a radical and abrupt change from family-based child rearing in Inuktitut, to a “sink or swim submersion” in English language of instruction, with a colonialist goal of destruction of Inuktitut and acculturation to southern norms.<sup>20</sup> Since 1970, the education system in the Northwest Territories has evolved toward bilingual education, but the GNWT and now the GN have been delivering the “early exit” Inuktitut instruction described by Berger. The reason for this is the shortage of Inuit teachers, especially in the upper grades.

Since 2001, in its *Bathurst Mandate* — a broad vision and public policy program to achieve Inuit objectives — the GN envisioned a fully functional bilingual society — “the best of both worlds,” in Professor Martin’s words. Martin developed bilingual education delivery models for Nunavut schools, which, if implemented, will provide the appropriate balances, methods and timing for instruction to be delivered in the child’s first and second languages throughout the K-12 program.

In September 2008, Nunavut legislators enacted the *Inuit Language Protection Act*, which requires the Government to design and enable the education program to produce graduates who are fully proficient in the Inuit language, and a new *Education Act*, which provides that every student shall be given a bilingual education in the Inuit language and either English or French. The bilingual provisions are to be phased in by regulations that anticipate a fully bilingual Inuit language and English/French school system from kindergarten through grade 12 by 2019-2020.

As desirable and necessary as it is, this timeline is unachievable and will likely be revisited in an upcoming Legislative Assembly review of the *Education Act*. At the midway point between the timeline’s creation and the 2020 deadline, no significant progress has been made, mainly due to the lack of adequate and sustained funding to train enough Inuktitut-speaking individuals as teachers, language specialists, Inuit language instructors, and developers of Inuit language curriculum and teaching resources.<sup>21</sup>

As Berger stated, “Nunavut does not, under Territorial Formula Financing, have the resources” for the substantial and immediate, and sustained, investment in Inuit teacher training and Inuit language curriculum.<sup>22</sup>

Berger proposed long-term targeted funding for bilingual education — similar to the funding that goes to the provinces and territories for English and French under Canada’s *Official Languages Act*. Observing Canada’s colonial legacy, he said:

Unlike French and English, which are regarded as defining characteristics of Canada, and have been supported by the federal government with comprehensive programs and generous funding, the country’s Aboriginal languages, including Inuktitut, are regarded as part of the nation’s “heritage.” The federal programs and services that support these languages are restricted to the community and the home. Nunavut government departments cannot access this funding for teacher training in Inuktitut or curriculum and resource development.<sup>23</sup>

The Inuit language continues to be recognized by the Government of Canada only for its “heritage” value, and funded accordingly, rather than as the first language of the majority of Canada’s newest Territory.



## Conclusion

The *Canadian Charter of Rights and Freedoms* was adopted in 1982 as part of the patriation of the Canadian Constitution. Section 23 of the *Charter* guaranteed minority language schooling for speakers of Canada’s two official languages throughout the country, including in what is now Nunavut. Yet in Nunavut, the Inuit homeland, Inuit have no express rights under the Canadian Constitution to schooling in their language.

The Inuit of Nunavut believe that they have rights to Inuktitut education as existing Aboriginal rights in Canada. Aboriginal rights are recognized and affirmed in section 35 of the *Constitution Act, 1982*. In the context of international law, Inuit also have rights in relation to education that belong, as human rights, to all the world’s Indigenous peoples. Article 14(1) of the *United Nations Declaration on the Rights of Indigenous Peoples* states: “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.” Article 14(3) of the *UN Declaration* recognizes that States, including Canada, have a corresponding duty: “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.”

Thomas Berger delivered his Final Report to Minister Prentice with a letter that opened with the following statement: “Nunavut today faces a moment of change, a moment of crisis. It is a crisis in Inuit education and employment.”

Nunavut should not have to face that crisis alone. Yet, instead of accepting responsibility for its inaction in relation to Article 23 after creating Nunavut, the Government of Canada, on behalf of the Crown, has refused to make the necessary investment of public monies. In the procedural sphere, it launched a motion to require NTI to add the Government of Nunavut as a defendant in NTI’s lawsuit for the Crown’s multiple breaches of the *Nunavut Agreement*. When this failed, it brought a third party claim against the GN itself, asserting, among other things, that the GN alone is responsible for any fail-

ures to fulfill Article 23. If the *Nunavut Agreement* is to be fully and effectively implemented to achieve its objectives, the Crown has to accept, not shrink from, its duties, obligations and responsibilities. When the Crown signed the *Nunavut Agreement* on behalf of all Canadians, and when Parliament created Nunavut, they made commitments to the recognition and active promotion of Inuit self-determination. It is incumbent upon the Government of Canada to respect and implement those commitments. ●

*Laurie Pelly is Legal Counsel with Nunavut Tunngavik, based in Ottawa, Ontario.*

## Notes

1. Report of the Auditor General of Canada to the Legislative Assembly of Nunavut — 2010, *Human Resource Capacity — Government of Nunavut*, Introduction (March 2010), para. 4.
2. *Id.* at p.2.
3. Berger, T., *Conciliator’s Final Report “The Nunavut Project”: Nunavut Land Claims Agreement Implementation Contract Negotiations for the Second Planning Period 2003-2013* (March 2006).
4. *Id.* at iii.
5. *Id.* at 19.
6. *Id.* at 20.
7. Auditor General of Canada, *2003 November Report, Chapter 8 Indian and Northern Affairs Canada — Transferring Federal Responsibilities to the North*, s. 8.2; Auditor General of Canada, *2007 October Report, Chapter 3, Inuvialuit Final Agreement*, ss.3.77-3.85.
8. Standing Senate Committee on Aboriginal Peoples, *Interim Report: Honouring the Spirit of Modern Treaties: Closing the Loopholes* (May 2008), pp. 11-15.
9. See e.g., Atii Training Inc, *Maximizing Inuit Employment in the Nunavut Government, Preliminary Projections on Training Requirements and Costs* (January 1993); Government of Nunavut Statement of Defence filed in *The Inuit of Nunavut and Attorney General of Canada and the Commissioner of Nunavut*, Nunavut Court of Justice, file no. 08-06-713 CVC, para. 40.
10. Indian and Northern Affairs Canada, Departmental Audit and Evaluation Branch and Goss Gilroy Inc, *Evaluation of the Nunavut Unified Human Resources Development Strategy (NUHRDS)*, May 2002, at i.
11. Taigiit Development Inc. and Stiles Associates Inc., *Report on a Presentation to the Nunavut Training Group on Monitoring the Nunavut Unified Human Resources Development Strategy*, Iqaluit, Dec. 7, 1999.
12. Nunavut Tunngavik Inc., *Response to the Recommendations of the Nunavut Implementation Commission on Establishment of the Nunavut Government Presented in “Footprints 2” and in “Nunavut’s Legislature, Premier and First Election,”* (February 4, 1997), pp.30-31.
13. *Op.cit.* Government of Nunavut Statement of Defence, para. 31.
14. PricewaterhouseCooper, *The Cost of Not Successfully Implementing Article 23: Representative Employment for Inuit within the Government*, (Ottawa 2003), p.48, table 7.9.
15. Rasmussen, D., *Forty Years of Struggle and Still No Right to Inuit Education in Nunavut*. Our Schools Our Selves ( Fall 2009), 19.1. Berger had stated in his Report that 35% of teachers speak Inuktitut but that their numbers are falling. *Op.cit.* Berger at vii.
16. *Op.cit.* Berger at v.
17. Report of the Auditor General of Canada to the Legislative Assembly of Nunavut — 2013, *Education in Nunavut* (November 2013), at paras. 3 and 58. The AG identified other reasons complicating the delivery of education, including the housing shortage and food insecurity (para. 4).
18. *Op.cit.* Berger at vi.
19. *Id.*
20. Martin, Ian, *Aajiqatigiingniq, Language of Instruction Research Paper* (December 2000), table 3 at 18.
21. *Op.cit.* Auditor General, *Education in Nunavut*.
22. *Op.cit.* Berger at 39.
23. *Id.* at 36.