

Standing Committee on
Rules and Procedures



Report on Motion 5-19(2): Referral of Point of Privilege Raised by Member for Monfwi on March 10, 2020

19th Northwest Territories Legislative Assembly

Chair: Mr. Kevin O'Reilly

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February 9, 2021

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Rules and Procedures is pleased to provide its *Report on Motion 5-19(2): Referral of Point of Privilege Raised by Member for Monfwi on March 10, 2020.*



Mr. Kevin O'Reilly
Chairperson, Standing Committee on Rules and Procedures

**STANDING COMMITTEE ON
RULES AND PROCEDURES**

**REPORT ON MOTION 5-19(2): REFERRAL OF POINT OF PRIVILEGE
RAISED BY MEMBER FOR MONFWI ON MARCH 10, 2020**

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STANDING COMMITTEE ON RULES AND PROCEDURES

REPORT ON MOTION 5-19(2): REFERRAL OF POINT OF PRIVILEGE RAISED BY MEMBER FOR MONFWI ON MARCH 10, 2020

INTRODUCTION

The Standing Committee on Rules and Procedures (Committee) is pleased to report on its review of Motion 5-19(2): Referral of Point of Privilege Raised by Member for Monfwi on March 10, 2020.

Motion 5-19(2) was moved by the Member for Tu Nedhé – Wiilideh and seconded by the Member for Hay River North on March 11, 2020 and was adopted by the Assembly. On October 15, 2020, Committee sought and received an extension of the review period for an additional 120 days. The purpose of the extension was to allow Committee to engage with residents on the use of Official Languages in this Legislative Assembly.

BACKGROUND

The Legislative Assembly makes interpreters available in most Official Languages when Members are sitting in the Chamber. On March 10, 2020, a Tłı̄ch̄q Interpreter was not available due to a last-minute cancellation. The interpreter scheduled, cancelled for personal reasons. The Member for Monfwi, Mr. Lafferty, rose on a point of privilege. He said the lack of interpretation impeded or prevented him from performing his parliamentary functions as a Member and asked the Speaker to adjourn the proceedings.

The Speaker took the matter under advisement and the proceedings continued. On March 11, 2020, when a Tłı̄ch̄q interpreter was available, the Speaker heard debate on the matter of privilege. Following debate, the Speaker ruled that the matter did raise a question of privilege. He entertained motions on the ruling, and. Motion 5-19(2) was referred to this Committee for consideration.

After several *in camera* meetings on the topic, Committee held a public hearing on November 17, 2020. Committee received a presentation from M. Batiste Foisy at this hearing. In addition, Committee received written submissions from: Mr. Jackson Lafferty, Member for Monfwi; the Dene Nation; the Gwich'in Tribal Council; the Yellowknives Dene First Nation; and Ms. Mary Rose Sundberg. These written submissions are included as Appendix 1 of this report. Committee thanks all those who made submissions for sharing their views on this important matter.

OFFICIAL LANGUAGES IN THE NORTHWEST TERRITORIES

Since 1990, the *Official Languages Act* has included Indigenous languages as Official Languages of the Northwest Territories, giving them equal status within the Government of the Northwest Territories and the Legislative Assembly. The Act recognizes the many languages spoken and used by people of the NWT and is committed to the preservation, development, and enhancement of the Indigenous languages.

The Act recognizes 11 Official Languages: Chipewyan (Dëne Sų́líné Yatı́é), Cree (Nēhiyawēwin), English, French (Français), Gwich'in (Dinju Zhuh K'yuu), Inuinnaqtun, Inuktitut, Inuvialuktun, North Slavey (Sahtúǰ'tı́ne Yatı́), South Slavey (Dene Zhatı́é) and Tłı́chǰ. Nine of these Official Languages are Indigenous languages that belong to three different language families: Dene, Inuit and Algonquian/Cree.

The five Dene languages are: Chipewyan (Dëne Sų́líné Yatı́é); Gwich'in (Dinju Zhuh K'yuu); North Slavey (Sahtúǰ'tı́ne Yatı́); South Slavey (Dene Zhatı́é); and, Tłı́chǰ.

The three Inuit languages are: Inuvialuktun; Inuinnaqtun; and Inuktitut

The one Algonquian/Cree language is: Cree (Nēhiyawēwin).¹

The revitalization and use of Indigenous languages are important aspects of reconciliation. In their submission the Dene Nation states, "The acceptance, use and respect of Indigenous languages is a critical component to the effective

¹ Office of the Languages Commissioner for the Northwest (n.d.). *Languages Overview*.
<https://olc-nt.ca/languages/overview/>

reconciliation between the Dene people and the Government of the Northwest Territories.”

The 19th Legislative Assembly has identified implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as a priority.² It is included in the Mandate of the Government of the Northwest Territories (2019-2023).³ Article 13 of UNDRIP states:

1. 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.
2. States shall take effective measures to ensure that this right is protected and also to 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.⁴

In their submission, the Dene Nation states that article 13.2 of UNDRIP “is practically facilitated through the consistent use of translation and interpretation services for all of the Territory’s Official Languages, in all legislative proceedings”.

USING OFFICIAL LANGUAGES IN THE CHAMBER

In ruling on the matter of privilege, Speaker Blake referenced a similar situation that arose in the 11th Legislative Assembly:

On October 26, 1989, day 7 of the 5th session of the 11th Legislative Assembly, the Member for Rae-Lac La Martre spoke in an Official Language for which interpretation was not available. Another Member rose on a point of order. Then Speaker Nerysoo adjourned the House until such a time as interpretation could be provided. In his decision to adjourn

² Northwest Territories Legislative Assembly (2019, October 25). *Priorities of the 19th Legislative Assembly*. https://www.ntassembly.ca/sites/assembly/files/td_1-191.pdf

³ Government of the Northwest Territories (February 7, 2020). *2019-2023 Mandate of the Government of the Northwest Territories*. https://www.ntassembly.ca/sites/assembly/files/td_12-192.pdf

⁴ United Nations (2007, September 13). *United Nations Declaration on the Rights of Indigenous Peoples*. <https://undocs.org/en/A/RES/61/295>

for the day, Speaker Nerysoo noted that the rules of the Legislative Assembly at that time expressly provided that a Member had the "right to speak and be understood in his own language."

Our current rules are silent on the right to use and be understood in our Official Languages. However, the *Official Languages Act* provides that everyone has the right to use an Official Language in the debates and other proceedings of the Legislative Assembly.⁵

Committee believes that the right to use an Official Language in the Assembly, as provided for in the Act, necessarily implies the right to be understood by those Members who do not speak that language. In the submissions received by Committee, many agreed with this position. The Gwich'in Tribal Council noted, "If what is said is not understood, then speech is essentially equivalent to silence." Further, in their submission, the Dene Nation stated:

"The speakers of these languages deserve the ability to fully participate in the proceedings of the Legislative Assembly as elected representatives of their communities, free from discrimination... the use and recognition of the NWT's Official Languages sets important precedents for the ways in which language is used and adopted across the territory."

Recognizing the importance of our Official Languages to the speakers of these languages and the cultures they represent, Committee believes that our Rules should be amended.

Recommendation 1

The Standing Committee on Rules and Procedures recommends that the Rules of the Legislative Assembly be amended to clearly state the right to use any Official Language when speaking in the Assembly and further, that this right necessarily implies the right to be understood by those Members who do not speak that language. Further, Committee recommends that the Rules of the Legislative Assembly be amended to reflect the right of Members to receive interpretation in any Official Language.

⁵ Northwest Territories Legislative Assembly (2020, March 11). *HANSARD Wednesday, March 11, 2020*. <https://www.ntassembly.ca/sites/assembly/files/hn200311.pdf>

Recommendation 2

The Standing Committee on Rules and Procedures recommends that the Rules of the Legislative Assembly be amended to clearly state that documents in any Official Language may be tabled in the Assembly.

USING OFFICIAL LANGUAGES IN COMMITTEE MEETINGS

The public hearing held by Committee on November 17, 2020 related to this matter offered simultaneous interpretation in French and Tłıchǰ. In recent years it has been uncommon to have interpretation for Committee meetings, other than for public hearings on legislative or other initiatives, taking place in smaller communities.

Rule 92 of the Rules of the Northwest Territories Legislative Assembly states, “The Rules and Procedures of the Legislative Assembly shall be observed in Committees in so far as they are applicable”⁶. However, Committee recognizes that it is not currently feasible to provide simultaneous interpretation in all Official Languages at committee meetings. The reasons for this, include: physical limitations of the Legislative Assembly Building and its Committee Rooms; the number of and availability of qualified interpreters; and the number of Committee meetings held, some of which are frequently scheduled on short notice.

Committee recognizes that Members and witnesses appearing before Committees have the right to use an Official Language. Until such a time when it is feasible to provide simultaneous interpretation for all Committee proceedings, Committee believes interpretation should be offered to Members and witnesses in advance of any meeting. Committee believes that a one-week notice of request for interpretation for any Committee proceedings is reasonable. Committee also believes that efforts to provide appropriate interpretation should be increased for public Standing and Special Committee meetings taking place outside of the Capital.

⁶ Northwest Territories Legislative Assembly (2019, December 10). *Rules of the Northwest Territories Legislative Assembly*.
https://www.ntassembly.ca/sites/assembly/files/images/rules_of_ntla_december_2019.pdf

Recommendation 3

The Standing Committee on Rules and Procedures recommends that simultaneous interpretation of Committee Proceedings into any Official Language should be made available to Members, or witnesses appearing before Committee, with a one-week notice and further that the availability of this service should be communicated clearly with Members and any witnesses.

Recommendation 4

The Standing Committee on Rules and Procedures recommends that the Assembly should increase efforts to provide interpretation into regionally appropriate Official Languages when Standing and Special Committees hold public meetings in Communities outside of the Capital.

COMPETING PRIVILEGES

Parliamentary privilege can be a difficult concept for many people to understand. However, it is a concept fundamental to the smooth and effective functioning of the Legislative Assembly.

Parliamentary privilege is the sum of the rights or privileges enjoyed by the Legislative Assembly, as an institution, and by its Members, individually, without which Members could not do their jobs as legislators and which are not possessed by other institutions or individuals.

For our Legislative Assembly, Rule 20(1) outlines the privileges of a Member as:

- i. freedom of speech;
- ii. freedom from arrest in civil matters;
- iii. exemption from jury duty;
- iv. exemption from attendance as a witness in court while the House or a Committee is sitting; and
- v. freedom from obstruction and intimidation in relation to their duties as elected representatives.

The privileges of the house include:

- i. the power to maintain order and to discipline for breaches of privilege and for contempt of the House. Contempt of the House may include disobedience to its orders, misconduct before it, affronts against its dignity

- and authority, and any act or omission which impedes or obstructs the House or its Members in the performance of their duties; and
- ii. the right to regulate its internal affairs, including the right to set its own Rules and to exercise control over publications.⁷

The point of privilege raised by the Member for Monfwi on March 10, 2020 suggested the lack of interpretation impeded or prevented him from performing his parliamentary functions as a Member. Committee believes this represents an imposition upon the privilege of the Member for Monfwi. The remedy sought by the Member was an adjournment of proceedings. This, it would appear, conflicts with the right of the Assembly to regulate its internal affairs.

The Assembly has, by law, limited its own privileges. Section 1 of the *Official Languages Act* clearly identifies the “government institution” to which the Act applies includes the Legislative Assembly. Further, Section 6 of the Act provides that: “everyone has the right to use any official language in the debate and proceedings of the Legislative Assembly.”

Committee does not recommend any further limits to the privilege of the Assembly. Committee recognizes that the Speaker has the ultimate authority and responsibility to make decisions regarding the proper functioning of the Assembly. However, Committee makes the following recommendation:

Recommendation 5

The Standing Committee on Rules and Procedures recommends that, should a comparable situation arise in the future, the Speaker give strong consideration to a recess in, or adjournment of proceedings until such a time as adequate interpretation can be provided.

OFFICIAL LANGUAGES POLICY

In 2018 the Languages Commissioner for the Northwest Territories released a special report on Language Services at the Legislative Assembly of the NWT⁸. The report was not submitted to the Speaker and was not tabled in the

⁷ Northwest Territories Legislative Assembly (2019, December 10). *Rules of the Northwest Territories Legislative Assembly*.

https://www.ntassembly.ca/sites/assembly/files/images/rules_of_ntla_december_2019.pdf

⁸ Office of the Languages Commissioner for the Northwest (2018). *Report of the Languages Commissioner of the Northwest Territories following an investigation into Language Services at the Legislative Assembly of the Northwest Territories*. <https://olc-nt.ca/wp-content/uploads/2020/06/Report-Language-Services-at-the-Legislative-Assembly-of-the-NWT-1.pdf>

Assembly; however, it is available on the Commissioner's website. The report recommends the development of a rights-based Official Languages policy for the Legislative Assembly.

Committee agrees that an Official Languages policy would benefit the Legislative Assembly and makes the following recommendation:

Recommendation 6

The Standing Committee on Rules and Procedures recommends that the Speaker and Board of Management develop a rights-based Official Languages Policy for the Legislative Assembly and that the policy come into effect prior to the end of this Assembly.

In keeping with the *Official Languages Act*, any forthcoming Official Languages policy must recognize the right to use any Official Language in the Legislative Assembly. It must also lay out the operational procedures and policies that will be developed and implemented to preserve and enhance the use of our Official Languages. The policy should highlight the role of the Legislative Assembly as a champion of Official Languages, including, but not limited to:

- a commitment to provide simultaneous interpretation of House proceedings into all Official Languages to the greatest extent possible;
- recognition of exceptional circumstances, such as the ongoing COVID-19 pandemic, which may result in an inability to provide simultaneous interpretation in all Official Languages;
- recognition of the challenges that can be faced in finding qualified interpreters into all Official Languages, that the challenges may become more pronounced as the current compliment of interpreters retire from the profession, and clear definition of the best practices and reasonable efforts that must be undertaken in trying to do so;
- a plan for a step-wise expansion of Official Languages services within the Legislative Assembly;
- a plan to incorporate interpreters and Official Languages services into the orientation program for Members of future Legislative Assemblies;
- a plan to engage interpreters in regular and ongoing training on the proceedings of and terminology specific to the Legislative Assembly;
- a plan to seek regular feedback from interpreters and speakers of our Official Languages on the quality of interpretation services provided;
- a plan to develop and implement training for remote interpretation, which would allow interpreters to provide effective services from their home communities;

- a plan to standardize the hiring practices and contracts for interpreters employed by the Legislative Assembly;
- a stepwise plan to make the majority of Legislative Assembly publications available in all Official Languages, beginning with the Orders of the Day and the Votes and Proceedings;
- a plan to make translation services in all Official Languages available to Members of the Legislative Assembly; and
- a plan to allow the inclusion of all Official Languages other than English into Hansard by allowing Members of the Legislative to submit typed text of any statement made in the Assembly in any Official Language, which is consistent with this Committee's recommendations in its Report on Remote Sitings;

Further, any Official Languages Policy should be available on the Legislative Assembly website in all Official Languages.

Committee recognizes that a thorough Official Languages Policy is a significant undertaking and it may not be possible to fully implement all aspects of such a policy during the life of this Assembly. Committee also recognizes that as technologies evolve, new issues raised and new solutions identified, it will be necessary to update any forthcoming Official Languages Policy. To that end, Committee envisions an Official Languages Policy that will be regularly updated and shared with the public and future Committees.

OPERATIONAL CHANGES

In addition to the development of an Official Languages Policy, Committee believes operational changes should be considered at the Legislative Assembly to improve the delivery of Official Language services.

Since 2019, the Legislative Assembly has benefited from an increased budget related to Official Languages, such as:

- Interpretation services were extended from a two-hour period from the start of a sitting day to full day coverage;
- Facilities were upgraded to allow the number of Official Languages being interpreted on a daily basis to be increased;
- Broadcasting in Official Languages other than English was increased;
- YouTube channels were created to share proceedings in interpreted Official Languages; and

- Some professional development for interpreters has been introduced.

Committee recognizes that, due to the ongoing COVID-19 pandemic, it is not currently possible to provide simultaneous interpretation of proceedings into all Official Languages due to the physical and technological limitations of the Legislative Assembly. Committee appreciates the ongoing efforts to provide simultaneous interpretation into the greatest possible number of Official Languages and encourages the Assembly to continue these efforts.

Following the pandemic, or when it is possible to overcome the current physical and technical limitations faced by the Assembly, Committee encourages full simultaneous interpretation of House proceedings into all Official Languages where:

- interpretation is provided for the entire sitting day;
- a minimum of two interpreters should be scheduled to provide service in each Official Language, in keeping with best practices;
- to the greatest degree possible the Assembly should hire interpreters from multiple communities to ensure that regional dialects of Official Languages are adequately represented in the Assembly; and
- efforts should be undertaken to identify on-call interpreters who are able to provide service on short-notice if there is an unexpected cancellation.

As recommended in the Languages Commissioner's special report, this Committee believes there would be value in recording statistics regarding the use of Official Languages in the Assembly. Further, Committee believes these statistics should be incorporated into future Annual Reports of the Legislative Assembly. Statistics to be recorded may include:

- the number of translation and interpretation requests made by Members of the Legislative Assembly and turnaround time for this work;
- the number of Assembly documents translated into Official Languages;
- the number of Committee meetings for which interpretation is provided;
- the number of hours of House proceedings interpreted into each Official Language as well as the total number of hours of interpreted proceedings; and
- the number of Ministers' and Members' statements made in an Official Language other than English.

Prior to the public hearing of November 17, 2020, Committee distributed a stakeholder letter seeking input on this matter. Attached to this letter was an active offer to provide the letter in any Official Language. Committee believes

that the Legislative Assembly should develop an active offer page, making use of the appropriate spelling of each language, and it should be included with the following documents:

- Votes and Proceedings;
- Rules of the Legislative Assembly;
- Code of Conduct for Members of the Northwest Territories Legislative Assembly;
- News releases;
- Annual Reports and other Reports of the Legislative Assembly; and
- Committee reports.

The active offer should also feature prominently on the Legislative Assembly website. In addition, Committee believes the Legislative Assembly should strive to produce the Votes and Proceedings, the official record of the Assembly and Committee of the Whole, in all Official Languages.

During the public hearing M. Batiste Foisy remarked on the inability of the Legislative Assembly to provide interpreted audio in a timely manner, which can impact the ability of non-English media in reporting on the proceedings of the Legislative Assembly. Committee understands that this shortcoming is, for the most part, due to limitations of the hardware currently in use. In the longer-term, Committee believes that the Legislative Assembly should consider the Official Languages requirements when upgrading audio and video equipment related to broadcasting, web-streaming and in-house audio systems.

Recommendation 7

The Standing Committee on Rules and Procedures recommends that the above suggestions be investigated by the Office of the Speaker, the Board of Management and the Office of the Clerk in an effort to make immediate improvements in the provision of Official Languages services. Further, if any of these suggestions are found not be feasible at present, Committee recommends that a plan to realize these outcomes be included in the Official Languages policy.

REVIEW OF THE *OFFICIAL LANGUAGES ACT*

In their written submissions, the Yellowknives Dene First Nation and Ms. Mary Rose Sundberg indicated a need to reinstate interpreter and translator training programs. Both submissions advocate for a decentralized approach to providing this training that will allow for accreditation in the field. Ms. Mary Rose Sundberg

indicated a need for the Government of the Northwest Territories to re-open a Languages Bureau. Committee believes these are issues worthy of consideration but recognizes these issues are beyond the scope of this review.

Recommendation 8

The Standing Committee on Rules and Procedures recommends that the Standing Committee on Government Operations consider the issues of interpreter and translator training and accreditation and the possibility of a future Government of the Northwest Territories Languages Bureau in the context of its review of the *Official Languages Act*.

CONCLUSION

The Committee finds the lack of interpretation in Tłıchǫ on March 10, 2020 impeded or prevented the Member for Monfwi from performing his parliamentary functions as a Member. The Committee has made recommendations that, it believes, will assist the Assembly in avoiding any similar situation in the future.

Committee thanks M. Batiste Foisy for appearing at the public hearing on November 17, 2020 and thanks Mr. Jackson Lafferty, Member for Monfwi; Dene Nation; Gwich'in Tribal Council; Yellowknives Dene First Nation; and Ms. Mary Rose Sundberg for their written submissions on this matter.

This concludes the Committee's report on its review of Motion 5-19(2): Referral of Point of Privilege Raised by Member for Monfwi on March 10, 2020.

APPENDIX 1

SUBMISSIONS



Concerns regarding Interpreting at the Legislative Assembly

Aurora College use to run the Interpreter/Translator (IT) program and many of the interpreters and translator that provide interpretation for the Assembly are trained and they also provide interpretation for organization and government departments. Many of them are nearing retirement. There is no IT training to replace the retiring. The language Bureau and the interpreters/translators training program were dismantled in the 90's, although they said the reason was, no one wanted the IT training program anymore but in fact what people wanted was to have training in their communities instead of Ft. Smith where the training was, so that they can be closer to their language group. These are the concern of our communities and we think these need to be done as soon as possible:

- 1) They need to reinstate the training program certificate, which was managed by GNWT
- 2) They need to provide funding to regions to train new interpreters
- 3) Every interpreter needs to be evaluated and train or refresh their skills
- 4) Terminology workshops are very important, especially at the Legislative Assembly
- 5) Their interpretation reflects on the government and political leaders
- 6) Interpreters should be test for accuracy and qualification and base that on their pay
- 7) Train interpreters/translators to National levels
- 8) Hire Interpreter/translators part-time for the Legislative Assembly and translation work
- 9) Utilize trained interpreters living in Yellowknife to save cost
- 10) Interpreter/translators need to provide their credentials in order to get on the GNWT interpreters/translators list.

Reinstating the Interpreter Translator Training Certificate Program will not only improve interpretation but it will also open doors for people to work in other areas such as:

- Radio stations
- Language instructors
- Culture instructors
- Medical interpreting
- Court interpreting
- Translation work
- Language and culture teachers
- Immersion teacher
- Master/Apprentice program
- RCMP station
- Any community program in the communities

The I/T training program will not only open doors to more choices for employment but it will also improve self-esteem and confidence and advocate the importance of living and working in two worlds and Interpretation and translation are not only essential services to our success but are a valuable tool for preserving, developing and promoting our linguistics treasures.



Interpreting = orally such as at meetings, conference, workshops, one on one

Translating = on paper and written only



1. Does the right to use an official language in the Assembly include the right to be understood? Definitely
2. What should happen if a Member speaks in another language and an interpreter is not available? This should never occur if meetings at the Legislative Assembly are planned properly with scheduled Interpreters and replacements
3. Does it make a difference if an interpreter is unable to work at the last minute? Yes
4. What Assembly documents and proceedings should be available in all official
5. languages? Yes.
6. What could the Assembly do to support Members in using official languages? Provide Interpreter support and promote Language Education to MLAs
7. What rights do residents who speak official languages other than English have to
8. understand what is happening at the Assembly? The right to understand what is happening in the Legislative assembly regarding the discussions and decisions that can affect them. It is called for in the TRC.
9. Should the cost of interpreting figure into the use of official languages in the
10. Assembly? Yes

Q's & Concerns regarding Interpreting Services at the Legislative Assembly

Mahsi cho allowing to hear my concerns and to comment on my passion for interpreters/translators of the NWT. I understand the first interpreters were trained in the early 1970's and four were hired part-time to interpret for the Legislative Assembly, and later in 1982, new interpreters were hired and trained to interpret and translate for the government. I was part of the group. I truly believe even though you are fluent you cannot just come off the street and interpret; you need training and especially in terminology development.

GNWT operated Language Bureau for almost 25 years and they closed it in the late 1990's. In my opinion, it was one of the craziest decisions the government made. Not only did they shut Language Bureau down, they also shut down a very successful Interpreter/Translator Training Program at Aurora College and they said the reason for shutting down the program was lack of interest and low enrolment. A survey was done to get feedback regarding the program. People still wanted the program but they wanted the training in their own communities so they could be closer to their resource people; it was not due to a lack of interest. I believe with shutting down these two essential services, the government is slowing killing our languages and our people.

We have had an Official Languages Act in place since 1984 and we should have been investing in the development of the top professional interpreter/translators in Canada. Sadly, our communities are suffering because there is no one advocating for our languages out there. The only time I hear how important our languages are is during Dene Assemblies and leadership meetings, but once they leave the meeting, there is silence.

Today, we have interpreters that are trained; they are hustling for the few jobs that come along and that should not be happening. I believe training interpreters is very important for the government because whatever comes out of the interpreter's mouth reflects on you, the government and all MLA's, because if you hire interpreters with no training, you will not get quality interpretation. The audience will also not get the government messages or announcements that they require. The language commissioner stated several times to the legislative assembly that you need to reinstate the interpreters/translator's program and nothing has happened to date, we need changes and it needs to happen asap.

In order to improve interpretation and revitalize the languages you need to do the following:

- reinstate the interpreter/translator training program and certification, which was managed by GNWT
- provide funding to regions to train new interpreters
- evaluate interpreter/translators and provide training so they can refresh their skills
- hold regular terminology workshops, especially at the Legislative Assembly
- translate Orders of the Day into all languages and ensure consistent translations in all languages
- test interpreters and translators for accuracy and check qualifications before hiring
- adjust pay rates to reflect training and experience
- train interpreters/translators to meet national & international standards, GNWT has occupational standards for I/T
- hire interpreter/translators part-time for the Legislative Assembly and for translation work
- utilize trained interpreters living in Yellowknife to save cost
- do not hire interpreters/translators simply based on recommendations of their family, friends or co-workers
- require interpreter/translators to provide their credentials in order to get on the GNWT interpreters/translators' list
- have a separate list of those who can interpret and translate; these two are separate jobs, not all can do both
- hire in-house interpreters for the Legislative Assembly
- would be great if we can get feedback from communities on the quality of interpretation at the ledge
- have a master/apprentice program to train new interpreters

Reinstating the Interpreter/Translator Training Certificate Program will not only revitalize the languages but also improve interpretation; it will also open doors for people to work in other areas such as:

- radio stations
- language instruction

- culture instruction
- medical interpreting
- court interpreting
- translation work
- immersion teaching
- Master/Apprentice program
- RCMP station interpretation
- community programs in the various areas

The languages of the Dene of the NWT are supposed to have the same official status, with equal rights to the English and French-speaking citizens, but this is not happening. The government is breaking all their own policies and acts that they put in place. Once the interpreter/translator program is reinstated, the government will help in preserving, developing, and promoting all of the Dene languages.

Questions from the Legislative Assembly:

1. Does the right to use an official language in the Assembly include the right to be understood?
Absolutely, it is in section 11 of the official language act.
2. What should happen if a Member speaks in another language and an interpreter is not available?
You know who all the MLA's are and who speaks their language fluently, so make sure you always have those interpreters hired or on standby in house.
3. Does it make a difference if an interpreter is unable to work at the last minute?
Contact all interpreter and see if they can be available at last minute, this is the reason YK interpreters should be used, they can easily come to the Ledge in a few minutes notice.
4. What Assembly documents and proceedings should be available in all official languages?
Orders of the Day, if possible, the Minister statement and Members statement, because this info is very important for the public and it should accurately be translated into the languages.
5. What could the Assembly do to support Members in using official languages?
All members should learn the Dene Roman Orthography and they can read their own statements in the language without any problems. Work with the interpreters who know how to read and write in the language. This is why it is very important that interpreter/translator are hired who can do both and are certified.
6. What rights do residents who speak official languages other than English have to understand what is happening at the Assembly?
Every member of the NWT has the right to communicate and be understood in their choice of language it is in the Official Language Act section 11. Every decision made in the Ledge affect people of the NWT and it is very important that it is in their language and that they have quality interpretation and in order to do that, I/T need certification and terminology development training. Communication is key if you want people's support your decisions and to keep them updated.
7. Should the cost of interpreting figure into the use of official languages in the Assembly?
Yes, definitely. Hire interpreters in Yellowknife to save on cost and they should be hired and trained in the Legislative Assembly department.

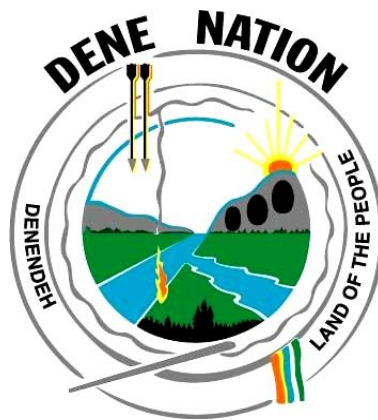
Mahsi Cho,

Mary Rose Sundberg
Senior Interpreter/Translator

**Written Submission on the Use of Official Languages
in the Northwest Territories Legislative Assembly**

Submitted to:
The Standing Committee on Rules and Procedures
(Northwest Territories, Legislative Assembly)

Submitted by:
Dene Nation on November 17, 2020





Dené National / Assembly of First Nations Office (NWT)

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The Dene Nation has taken this opportunity to provide comments to the Government of the Northwest Territories in good faith. We trust that these comments will be considered in this process as it relates to the Official Languages Act and the rules and procedures of the Legislative Assembly. This submission does not provide any formal consultation, consent, or approval by the Dene Nation regarding any legislation.

Introduction

The preservation of language is not just an issue of translation and understanding, it also inherently reflects the survival of cultures. It reflects equal and equitable participation in society. It plays a vital role in the ability to communicate, to learn, to define one's identity, and to express historic traditions. For the Dene Nation, the heart of our languages are tied to our land and culture. Our ability to express ourselves in our own languages speaks to the survival of our Nation today and for the next seven generations.

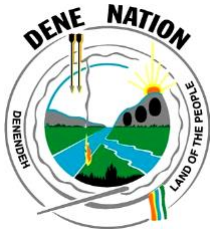
While language is a powerful tool for communication and expression, it also can be a weapon - one which holds people back in their ability to fully and meaningfully participate in the goings-on of society, especially where their participation intersects with power and decision-making. On March 10, 2020, we saw the uneven power dynamics of language first-hand when MLA Lafferty (Monfwi) was unable to participate in the proceedings of the Legislative Assembly to which he was elected, as no Tłı̄chǫ language interpretation was readily available.

In the Legislative Assembly, elected Members represent the ideas and interests of their communities through language. As MLAs stand in the Legislative Assembly to be the voice of their constituents, they must be empowered to use their voice in a way that enables them to be full participants in the decision and legislative-making process of the Northwest Territories (NWT). In the NWT, we recognize 11 official languages. The speakers of these languages deserve the ability to fully participate in the proceedings of the Legislative Assembly as elected representatives of their communities, free from discrimination.

The use and recognition of the NWT's official languages in the Legislative Assembly sets important precedents for the ways in which language is used and adopted across the Territory. Between 1989 and 2014 the percentage of Territorial residents (over the age of 15) who spoke an Indigenous language dropped by nearly 17%. In 2014, it stood at 38% of the Indigenous 15+ population, pointing to the deteriorating ecosystem of Indigenous languages. The NWT officially accepts 11 languages, but this acceptance means nothing if these 11 languages are not actively supported, engaged with, and used in the course of daily life and work. This begins with the accountability to adhere to appropriate and consistent use and execution of language services in the Legislative Assembly and across all programs, ministries, and services provided by the GNWT.

Language should not be a barrier to the full participation of elected Members in the Legislative Assembly, including the right to communicate, the right to be understood, and the right to understand.

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The acceptance, use, and respect of Indigenous languages is a critical component to effective reconciliation between the Dene people and the Government of the Northwest Territories.

Legal Frameworks: Official Languages Act (NWT), Indigenous Languages Act (Canada), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The framework for the recognition, acceptance, reclamation, and strengthening of Indigenous languages, as well as the exercise of human rights related to Indigenous languages, is well established across this Territory, country, and world. Reflecting each in relation to the GNWT's framework is an important lens to determine where the GNWT should focus on its strengths and weaknesses as this legislative review unfolds.

To begin, Section 6 of the *Official Languages Act, R.S.N.W.T. 1988, c.O-1* offers recognition, acceptance, and endorsement of the use of the NWT's official languages throughout the work of the Legislative Assembly, "everyone has the right to use any Official Language in the debates and other proceedings of the Legislative Assembly R.S.N.W.T. 1988,c.56 (Supp.),s.7; S.N.W.T. 2003,c.23,s.20(1)." In its Preamble, the Act sets a clear framework for why and how Indigenous languages should be represented and protected, noting the "desir[e] to provide in law for the use of the Aboriginal languages in the Northwest Territories, including the use of the Aboriginal languages for all or any of the official purposes of the Northwest Territories at the time and in the manner that is appropriate;" and that "the legal protection of languages will assist in preserving the culture of the people as expressed through their language." Therefore, the Act shall prevail in the employment of language services as per its legislative framework.

Nationally, Canada's *Indigenous Languages Act* further reaffirms the rights related to Indigenous languages, noting in its Preamble the "urgent need to support the efforts of Indigenous peoples to reclaim, revitalize, maintain and strengthen [Indigenous languages]," including supporting where these efforts take place across various entities and regions. In S.5, the Act mandates Canada to "establish a framework to facilitate the effective exercise of the rights of Indigenous peoples that relate to Indigenous languages...", in this regard, the GNWT has advanced Canada through its adoption of the *Official Languages Act*, which upholds the language rights of Indigenous peoples by legislating that all 11 languages "have equality of status and equal rights and privileges as to their use in all government institutions".

Internationally, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) sets the highest framework standard for the acceptance, reclamation, and recognition of Indigenous Languages, as well as the rights of Indigenous peoples as they relate to the languages through Article 13:

1. 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.

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2. States shall take effective measures to ensure that this right is protected and also to 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.

Notably, Article 13 makes clear that States [Governments] shall ensure Indigenous peoples are able to fully understand political proceedings. Therefore, proceedings in the Legislative Assembly are subject, as such. Given both Canada's and the GNWT's commitment to the legislative implementation of UNDRIP, the Dene Nation fully expects that this is practically facilitated through the consistent use of translation and interpretation services for all of the Territory's official languages, in all legislative proceedings and across all programs, ministries, and services provided by the GNWT.

Report of the Languages Commissioner – Language Services at the Legislative Assembly of the NWT (2018)

In 2018, NWT Languages Commissioner Shannon Gullberg tabled a report on the exact issue this Standing Committee is exploring today: Examining the use, recognition, and acceptance of the Territory's official languages in legislative proceedings. The Report makes reference to the "inalienable principles when it comes to language rights and their use in Parliament and legislatures in Canada." Notably, the Report points to the Supreme Court Case R v. Beaulac, citing the same concerns that the Dene Nation is tabling today, that "language rights are not negative rights, or passive rights; they can only be enjoyed if the means are provided."

Furthermore, a key finding of the Report follows:

"The Official Languages Act must not just hold quasi-constitutional status; it must be treated with such status. This means that the sentiments in the Preamble in regard to recognizing, preserving and protecting languages cannot be given "lip service." It means the rights expressed in section 6 and section 11 of the Act cannot be minimized. It means that the Act must be interpreted broadly and purposively and in a way that: protects minorities; makes it useful as a tool to protect language rights; and, emphasizes its remedial nature. These principles establish that language rights are "positive rights" which are community based and place broad obligations on the government as part of good governance."

With respect to the execution of these rights in the Legislative Assembly, the Report of the Languages Commissioner draws the distinction between a 'needs' or an 'essential' based approach as opposed to a 'rights-based' approach, recognizing the execution of language as a Member's [of the Legislative Assembly's] right, drawing on any number of reasons, including greater comfort level in communication, an honoring of culture and Elders, and the ability to better represent the interests of constituents for which they were elected.

It is crucial that where Indigenous Members are elected to these positions, they are able to best serve and represent the interests of their constituents. They must be empowered to do so through effective

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and clear communication in the (official) language of their choice. The Dene Nation expects the Legislative Assembly to uphold a rights-based approach to the use of all official languages in the Legislative Assembly, ensuring that language is not a barrier to full participation.

Response to Select Committee Questions

The right to use an official language means the right to communicate, to be understood, and to be able to understand. Language should enable rather than challenge participation by elected Members as a part of their duties, as is legislatively established in the *Official Languages Act*. In this context, it should also ensure the political and democratic participation of all residents of the Northwest Territories when interacting with all services and communications provided by the GNWT.

Does the right to use an official language in the Assembly include the right to be understood? What Assembly documents and proceedings should be available in all official languages? What rights do residents who speak official languages other than English have to understand what is happening at the Assembly?

As noted above, the Dene Nation supports that the rights relative to official languages are the right to communicate and the right to be understood, such that all Members of the Legislative Assembly are able to equally and equitably participate in all proceedings and decision making aspects related to their roles as elected Members.

The right to communicate and the right to be understood further extends to the constituents of any elected Member, such that official business and documents of the Legislative Assembly be available in all Official Languages of the NWT. Moreover, this right should extend to the ways in which constituents interact with services provided by the GNWT, as it pertains to the ability to communicate and be understood in the official language of their choice.

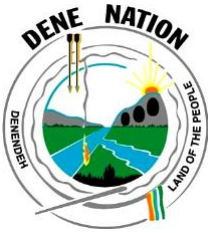
One key example is the accessibility of public health services in all of the NWT's official languages, notably in the midst of the COVID-19 pandemic. In September of this year, National Chief Yakeleya wrote to the Public Health Office noting the lack of culturally appropriate supports and services for the Dene, including examples of those who had called the GNWT's 811 service and were denied the ability to communicate and receive communication in their official language of choice.

Language rights and the preservation of language as outlined in the *Official Languages Act* apply to all residents of the NWT. It is crucial these rights are consistently applied and upheld through the delivery of all services and communications provided by the GNWT.

What should happen if a Member speaks in another language and an interpreter is not available? Does it make a difference if an interpreter is unable to work at the last minute?

Debate should only proceed when interpretation is fully functioning and available for all elected Members in the official language of their choice. This reflects, as noted above, a 'rights-based'

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approach to language; noting that interpretation and the ability to communicate in an official language is prerogative, not just an 'essential need'.

What could the Assembly do to support Members in using official languages?

Full availability of interpretation in legislative and committee proceedings, as well as full translation of all Legislative Assembly documents in a proactive manner, such that elected Members, residents, and constituents are not required to request such translation, but that it is consistently implemented and readily accessible.

Should the cost of interpreting figure into the use of official languages in the Assembly?

The Crown has a well-established fiduciary responsibility towards Indigenous peoples, first affirmed in the landmark Guerin decision, manifesting as legally enforceable obligations towards First Nations peoples; including accommodations for upholding Treaty or Aboriginal rights. As such, cost in this matter is a part of the fiduciary duty and responsibilities that the Crown has towards Indigenous peoples in upholding and expressing their rights related to officially recognized Indigenous languages.

Conclusion

The NWT has a robust, diverse, and celebrated societal fabric with shared stories and experiences. The Dene's roots and histories thread deep within this fabric. This diversity is reflected in our Territory's official languages. Language is a fundamental expression of history, culture, and identity; it is the way in which people connect to each other. Language is a tool of empowerment - for education, for business, and for decision-making.

As the Standing Committee moves through this legislative review, it is imperative that the full value of language is upheld as it is intended through the work of the GNWT. The right to use an official language means the right to communicate, to be understood, and to be able to understand. Within the outcomes of this work, the inalienable rights of the Dene must be upheld allowing for the equal, equitable, and non-discriminatory participation in all legislative and government processes; so that all Dene may have the right to communicate with, be understood by, and to understand all services and communications provided by the GNWT.

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Gwich'inat Eenjit
Gàdatr'igwijiicheii Gidilii
Gwich'in nan, nakhwek'yùu ts'at gwitr'it
tthak nakhwidavee gwiheezàa eenjit

Gwich'in Tribal Council
Gwich'in land, culture & economy for a better future

We thank the Standing Committee on Rules and Procedures for the opportunity to respond to the use of official languages in the NWT Legislative Assembly.

Does the right to use an official language in the Assembly include the right to be understood?

Yes, if a person has a right to use an official language in the Assembly, they have a right to be understood. The person representing a region with a language in the official languages act have the right to use and work in an official territorial language.

If what is said is not understood, then speech is essentially equivalent to silence. If speech is a right then the intention must be communication, and communication requires both a speaker and receiver of a message. Therefore the right to speech entails the right to be understood.

What should happen if a Member speaks in another language and an interpreter is not available?

If a Member speaks another language and an interpreter is not available, there must be policies in place that require at least two interpreters be available during the Assembly in case one calls in sick, or proceedings should be paused until an interpreter is located in order to ensure a member's rights are being upheld.

Does it make a difference if an interpreter is unable to work at the last minute?

It makes a huge difference if an interpreter is unable to work at the last minute as it puts business on hold for a Member who chooses to use their language.

What Assembly documents and proceedings should be available in all official languages?

- Sound recordings, committee reports, and motions (especially those pertaining to consultation with Indigenous people); these should be available in the language of the communities being consulted or those affected by resulting decisions.
- letters – letters from the ministers should be in all languages.
- Reports on the review of bills (especially those pertaining to Indigenous people's concerns)



- Briefing notes—if they relate to specific community or language groups
- Votes Proceedings
- Rules of Assembly –such as codes of ethics & codes of conduct. These apply to everyone, so they should be available in all languages
- Any correspondence; written submissions should be allowed to be originally in an Indigenous language.
- Other documents should upon request—all documents relating to a particular matter that affects a particular community or language group.
- General Announcements; e.g. those relating to Covid should be translated into all languages of the Assembly that are in any of the official languages must be preserved for future generations to use in any of their language revitalization programs.

What could the Assembly do to support Members in using official languages?

The Assembly can support Members by offering official languages services when they request the use of their languages. In addition, the Assembly should support the development and provision of interpreter and translation education. These programs need to include language proficiency components. As increasingly few working aged Indigenous people are fluent in their language, they need language instruction in order to have sufficient fluency to work as interpreters and translators.

What rights do residents who speak official languages other than English have to understand what is happening at the Assembly?

Residents who speak official languages other than English have the same rights as Members to understand what is happening at the Assembly.

Should the cost of interpreting figure into the use of official languages in the Assembly?

Yes, the cost of interpreting must figure into the use of the official languages in the Assembly. The cost of interpreting makes the use of official languages effective in the Assembly as it acknowledges and supports the unique nature of each of the official languages.

Submission 5 - MLA Jackson Lafferty

To: Kevin O'Reilly

Subject: RE: Official Language Use in the Legislative Assembly--Stakeholder Letter

Hi Kevin.

Below are some excellent questions.

I'm more interested in continuous interpretation in all Session settings.

If an interpreter is not available during Session, Session should not continue.

I could've continued my arguments in Tlicho language that day and non of the Members would've understood what I was saying.

The Speaker basically told me indirectly I was done speaking Tlicho as there were no interpreters in the building.

He took my rights away, to speak one of the NWT Official Languages, the Tlicho Language.

This should not happen again. No interpreter, no Session.

Sorry I'm unable to attend the public hearing as I'm dealing with some family matter.

Masi

Jackson

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(www.blackberry.com)
