

Questions & Answers

*Final Report on the 2008-2009 Review of the
Official Languages Act*
**REALITY CHECK: SECURING A FUTURE FOR THE
OFFICIAL LANGUAGES OF THE NORTHWEST
TERRITORIES**

STANDING COMMITTEE ON GOVERNMENT OPERATIONS

May - 2009

This document answers questions (Q&As) about the 2008-2009 Review of the Official Languages Act. The Standing Committee on Government Operation explains highlights of its final report on this review. The questions are organized by topics like: the Committee's review process, changes to the Act, services in Official Languages, Aboriginal Languages protection, Committee recommendation and next steps. This document can be requested from the Clerk's Office or accessed on the Legislative Assembly's website http://www.assembly.gov.nt.ca/_live/pages/wpPages/home.aspx

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The Committee's Review Process

When did the Standing Committee start the Review of the *Official Languages Act*?

The *Official Languages Act* itself mandates a periodic review. In February 2008, the 16th Legislative Assembly passed a motion that delegated the review of the *Official Languages Act* to the Standing Committee on Government Operations. The motion also included the terms of reference for the review.

What steps did the Committee take to review the Act?

The Committee undertook broad stakeholder consultations including meetings with community language groups, public and witness hearings, interviews and focus groups with language workers like Interpreter/Translators, language instructors and teachers.

The Committee made extensive use of the Legislative Assembly's website, for example to invite the public to participate in a questionnaire and to make submissions. The website had information in all Official Languages. Details on the review process, the Interim and Final Report on the 2008-2009 Review of the *Official Languages Act* can be found on the Legislative Assembly's website. <http://www.assembly.gov.nt.ca/live/pages/wpPages/home.aspx>

In addition, the Committee examined a wide variety of GNWT reports on Official Languages, the Languages Commissioner's annual reports, legislation from other jurisdictions and research findings from international bodies and scholars dealing with community based language revitalization.

What did the Committee find out during its review?

Basically, the Committee found that the existing *Official Languages Act* does not work. It does not serve the speakers of the languages it is intended to protect. The Aboriginal languages of the NWT are becoming endangered to various degrees. Even the stronger languages are losing speakers, particularly among younger generations. If there is a desire to save the NWT languages for future generations there is an urgent need to protect them through comprehensive revitalization efforts.

This concern is shared by international organizations like the United Nations and UNESCO. The Economic and Social Council of the United Nations released its 2008 *Report of the international expert group meeting on indigenous languages* asking for urgent action to protect the increasingly endangered indigenous languages.

Revitalization can only be successful if the language communities want to use their languages and put initiatives in place to teach languages, to modernize their languages by making them usable in the context of our modern high-tech society. Community language groups need supports and funding to put these initiatives in place. The Committee believes that it is crucial for Government to demonstrate its commitment to Aboriginal languages by lending these supports, including stable funding.

The Committee found that while the use of French as a home language is decreasing, the number of French second language speakers is on the rise. French is not an endangered language and the Francophone community will likely focus on the maintenance of French as first language and the promotion of French as the home language of Francophones. The Francophone community expressed that the implementation of the Act needs improvement and more services have to be offered in French.

The Language Commissioner also pointed to short-comings of the existing Act, particularly due to the lack of regulations that would provide clarity on the implementation of the Act.

What are the Committee's major recommendations?

First of all, the Committee recommends that the existing Act be repealed to get away from the federal model of legislation that does not match the demographic, socio-geographic, and political realities of the NWT.

Secondly, the Committee proposes a two prong approach to our Official Languages. It recommends the creation of a new *Official Languages Services Act* setting out a service delivery model for government services in all Official Languages. The Committee also recommends that this new Act be complemented by an Aboriginal Languages Protection Regime to address the dire need for Aboriginal languages revitalization and secure the survival of the Aboriginal languages.

Official Languages Legislation in the NWT

What Changes to the Official Languages Legislation did the Committee recommend?

Repeal of Existing *Official Languages Act*

During the review process it became clear that the existing *Official Languages Act* does not work. The existing Act was created in the mid eighties and modeled after the federal legislation, which recognizes only French and English as Official Languages. This model does not reflect the demographic, socio-geographic, and political realities of the Northwest Territories. The recognition of Aboriginal language rights was basically an ad-on, but they did not receive equal rights, even though the majority of the NWT population is Aboriginal.

Aboriginal Languages in State of Emergency

There have been challenges with the implementation of this Act. The Committee hopes that with the implementation of its recommendations, the different situations and needs of the Aboriginal languages and French will be recognized. The Committee found the Aboriginal languages in a “state of emergency”. If nothing is being done now to protect them, some languages will disappear within the next generation or two. The Committee shows in its report that even the stronger languages are in decline. Unfortunately, today younger people and kids are less likely to learn the Aboriginal language of their parents and grandparents.

New *Official Languages Services Act* and Aboriginal Languages Protection Regime

For those reasons the Committee recommends two regimes: One is geared towards strengthening the delivery of government services in Official Languages. We suggest that the GNWT repeals the existing Act and creates a *new Official Languages Services Act*. This is a direction that many Canadian jurisdictions have taken. The second new piece is called “Aboriginal Languages Protection Regime”. This regime does not have to be a law, it could be a policy; the Committee left that open for the Government to decide. Most importantly, the Government needs to commit to action, commit to protecting the Aboriginal Language and commit to help the language communities in revitalizing their languages.

What impact will the new Act have on the rights of French?

French will remain an Official Language of the NWT. The Committee heard from the Francophone community representatives that they are very unsatisfied with the implementation of the current Act. The Committee also knows that the GNWT has never created an implementation plan and has struggled to provide equal services for French and English. The Committee's suggestion to move to a service oriented language regime, addresses these issues. Like other jurisdictions where French is a minority language we propose that the NWT creates "designated areas" for French in legislation. The Committee also suggests that the Government consults on service delivery priorities with the language community for those areas. This would strengthen and improve the services available to the Francophone minority. It would allow the Government to address its capacity issues in delivering services in French and focus on the quality of programs and services in these "designated areas".

French is protected by the Constitution of Canada, is the Committee suggesting taking rights away from the Francophone population of the NWT?

The Committee believes that our recommendations will strengthen the Francophone rights in the NWT. If implemented they will lead to more clarity on Government obligations in delivering services that are priorities for the Francophone minority living in some communities of the NWT.

The Canadian Charter of Rights and Freedoms recognizes French as an Official Language of Canada. The Constitution prescribes the application of those rights in more detail for the Parliament and government of Canada and for New Brunswick as the only fully bilingual jurisdiction of Canada. It does not prescribe how these rights should be applied by any other Canadian jurisdiction. When the Committee compared provincial languages regimes, it found that there are many ways that French can be recognized and services delivered. This recognition does not depend on a particular type of law. The delivery of French services rather depends on governmental commitment.

The Charter also protects minority language education rights. The *Education Act* of the NWT and the *French First Language Education Regulations* recognize these Charter rights.

How did the court proceedings with the Fédération Franco Ténoise (FFT) impact the review?

During the review process the Standing Committee on Government Operations was sensitive to the fact that there were ongoing court proceedings involving the Fédération Franco Ténoise, the Government of the Northwest Territories and the Legislative Assembly of the Northwest Territories. The Committee was also aware of the *sub judice* convention and the need to be careful in touching upon matters that are before the courts. The committee in no way intended any aspect of its report to be disrespectful to the Courts or to influence the litigation that was ongoing at that time. The Committee, however, was also mindful of its public duty to review the implementation of the *Official Languages Act* and the Final Report is its discharge of that public duty.

In March of 2009, the Supreme Court of Canada did not grant leave to appeal the Northwest Territories' Court of Appeal decision. This decision means that the ruling of the Court of Appeal stands with its directions to the GNWT relating to the *Official Languages Act*.

Why can the NWT not make its own language laws?

The *Official Languages Act* is entrenched in the *Northwest Territories Act* (Part II.I, sections 43.1 to 43.4). Changes to the 1984 version of the *Official Languages Act* concerning languages rights for French must be concurred with by the Parliament of Canada unless they enhance those rights and services. The GNWT can increase Aboriginal and French language rights without seeking the Parliament of Canada's approval. The Standing Committee recommended that the GNWT negotiates with the Federal Government to allow our territory to create its own and more appropriate Official Languages regime.

The Committee recommends that no Languages Commissioner will be needed in the future. Who will now make sure the Government complies with the Act?

The Committee looked at other Canadian jurisdictions and found that less than a hand-full actually have a Languages Commissioner. The majority use their Official Languages Secretariats or the responsible Minister to investigate complaints from the public with regards to Official Language services.

The premise of the Committee's entire set of recommendations is that the Government must demonstrate its commitment to Official Language services and to implementing the legislation it puts in place.

Official Language Services of the GNWT

How will the Committee recommendations change how the GNWT provides services in Aboriginal languages and in French?

Stakeholders expressed concerns

The language communities and stakeholders have expressed their dissatisfaction with the Government's language services for a long time. The Committee's recommendations address the issues that were brought forward by the stakeholders. At the same time, the Committee took into account the challenges the Government is facing in trying to provide language services.

Need for long-term planning

The Committee has restated the importance of a comprehensive long-term language service plan. This plan needs to be developed in collaboration with the language communities. The communities must have a chance to express their priorities for services. The Government must be open to address these priorities. It needs to identify what resources are needed to finance and staff these services. Long-term planning would allow the Government to deal with its capacity issues.

Designated areas for language services

The Committee suggests the introduction of "designated language areas" in the new Act. This would assist in planning for those services. The Committee does not think it is realistic to expect that all services can be offered in all Official Languages in all regions. The NWT, with 11 Official Languages for a population of 43,000 dispersed over a large geographic area is faced with unique challenges. Designated areas would allow the Government to focus on service delivery models for regions with a considerable speaker base.

Government-wide language service standards

The Committee also recommends that a comprehensive plan include government-wide standards for these services, training of employees that provide these services and easy accessibility for the public. Every employee of the public service should understand language rights, how to offer language services, where to direct clients to receive those services. It must become easy for the public to find and access language services.

How will the Committee's recommendations strengthen the rights of the Aboriginal languages?

Decline and endangerment of Aboriginal Languages

If the Government is willing to implement the Committee's recommendations, the new *Official Languages Services Act* will clearly define where Aboriginal languages services are available and how those services will be delivered.

The Committee acknowledges in its recommendations that the use of Aboriginal languages is in decline and that languages have become endangered. This is important to recognize because it impacts on what language professionals, for example Interpreter/Translators, are available to deliver government services.

Service delivery plan

The Committee recommendations include two approaches that would address these challenges over time. First, we ask the Government to build its human resources capacity to deliver language services. The GNWT has to come up with a plan detailing how services can be delivered, who is presently employed and available to deliver those services, what training needs these employees have and what additional human resources are needed and how these resources could be developed or added.

Increase the use of Aboriginal languages

Secondly, if successfully implemented, the Aboriginal language protection regime will increase the number of Aboriginal language speakers, develop terminology and standards, further training and education in Aboriginal language. In the long-term this will help with increasing the number of proficient speakers that will be available to the workforce.

GNWT to address its capacity issues

The Committee understands that these changes cannot happen overnight and suggests strategic language planning that spans a 10 – 20 year period with frequent evaluations. In the meantime, the GNWT needs to recognize its own capacity challenges and demonstrate how it is addressing them on a continuous basis.

What is the difference between the existing *Official Languages Act* and the suggested service oriented model?

The basis of a service delivery model is that the language communities are consulted in developing service plans. The relationship between Government and language communities must improve so they can work together on priorities, needs and challenges to implement these services plan.

What is the Official Languages Secretariat? What will it do?

The Official Languages Secretariat is the main public service body responsible for implementing the delivery of services in Official Languages. It will ensure that the departments comply with their responsibilities to provide the agreed upon services.

The Committee insists that consultation with the Aboriginal and French language communities is important. How can the Committee be sure the Government is consulting and listening to the people?

The Committee recommendations can only work if the Government is willing to implement the suggested changes. This would include a strong commitment to building better relationships with the language communities and improving the implementation of outcomes from consultations.

The recommendations also address the need for Committee to improve its oversight function on the Governments languages activities. For example, it is recommended that the Minister's annual report must be reviewed by a Standing Committee. This new review process will add an annual opportunity to hold the Minister accountable.

Aboriginal Language Protection and Revitalization

What is the Aboriginal Languages Protection Regime?

Ensuring a future for the Aboriginal languages

If there is agreement to keep the Aboriginal languages as Official Languages, we need to collectively ensure their survival. The first step is the acknowledgment that the Aboriginal languages suffer from continuous loss leading to their endangerment and that they are in need for protection and revitalization.

The legal recognition of languages alone does not ensure their use and survival.

Collaboration between the GNWT and the Language Communities

The Committee recommends that the Government, in close collaboration with the language communities must develop a long-term strategic revitalization plan recognizing the specific situation of each Aboriginal language. This plan must highlight language community priorities that address needs and actions for protection, revitalization, maintenance and modernization.

Strategic revitalization plan and annual action plans

The strategic revitalization plan also must include monitoring and evaluation criteria to measure its success. Annual action plans must complement this long-term vision. They must outline Government and community responsibilities and activities including timelines and measures for progress.

The Committee also recommends that an Aboriginal Languages Authority, an Aboriginal Languages Advisory Committee and an Aboriginal Languages Centre as part of the Aboriginal Languages Protection Regime be created.

What is the Aboriginal Languages Authority (ALA)?

The Aboriginal Language Authority (ALA) is the Government body responsible for the development and implementation of a long-term strategic revitalization plan, annual action plans, and acting as the liaison to the language communities. The ALA must have sufficient resources and powers to fulfill this mandate.

This Authority would provide the link between departmental activities and Aboriginal language revitalization. Examples are the teacher training and

Aboriginal Culture and Language Instructor Program coordinated between Aurora College and the Department of Education, Culture and Employment. The Committee acknowledged that the Department of Education, Culture and Employment made progress in Aboriginal language education initiatives, like language nests, teacher and instructor training that contributed to Aboriginal Language revitalization.

The ALA must also provide ongoing support and capacity building to the Aboriginal language communities and their organization.

The Aboriginal Languages Authority is obliged to consult with language communities and is responsible for stable and sustainable funding arrangements with the communities.

What role has the Aboriginal Languages Advisory Committee (ALAC)?

The Committee recommends that the Aboriginal Languages Advisory Committee (ALAC) is composed of representatives of all Aboriginal languages communities. The Committee sees the main mandate of this body as linking the community needs with the planning and policy activities of the GNWT in regards to Aboriginal language revitalization. In this capacity the ALAC would participate in the development of the long-term strategic revitalization plan and the annual action plans.

The recommendations see the ALAC replacing the existing Official Languages Board and the Aboriginal Languages Revitalization Board. The recommendations also address some of the operational shortcomings that were identified with regards to these two boards.

Aboriginal Languages Centre (ALC) outside of Government.

What is the role of the Aboriginal Languages Centre?

Central resources and clearing house

The Committee recommends the creation of the centre as a response to the many demands for a language resource centre and clearing house. The Aboriginal Languages Centre would be tasked with the language delivery and

programming aspects of a comprehensive revitalization regime. The Committee suggests the Centre would provide a centralized location for the resources and supports that the language communities need to protect, revitalize, maintain, and modernize their languages. This could be linguistic expertise to support terminology development and orthographic standardization, as well as initiatives to encourage community development and capacity building for language revitalization. The Centre could also facilitate the collaboration with existing programs outside the NWT, like the University of Victoria's Certificate Program in Aboriginal Language Revitalization.

The Aboriginal Language Centre could also function as a clearing house for resources, including those developed by language groups. This would avoid duplication in developing language teaching and learning materials, and would allow sharing, exchange and networking between the language groups.

Aboriginal languages website and Dene fonts

The Centre would be tasked with the development of Unicode Dene fonts, an Aboriginal language resource website, the development of Adult language training curricula and other initiatives to increase the day-to-day use of Aboriginal language that can be adapted and used by the different language communities. The Centre should also coordinate Interpreter/Translator training and standards in collaboration with language communities and other agencies, for example the existing pilot project currently being delivered through the Akaitcho Government.

How will the Aboriginal Languages Centre be financed?

The Committee recommends that the GNWT funds this new Aboriginal Language Centre. Many of the tasks of the Centre are now assigned to the Government. Even though the importance of those tasks was pointed out by SCROLA and by many submissions from the community language groups and organizations, little or no progress has been made, while the languages are quickly deteriorating.

The Committee found that the GNWT seems to be challenged by its own lack of capacity and missing opportunities to collaborate with the community language groups to deliver those supports. Our recommendation suggests that the Centre is closely linked with the community language groups and as such is in a better position to accomplish these tasks. The Government's role wouldn't be to support the creation and operation of the centre on an on-going and stable basis.

The Centre would have accountability requirements and would need to submit an annual report to its funding agency, the Aboriginal Languages Authority.

Where will the Aboriginal Languages Centre be located?

The Committee did not make a recommendation on the location for the Aboriginal Languages Centre. This should be determined in consultation with the language communities. However, the Committee urges all decision makers to keep in mind that this centre should act as a central resource and clearing house for all Aboriginal languages and should be easily accessible by all language communities and organizations.

How will the Aboriginal Languages Centre be created? Who will make the decisions?

To fulfill this mandate it is essential that there would be an on-going working relationship between Government and the language communities. There also needs to be a close link to the long-term Aboriginal languages revitalization plan led by the Aboriginal Languages Authority.

The Committee did not prescribe in its recommendations how this centre should be created. Lessons could be learned from our neighbors; both the Yukon and Nunavut have similar organizations that should be looked at for best practices. The mandate and tasks that the Committee recommended for the Aboriginal Language Centre would also give indications for staffing and resource needs.

Ultimately, the GNWT needs to consult with the language communities and established language societies in the NWT to decide on the organizational structure for the Centre.

Next Steps and the Implementation of the Recommendations

Now that the Committee tabled its Final Report, what are the next steps?

Typically the Government would respond to the Committee report and its recommendations. This response will give a first indication if and where the GNWT agrees with the Committee's findings. However, our recommendations

are not binding on the Government. The Committee hopes that it has built a strong enough case to convince the Government to look at the suggested models.

The Committee included some recommendations that would address the next steps, for example, that

- The GNWT makes negotiations with Canada on changes to the *Official Languages Act* a priority,
- The GNWT bring a legislative proposal forward during the live of the 16th Legislative Assembly, and
- The GNWT create implementation plans for the proposed *Official Languages Services Act* and the Aboriginal Languages Revitalization regime.

The Committee recognizes that its recommendations cannot be implemented over night and has suggested transitional provisions that would address the most urgently needed changes in the meantime. These transitional provisions include

- Increased financial and capacity supports to community language groups including multi-year funding,
- Improved communication and consultation with community language groups and their organizations,
- Establishment of the Aboriginal Language Centre in the fiscal year 2010/2011,
- Improved service delivery in Official Languages, and
- Amendments to the existing Act relating to the Languages Commissioner and the amalgamation of the Official Languages Board and the Aboriginal Languages Revitalization Board.

How will the Committee make sure the Government makes changes and improves services in Official Languages?

Recommendations not binding

As said earlier the Committee recommendations are not binding on the Government. However, the Committee sees the current Minister's commitment to improve language services and to review the Aboriginal languages strategy of the GNWT as positive indicators of the Government's willingness to implement changes.

Improved reporting requirements

The Committee recommendations also include improved reporting requirements for the Minister in the Annual Report on Official Languages and an obligation of the Committee to review this report.

Urgency to address challenges

The Committee also hopes that its Final Report on the Review of the *Official Languages Act* will generate broad discussion and public debate creating awareness for the challenges and urgency for action. The Committee counts on the commitment of all Members of our Assembly to make changes and improvements to our languages regime a priority when reviewing business plans and making policy decisions.

Do the language communities agree with the Committee recommendations?

The recommendations are driven by what the Committee heard in the communities and from language stakeholders. One essential part of the recommended changes is that the Government must work in closer collaboration and consultation with the language communities.

If the Government accepts the review recommendations, there will be many opportunities for the language communities to influence and shape Government language planning and the implementation of the suggested regime.

The Committee thanks all stakeholders and members of the public who provided feedback and input in its review process. The Committee Members respect their continued efforts for improving language services and saving their languages. The Committee hopes they will be encouraged by its recommendations and continue their valuable contributions and participation in the future.