

## **Options for Yukon's Electoral System**

**A Report prepared for the Special Committee on Electoral Reform, Yukon**

**October 31, 2021**

## Table of Contents

Table of Contents	1
List of Tables	3
Introduction	4
Introduction to Electoral Systems	5
Setting the context: Election results in Yukon territorial elections under the FPTP system, 1978 to 2021	6
Participation in territorial elections	11
Representational characteristics of MLAs	12
Electing women in the Yukon	13
Electing Indigenous members	15
Urban and Rural Representation	17
Other factors influencing representation	20
Eligible voting age	20
Political Financing	21
Electoral system options and their characteristics	23
Plurality and majority Electoral Systems	24
First Past the Post	24
Alternative Vote	27
Block Vote	29
Two-Round Systems	31
Proportional Representation Electoral Systems	33
List Proportional Representation	33
Single Transferable Vote	35
Single Non-transferable Vote	37
Mixed Electoral Systems	39
Parallel	39
Mixed Member Proportional	41
Key issues in PR systems	44
District magnitude	44
Thresholds	44
Open and closed lists	45
Special considerations	46
Representation of Women	46
Representation of Indigenous People	48

Community representation (urban and rural)	50
Population size and the size of the Legislative Assembly	52
Changing the electoral system: Key challenges	55
New Zealand’s experience with electoral system change: a case study	57
New Zealand and the representation of Maori electors	61
Previous attempts at electoral reform in Canada	63
Federal electoral system reform (2015-2017)	63
Recent electoral system reform in the provinces	64
British Columbia (2003-2009, 2018)	64
Ontario (2004-2007)	65
Quebec (2018-2021)	66
New Brunswick (2003-2006, 2016-2017)	67
PEI (2005-2019)	68
Lessons from Canadian experience with electoral reform	69
Key issues when considering electoral system reform	70
Appendix 1. Actual Quotients for Party List Seat Allocation, New Zealand General Election, 2020	73
Appendix 2. Biography of author	75

## List of Tables

Table 1A. Translation of votes to seats in general elections, 1978 to 1996	8
Table 1B. Translation of votes to seats in general elections, 2000 to 2021	10
Table 2. Voter turnout in Yukon elections, 1978 to 2016	12
Table 3. Gender Representation among candidates and elected MLAs in Yukon general elections, 1978-2021	14
Table 4. First Nations Persons Representation in Yukon Legislature, 1978 to 2021	16
Table 5. General Election results, New Zealand, 2020	43
Table 6. Electoral systems among small countries or territories	54
Table 7. Percentages of Votes and Seats Won by Political Parties, New Zealand	59
Table 8. Composition of the New Zealand Parliament after Three Elections, 1990 – 1996	60
Appendix 1: Actual Quotients for Party List Seat Allocation, New Zealand General Election, 2020	73

## **Options for Yukon's Electoral System**

### **A Report prepared for the Special Committee on Electoral Reform, Yukon**

#### **1. Introduction**

This report has been prepared for the Yukon Legislative Assembly's Special Committee on Electoral Reform. The Special Committee on Electoral Reform was established by order of the Yukon Legislative Assembly on May 26, 2021 and is required to report to the Legislative Assembly on its findings and recommendations no later than March 31, 2022. At the request of the Committee, this report does not take a position on whether the Yukon electoral system should be changed. Instead, it provides information to serve as background and context in considering whether reform is desirable, and if so, examines reform options.

This report proceeds on the following basis. Section 1 provides this introduction to the report. Section 2 introduces the concept of an electoral system and discusses the unique role performed by the electoral system. In Section 3 attention turns to the Yukon's experience with the first past the post (FPTP) electoral system in the period from 1978 to the present. It discusses the relationship between votes and seats following general elections, trends in voter participation, and the characteristics of elected candidates under the FPTP system. In short it asks the question, is the system of representation, due to the FPTP electoral system, broken? This section also briefly reviews other factors influencing representation in the Yukon, such as political financing, the age of voter eligibility, urban and rural representation, and Indigenous representation.

Section 4 reviews the different families of electoral systems, discussing their general characteristics, the tendencies associated with the system and its strengths and weaknesses. The discussion illustrates the wide range in which votes are translated into seats in contemporary democracies, and some of the implications that follow from different systems. This section concludes with a discussion of three key issues in proportional representation systems, namely the district magnitude of electoral districts, the use of thresholds to obtain legislative seats, and the use of open versus closed party lists. Section 5 turns to a consideration of a set of special considerations that need be borne in mind when reviewing electoral systems. These include the extent to which the system provides for the representation of women and of significant cultural groups, such as Indigenous people, the representation of "community of interest" and the mix between urban and rural representation, the size of the population being represented, and the size of the legislative assembly.

Section 6 examines the way in which electoral systems change, in view of the obvious observation that at most times and in most places, the electoral system is static. The case of New Zealand is examined in some detail, as a system with a Westminster style parliamentary

system that changed twenty-five years ago from a FPTP to a mixed member proportional (MMP) electoral system. New Zealand's unusual feature, of including electoral districts for the minority Maori population also is considered. Section 7 reviews attempts at electoral reform in Canada, focusing largely on the unusually large number of efforts at electoral system change since 2000. Half the provinces engaged in a process of examining electoral system reform in the past twenty years, some of which tried to change multiple times. So too did the federal government embark on a process to change the electoral system. Yet none resulted in dismantling the first past the post system. What lessons can be drawn from this experience? The report concludes with Section 8 that examines key issues to consider in electoral system reform in the Yukon. This includes an understanding of the effectiveness of the current system, clarity about core representational values, consideration of size of the population and the legislature, and the manner of public engagement on the topic.

## 2. Introduction to Electoral Systems

An electoral system is the set of rules through which votes in an election produce seats in a legislative assembly. Several factors must be considered when designing an electoral system. For example, **how many candidates** are being elected to the legislature? Is the voter casting a ballot for a single legislative seat, or are there multiple seats being contested that are affected by the vote? Second, **how does the voter express his or her preferences?** Are they able to indicate their preference only for their most preferred candidate or party, or are they able to provide a more nuanced articulation, such as ranking the candidates from most preferred to least preferred? Thirdly, **what is the rule for winning a contest?** Does a successful candidate simply need to have more votes than all others, do they require a majority of votes, or is there some determination of fractional vote totals that results in a candidate's election? Different electoral systems provide different answers to the above questions. In some electoral systems the voter plays a role in the election of more than one member of the legislature, whereas in other systems, a voter is limited to voting for candidates for a single seat. Some electoral systems allow voters to express a range of preferences, such as ranking all candidates, whereas others allow only a simple preference, of indicating the more preferred candidate. In some cases, the winner needs only to have more votes than all other candidates, whereas in others, one needs a majority of support, even if this requires voting for more than one's top preference.

A second observation about electoral systems is that once an electoral system is put in place, electoral stakeholders, including parties, candidates, and voters, adjust their behaviour to the existence of that electoral system. In the words of Maurice Duverger, one of the founding scholars of research on electoral systems, such systems "are strange devices – simultaneously cameras and projectors. They register images which they have partly created themselves."<sup>1</sup>

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<sup>1</sup> Duverger, M., 1984. "Which is the best electoral system?" In: Lijphart, A., Grofman, B. (Eds.), Choosing an Electoral System: Issues and Alternatives. Praeger, New York, p. 34, quoted in Ken Benoit, "Models of Electoral System Change," Electoral Studies, 2003, 363-389.

What Duverger means by this is that the party system in a jurisdiction is strongly impacted by the electoral system. It would be wrong, in other words, to consider the results of an election using one electoral system, and to then interpret those results as though they were produced by another electoral system. To take an example from the most recent territorial election in Yukon, whereas support for the Yukon Party, the Liberal Party and the NDP was 39.3%, 32.4%, and 28.2%, respectively, using the first past the post electoral system, there is no reason to expect that a different electoral system would produce the same voting result – indeed, there is reason to expect that it would not. Electoral systems, therefore, influence not only the way in which votes are translated into seats, but they also affect the way parties approach an election and the way voters respond.

#### Considerations

Are there advantages or disadvantages in the Yukon for voter choices to be simple or complex (registering a single check or ranking of candidates), for there to be constituencies that elect one member or many members, and should the winner get more votes than the other candidates, or a majority of votes (50% + 1)?

The current party system in the Yukon is in part a creation of the first past the post electoral system. Are there presently deficiencies with the party system that could or should be corrected by changing the electoral system? If so, what are those deficiencies? Are some parties missing, or is the system consistently under-representing some interests?

### **3. Setting the context: Election results in Yukon territorial elections under the FPTP system, 1978 to 2021**

The 1978 territorial election marked an important point in the political development of the Yukon. It was the first election in which candidates formally ran under party labels, and the members elected exercised increasing power in a legislative assembly with additional authority devolved from the federal government and the federally appointed commissioner. The first two elections conducted in this contemporary period were administered by the Yukon Elections Board, with the assistance of an Administrator of Elections. In 1983 the Clerk of the Legislative Assembly was given the added duties to serve as Chief Electoral Officer, with responsibilities for overseeing election-related matters with the help of a full-time Assistant Chief Electoral Officer. In 2007, following the retirement of the long-serving Clerk and Chief Electoral Officer, a full-time Chief Electoral Officer was appointed. Three individuals have served in this role since its creation as a full-time position in 2007.<sup>2</sup> The electoral system in place in Yukon for the period under consideration was the FPTP.

There have been twelve territorial general elections in Yukon from 1978 through 2021. The results of the elections are presented in Table 1, which has two panels. Panel A covers the six elections from 1978 to 1996 and Panel B covers the six elections from 2000 to 2021. For the six

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<sup>2</sup> Yukon Legislative Assembly, [Hansard](#), see Debates June 13, 2007 and March 28, 2013.

elections held between 1978 and 1996, the Yukon Party and its predecessor, the Yukon Progressive Conservative Party won three times, and the NDP won three elections. Of the six elections, a clear majority of seats was obtained on four occasions, the winning party obtained half the seats on one occasion, and a minority government was elected on one occasion. In half the elections, the winning party obtained fewer than 40% of the votes cast, and in the other three elections, the winning party received between 41% and 46% of the vote. In none of the elections did a party win more than half the votes, and yet, in most elections, a majority government was elected.

In all but one of the elections, the party winning the most votes obtained the most legislative seats, and in some cases, the winning party was heavily over-rewarded in its seat count. For example, in the 1978 election, the Yukon Progressive Conservatives won 68.8% of the seats based on 36.9% of the votes, or about two-thirds of the seats based on just over one-third of the votes, for a difference of 31.9% in vote versus seat shares. Likewise, in 1996, the NDP won 64.7% of the seats based on 39.8% of the votes, for a seat advantage of 24.9%. In the other elections, the winner's advantage ranged from 5.3% to 10.5%. The exception to these trends is the 1985 election, when the biggest advantage was provided to the NDP, the party with the second highest vote percentage. The NDP won 41.1% of the votes and 50% of the seats, thereby winning the election, while the Yukon party won 46.9% of the votes, and 37.5% of the seats, and lost the election. In three of the six elections, the party finishing in third place was most penalized by the electoral system (Liberals in 1982, 1989, and 1992), in two elections the party finishing in second place was most penalized (Liberals in 1978, Yukon Party in 1996), and in one election, the party with the most votes was most penalized (Yukon Progressive Conservative Party in 1985). Independent candidates were sometimes slightly advantaged and sometimes slightly disadvantaged by the electoral system.



**Table 1A. Translation of votes to seats in general elections, 1978 to 1996**

Year	Party	Votes	% Votes	Seats	% Seats	Vote% Seat% Difference
<b>1978</b>	Yukon Liberal Party	2,201	28.5	2	12.5	-16.0
	Yukon New Democratic Party	1,568	20.3	1	6.3	-14.0
	Yukon PC Party	2,869	36.9	11	68.8	+31.9
	Independent	1,096	14.2	2	12.5	-1.7
	Total	7,734		16		
<b>1982</b>	Yukon Liberal Party	1,564	15.0	0	0.0	-15.0
	Yukon New Democratic Party	3,689	35.4	6	37.5	+2.1
	Yukon PC Party	4,770	45.8	9	56.3	+10.5
	Independent	393	3.8	1	6.3	+2.5
	Total	10,416		16		
<b>1985</b>	Yukon Liberal Party	806	7.6	2	12.5	+4.9
	Yukon New Democratic Party	4,335	41.1	8	50.0	+8.9
	Yukon Territorial PC Party	4,948	46.9	6	37.5	-9.4
	Independent	458	4.4	0	0.0	-4.4
	Total	10,547		16		
<b>1989</b>	Yukon Liberal Party	1,303	11.1	0	0.0	-11.1
	Yukon New Democratic Party	5,275	45.0	9	56.3	+11.3
	PC Yukon Party	5,142	43.9	7	43.7	-0.2
	Total	11,720		16		
<b>1992</b>	Yukon Liberal Party	2,098	16.1	1	5.9	-10.2
	Yukon New Democratic Party	4,571	35.1	6	35.3	+0.2
	Yukon Party	4,675	35.9	7	41.2	+5.3
	Independent	1,686	12.9	3	17.6	+4.7
	Total	13,030		17		
<b>1996<sup>3</sup></b>	Yukon Liberal Party	3,464	23.9	3	17.6	-6.3
	Yukon New Democratic Party	5,760	39.8	11	64.7	+24.9
	Yukon Party	4,392	30.4	3	17.6	-12.8
	Independent	852	5.9	0	0.0	-5.9
	Total	14,468		17		

<sup>3</sup> The general election in 1996 produced a tie vote between the candidates for the Yukon NDP and the Yukon Party. As a result of a draw, the New Democratic candidate was declared the winner.

In the three elections conducted between 2000 and 2021, the Liberal Party won three elections and the Yukon Party has won three elections. Five of the six elections during this period have resulted in the election of a majority government, and one election has produced a minority government. The percentage of votes won by the party with the largest number of votes has ranged from 39.3% to 42.9%, and yet this minority of votes has tended to produce a majority government. The party with the largest percentage of votes has received the largest percentage of seats in all elections except for 2021, when the Liberal Party's 32.4% of the votes provided it with the same number of seats (8) as the Yukon Party's 39.3% of votes.

The impact on the electoral system can be compared across the parties. During the period 2000 to 2021, the Yukon Party has been significantly over-rewarded on three occasions (14.9%, 17.5%, and 26.3%), significantly under-rewarded on one occasion (-18.4%), and relatively evenly rewarded twice (2.8% and -1.8%). The Liberal Party also has been significantly over-rewarded three times (9.7%, 15.9% and 18.5%), significantly under-rewarded twice (-14.8% and -23.4%) and moderately under-rewarded once (-6.9%). The New Democrats have been significantly under-rewarded twice (-12.4% and -15.7%), moderately under-rewarded once (-6.9%), and relatively evenly rewarded three times (0.9%, -1.0% and 2.5%). Over the course of the six elections between 2000 and 2021, Independent candidates and other party candidates (First Nations Party, Green Party) have all been under-rewarded in converting their vote support to legislative seats, although the under-rewarding has been consistently small. No independent candidates and no parties other than Yukon, Liberal and New Democrat, have won a legislative seat during this period.

#### Considerations

How does one interpret the experience in the Yukon of translating votes into legislative seats? There is strong evidence that the FPTP electoral system consistently converts a minority of votes into a majority of legislative seats – it has done so in three-quarters of the elections. Does the conversion of a minority of votes into a majority of legislative seats indicate that the electoral system is working or that it is broken?

In reviewing the data on translating votes into seats in Yukon elections, what stands out more, the effect of the electoral system on a party's relative standing, or a party's character? Does the electoral system reward or penalize parties because of what they stand for, or because of where they finished in the vote count?

In the first six elections beginning in 1978, Independent candidates won seats in three of the five elections in which they were candidates. In elections since 2000, no independent candidate has been elected, and no minor party (that is, other than the Yukon, Liberal or New Democratic parties) has won a seat. Is the failure of minor parties and independent candidates to win legislative seats a strength or weakness of the current electoral system?

**Table 1B. Translation of votes to seats in general elections, 2000 to 2021**

Year	Party	Votes	% Votes	Seats	% Seats	Vote% Seat % Difference
<b>2000</b>	Yukon Liberal Party	6,119	42.9	10	58.8	+15.9
	Yukon New Democratic Party	4,677	32.8	6	35.3	+2.5
	Yukon Party	3,466	24.3	1	5.9	-18.4
	Total	14,262		17		
<b>2002</b>	Yukon Liberal Party	4,056	29.0	1	5.6	-23.4
	Yukon New Democratic Party	3,763	26.9	5	27.8	+0.9
	Yukon Party	5,650	40.4	12	66.7	+26.3
	Independent	535	3.8	0	0.0	-3.8
	Total	14,004		18		
<b>2006</b>	Yukon Liberal Party	4,699	34.7	5	27.8	-6.9
	Yukon New Democratic Party	3,197	23.6	3	16.7	-6.9
	Yukon Party	5,506	40.7	10	55.6	+14.9
	Independent	143	1.1	0	0.0	-1.1
	Total	13,545		18		
<b>2011</b>	Yukon First Nations Party	81	0.5	0	0.0	-0.5
	Yukon Green Party	104	0.7	0	0.0	-0.7
	Yukon Liberal Party	4,008	25.3	2	10.5	-14.8
	Yukon New Democratic Party	5,154	32.6	6	31.6	-1.0
	Yukon Party	6,400	40.4	11	57.9	+17.5
	Independent	79	0.5	0	0.0	-0.5
	Total	15,826		19		
<b>2016</b>	Yukon Green Party	145	0.8	0	0.0	-0.8
	Yukon Liberal Party	7,404	39.4	11	57.9	+18.5
	Yukon New Democratic Party	4,928	26.2	2	10.5	-15.7
	Yukon Party	6,272	33.4	6	31.6	-1.8
	Independent	38	0.2	0	0.0	-0.2
Total	18,787		19			
<b>2021<sup>4</sup></b>	Yukon Liberal Party	6,155	32.4	8	42.1	+9.7
	Yukon New Democratic Party	5,356	28.2	3	15.8	-12.4
	Yukon Party	7,477	39.3	8	42.1	+2.8
	Independent	26	0.1	0	0.0	-0.1
	Total	19,098		19		

<sup>4</sup> The 2021 general election produced a tie vote between the Liberal and New Democratic candidates in the electoral district of Vuntut Gwitchin. As a result of the drawing of lots, the New Democratic candidate was declared the winner, a result which denied the Liberal party a plurality of seats in the legislature.

## Participation in territorial elections

One of the metrics used to gauge the health of a democratic electoral system is the degree to which eligible citizens turn out to vote in elections. There is a large body of experience among western democracies that voter turnout has decreased over the last generation or two. While voter turnout in federal elections in Canada generally hovered around 75% from the 1940s to the 1980s, thereafter it declined and has generally remained in the low to mid 60 percent range since 2000. The exception to this trend was in the 2015 election, when voter turnout climbed to 68.5%, only to drop thereafter to 65.9% in 2019, and to an estimated 60% in 2021. Considerable research on the decline in voter turnout in Canada has indicated that much of the decline owes to lower rates of turnout among younger voters. Young people are less likely to vote when they first become eligible than were their counterparts in previous generations, and as they age, they remain less likely to participate<sup>5</sup>. This finding has been a key reason that some have argued for changes to the way in which Canadians conduct politics.

Table 2 shows voter turnout in Yukon's territorial elections from 1978 to 2016 (data for 2021 are not yet available). In contrast to the general decline in turnout that can be seen at the federal level in Canada and in many provinces, Yukon voters who are registered to vote have retained a high level of voter turnout during the past 40 years. Turnout jumped from 70.4% in 1978 to 78.7% in 1982 and remained at or above 77% for the next 20 years. In 2006 turnout dropped somewhat to 72.8% but climbed again to 74.3% and 76.4% in the following elections. Therefore, if voter turnout is an indication of the relative health of a democratic voting system, the data suggest there has been little change in public sentiment in this regard in the period from 1978 to 2016.

### Considerations

What is one's expectation about voter turnout in Yukon's territorial elections? And, to what extent is participation linked to an electoral system? The overarching characteristic about most jurisdictions' electoral system is its stability – electoral systems tend not to change very frequently. If an electoral system is not changed, to what extent can changes in voter participation be logically linked to an electoral system?

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<sup>5</sup> Elections Canada, *First-time electors – Youth*, available at: <https://www.elections.ca/content.aspx?section=res&dir=rec/part/yth&document=index&lang=e>

**Table 2. Voter turnout in Yukon elections, 1978 to 2016<sup>6</sup>**

Year	Electors on list	Voters	% Electors Voted
1978	11,051	7,783	70.43
1982	13,290	10,462	78.72
1985	13,530	10,607	78.40
1989	15,093	11,768	77.97
1992	16,900	13,104	77.54
1996	18,297	14,559	79.58
2000	18,285	14,368	78.58
2002	18,067	14,116	78.13
2006	18,681	13,611	72.76
2011	20,730	15,906	74.34
2016	23,494	18,840	76.37
2021 <sup>7</sup>			

### **Representational characteristics of MLAs**

Canada’s system of representation in our elected legislative assemblies – the House of Commons federally, and provincial and territorial legislative assemblies, is based on the principle of representation by population. This term implies that our elected representatives each have a role in representing a portion of the electorate, and that there should be some measure of relative equality between the value of one person’s vote and that of another person’s vote. Although Canadian law and the court’s interpretation have veered considerably from a principle of strict mathematical equality<sup>8</sup>, nonetheless our system of representation continues to hold to the general principle of representation by population.

Our ideas of representation have expanded beyond considering only whether each representative is elected in an electoral district of relatively equal population. The discussion of representation today also considers the degree to which the characteristics of elected representatives reflect the characteristics of the people they represent – sometimes called

<sup>6</sup> Source: Yukon, Reports of Chief Electoral Officer on general elections. (Note that for 1978 and 1982, the reports on the general election were produced by the Yukon Elections Board).

<sup>7</sup> At the time of writing, the report on the 2021 election was not published. Therefore, the data are not available.

<sup>8</sup> Much has been written about the extent to which the principle of relative voter equality is applied in Canada’s elected legislatures. See John Courtney, *Commissioned Ridings: Designing Canada’s Electoral Districts*, Montreal and Kingston: McGill-Queen’s University Press, 2001.

“descriptive representation”.<sup>9</sup> One can imagine a wide range of characteristics of individuals that could be reflected in their representatives, such as age, socioeconomic status, religion, ethnicity, gender, race, or urban and rural residence, among others. Considering the factors that may be of interest to residents of the Yukon, it is useful to consider the factors of gender, Indigenous identity, and urban versus rural residence.

### **Electing Women in the Yukon**

For the first 50 years of confederation, women were not entitled to vote in Canadian federal elections, nor in provincial or territorial elections. Changes to voter eligibility in advance of both the 1917 and 1921 federal elections removed the legal barriers for women to vote and seek elective office, provided they otherwise met voting requirements that applied to males as well. Although there continued to be a gender gap in voter turnout between men and women into the 1960s, by the 1970s it had largely disappeared<sup>10</sup>. However, the gap in women being elected to the House of Commons and to provincial and territorial legislatures, would persist well beyond the 1970s, and continues to characterize many legislatures. Later in this report we discuss both the experience of other electoral systems in addressing the election of women representatives as well as factors other than an electoral system that could impact the number of women elected. In this section, we review the status of electing women to the Yukon legislative assembly.

Table 3 presents data on the proportion of women running as candidates and the proportion of women elected to the Yukon legislative assembly in general elections. Once again it is useful to distinguish between elections before and after 1996. In the six elections from 1978 to 1996, women comprised between 15.4% and 20.4% of candidates. In only one election did women make up as much as 20% of the candidates. In the five elections since 2000 for which we have data, women comprised between 27.6% and 39.7% of candidates. Although the number of female candidates did not equal the number of male candidates, there was a significant increase in the number and proportion of women candidates over time. Similarly, women candidates were more likely to be elected from 2000 onwards. Although the elections of 2002 and 2006 saw very low success among women in getting elected, in the other four elections since 2000, the election has resulted in between 29.4% and 42.1% of elected members being female. The other observation from the table is that at least part of the reason that fewer women than men are elected to the Yukon legislature is that fewer women run as candidates. In eight of the eleven elections, women candidates either won a higher percentage of seats than they contested (1985, 1989, 2011), or women candidates' percentage of winning was within 5 percentage points of their percentage of candidates. Therefore, they were within one seat of exceeding their candidacy percentage. Thus, similar to a finding published by Sevi, Arel-

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<sup>9</sup> Hanna Fenichel Pitkin, *The Concept of Representation*. Berkeley: University of California Press, 1967.

<sup>10</sup> Jerome Black and Nancy McGlen, “Male Female Political Involvement Differentials in Canada, 1965 – 1974,” *Canadian Journal of Political Science*, 12:3 September 1979, pp. 471-498.

Bundock and Blais<sup>11</sup> for female candidates federally, women candidates in the Yukon have about as good a chance of winning election once they declare as a candidate as do men.

**Table 3. Gender Representation among candidates and elected MLAs in Yukon general elections<sup>12</sup>, 1978-2021<sup>13</sup>**

Year	N. of candidates	Male candidates	Female candidates	% Female candidates	Male elected	Female elected	% Female MLAs
1978	52	44	8	15.4	14	2	12.5
1982	51	41	10	19.6	13	3	18.8
1985	44	36	8	18.2	13	3	18.8
1989	47	39	8	17.0	12	4	25.0
1992	52	42	10	19.2	15	2	11.8
1996	54	43	11	20.4	14	3	17.6
2000	49	33	16	32.7	12	5	29.4
2002	60	43	17	28.3	15	3	16.7
2006	58	42	16	27.6	16	2	11.1
2011	62	44	18	29.0	13	6	31.6
2016	63	38	25	39.7	12	7	36.8
2021 <sup>14</sup>					11	8	42.1

### Considerations

What is the ideal distribution of legislative seats among men and women? Should men and women have guaranteed representation in the legislative assembly?

<sup>11</sup> Semra Sevi, Vincent Arel-Bundock and Andre Blais, “Do Women Get Fewer Votes? No,” *Canadian Journal of Political Science* 2018, 1-10.

<sup>12</sup> Data in this table present the number of male and female candidates elected in general elections for the period covered. Some additional female candidates also were elected in by-elections during this period. For a report on women MLAs, including those elected in by-elections, see, Yukon Legislative Assembly Office, *Women Elected to the Yukon Legislative Assembly*, available at, <https://yukonassembly.ca/sites/default/files/inline-files/history-women-elected-to-legislative-assembly-2021-06-30.pdf>.

<sup>13</sup> Data from 1978 to 1982 from the Report of the Yukon Election Commission on the general election. Data from 1985 to 2016 from the Report of the Chief Electoral Officer on the general election. The reports are available at, <https://electionsyukon.ca/en/content/territorial-elections>. Data from 2021 from the Yukon Legislative Assembly at, <https://yukonassembly.ca/mlas>.

<sup>14</sup> Report of the Chief Electoral Officer on the 2021 general election was not published at the time of writing.

Recent elections in the Yukon have produced a significant proportional increase in electing women MLAs. Is there an expectation that these proportions would be larger under a different electoral system?

What role do political parties play in the election of women to the legislative assembly? Should parties be required to consider some form of gender parity among their candidates?

### **Electing Indigenous members**

The Aboriginal<sup>15</sup> population in the Yukon, based on the 2016 census, was 8,195 people, in a total territorial population of 35,110<sup>16</sup>. Of the 8195 Aboriginal people, 6,690 were single identifying First Nations, 1,015 were Metis and 225 were Inuk. Of the remaining Aboriginal people, 160 had multiple Aboriginal identities and 105 had an Aboriginal identity not otherwise categorized. Thus, in total, 23.3% of the population is Aboriginal and 19.1% is single identity First Nations.

Table 4 presents the number of First Nations persons elected to the Yukon legislative assembly from 1978 to 2021<sup>17</sup>. During these 12 elections, the number of First Nations people elected to the legislative assembly ranged from 2 to 4. In view of changes in the number of legislative seats, the proportion of First Nations members differed across years. In five of the 12 elections (1982, 1985, 1989, 2006 and 2021), the number of First Nations members elected was roughly equal to their proportion of the population. In another five of the 12 elections, the number of First Nations members would be consistent with their proportion of the population had one additional First Nations member been elected (1992, 1996, 2002, 2016 and 2021). In three of the elections, two additional First Nations members would need to be elected for there to be proportionality in representation for this group (1978, 2000 and 2011). The small size of the Yukon legislative assembly means that relatively modest changes overall in the number of members elected from a particular group produces substantial changes in the proportion of the legislative assembly comprised of the group. In this instance, the small variations in the number of First Nations members elected produce substantial differences in the overall proportionality of First Nations representation.

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<sup>15</sup> The Census report uses the term “Aboriginal” rather than Indigenous, the term used elsewhere in this report. In this paragraph, when referring specifically to the Census report, the term Aboriginal is used to be consistent with the source data.

<sup>16</sup> Statistics Canada, Census, available at: <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-PR-Eng.cfm?TOPIC=9&LANG=Eng&GK=PR&GC=60#sec-geo-dq>

<sup>17</sup> The available data is limited to First Nations persons elected, rather than the broader categories of Indigenous or Aboriginal peoples.



## Considerations

The Aboriginal population of the Yukon is a large and significant proportion of its overall population. Does the current electoral system provide sufficient and appropriate representation of the interests of this group?

Should there be guaranteed seats for First Nations peoples in the Yukon legislative assembly? If so, how many?

What mechanism could be put in place to ensure appropriate representation for First Nations electors in the legislative assembly?

**Table 4. First Nations Persons Representation in Yukon Legislature<sup>18</sup>, 1978 to 2021**

Year	First Nations Person elected in general election	Seats in legislature	Percent First Nations Persons elected as MLA
1978	2	16	12.5
1982	3	16	18.8
1985 <sup>19</sup>	4	16	25.0
1989	4	16	25.0
1992 <sup>20</sup>	3	17	17.6
1996	3	17	17.6
2000	2	17	11.8
2002	3	18	16.7
2006	4	18	22.2
2011	2	19	10.5
2016	3	19	15.8
2021	4	19	21.1

<sup>18</sup> Source: Yukon Legislative Assembly Office, [First Nations Persons Elected to the Legislative Assembly](https://yukonassembly.ca/sites/default/files/inline-files/history-First-Nations-persons-elected-to-legislative-assembly-2021-06-30.pdf), available at, <https://yukonassembly.ca/sites/default/files/inline-files/history-First-Nations-persons-elected-to-legislative-assembly-2021-06-30.pdf>. The percentages differ somewhat in this table compared to the source table because this table includes only those elected during general elections, whereas the source includes people elected in by-elections as well.

<sup>19</sup> In addition to the four First Nations persons elected in the general election in 1985, one additional First Nations person was elected in a by-election for 26th legislature.

<sup>20</sup> In addition to the three First Nations persons elected in the general election in 1992, one additional First Nations person was elected in a by-election for the 28th legislature.

## Urban and rural representation

According to the Yukon Bureau of Statistics, the population of the Yukon in March 2020 was 42,152 and the population of Whitehorse (within the municipal boundary) was 30,025<sup>21</sup>. Therefore 71.2% of the residents of the Yukon reside in Whitehorse. Thus, from a population distribution perspective, the Yukon is a highly urbanized territory combined with areas of expansive land with low population density. To what extent are the interests of urban and rural communities in the Yukon represented in the legislative assembly?

One can begin to address this question by indicating that the FPTP electoral system is a constituency-based electoral system. Each residence is assigned to a unique electoral district, and each electoral district can have some configuration of urban and rural areas. Under a system of representation by population, there will likely be some extent to which some districts are largely urban in character and some districts are largely rural. And a question to arise is whether the number of urban and rural seats generally conforms with the proportions of urban and rural populations in the territory. This is not specifically a matter relating to electoral systems, because a FPTP electoral system can use a variety of formulas to allocate seats to urban and rural communities. But it is a question that arises in a discussion of electoral systems because an electoral system that contains constituencies, with members elected from those constituencies, brings forward the possibility of different principles behind the allocation of urban and rural seats.

Electoral boundaries for territorial elections in the Yukon are decided by vote in the legislative assembly, based on recommendations of an Electoral Boundaries Commission. Current electoral boundaries are based on the recommendations of the Electoral Boundaries Commission in 2008. The recommendations of a subsequent Electoral Boundaries Commission in 2018 were rejected by the legislative assembly. The terms of reference for an electoral boundaries commission appear in Part 7 of The Election Act. Section 419 of the Act provides that an electoral boundaries commission “shall take into account the following:

- a. The density and rate of growth of the population of any area;
- b. The accessibility, size and physical characteristics of any area;
- c. The facilities and patterns of transportation and communication within and between different areas;
- d. Available census data and other demographic information;
- e. The number of electors in the electoral district appearing on the most recent official lists of electors;
- f. Any special circumstances relating to the existing electoral districts;
- g. The boundaries of municipalities and First Nations governments;
- h. Public input obtained under Section 416; and

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<sup>21</sup> Yukon Bureau of Statistics, Population Report First Quarter 2020, available at: [https://yukon.ca/sites/yukon.ca/files/ybs/populationq1\\_2020.pdf](https://yukon.ca/sites/yukon.ca/files/ybs/populationq1_2020.pdf)

- i. Any other reasons or information relied on by the commission.”<sup>22</sup>

The terms of reference described above provide an electoral boundaries commission with considerable latitude and discretion in making recommendations on electoral district boundaries. That the commission is to consider the boundaries of municipalities indicates that there should be some consideration of urban and rural electoral districts. The rationale behind the recommendations of the Electoral Boundaries Commission in 2018 are instructive in understanding how commissions interpret their mandate. For example, the 2018 commission noted the observation of the 1991 Electoral Boundaries Commission regarding the special circumstances in Yukon and indicated that these circumstances “still exist today”.<sup>23</sup> The 1991 commission was quoted as follows:

“The entire region outside Whitehorse is sparsely populated, and ... no other Canadian city dominates its province or territory to the extent that Whitehorse dominates the Yukon. The disproportionate representation of rural areas in the existing legislation was explicitly intended to offset this feature of population distribution. Given relatively less developed municipal organization in much of rural Yukon, MLAs from those areas contend with a broader range of responsibilities toward their constituents that is common elsewhere in Canada.”<sup>24</sup>

Unlike some other jurisdictions, Yukon electoral boundaries commissions are not constrained by legislation establishing an acceptable population variance. And The Election Act does not specifically provide for urban and rural electoral districts, nor does it provide specific instructions to recommend electoral districts with smaller populations in rural areas and larger populations in urban areas. However, the rationale articulated by the 1991 Electoral Boundaries Commission has provided Yukon electoral boundaries commissions with justification to propose electoral boundaries with three characteristics – populations systematically larger in urban electoral districts, populations systematically smaller in rural electoral districts, and the existence of one or more “special” districts, whose variance is outside the commonly understood Canadian standard of +/- 25% variance.

There are currently 19 constituencies in the Yukon. Of those, 9 are located wholly within the municipal boundaries of Whitehorse, and another three constituencies (Takhini-Kopper King, Porter Creek North and Lake Laberge) are partly in Whitehorse and partly in the surrounding rural area<sup>25</sup>. The constituencies of Takhini-Kopper King and Porter Creek North are generally considered part of the Whitehorse constituencies, while Lake Laberge is considered to be one of the “communities”, or rural districts. Therefore, there are 11 Whitehorse districts and 8 rural

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<sup>22</sup> Yukon, Elections Act, RSY 2002, Ch. 63. Available at:

<https://laws.yukon.ca/cms/images/LEGISLATION/PRINCIPAL/2002/2002-0063/2002-0063.pdf>

<sup>23</sup> Yukon Electoral District Boundaries Commission, Final Report, April 2018, available at:

<https://yukonassembly.ca/sites/default/files/inline-files/sp-34-2-58.pdf>, p. 18.

<sup>24</sup> Yukon Electoral District Boundaries Commission, Final Report, p. 18.

<sup>25</sup> Elections Yukon, Electoral District Maps, Whitehorse Electoral Districts, available at:

[https://electionsyukon.ca/sites/elections/files/whitehorse\\_ed\\_16x20\\_26may2016.pdf](https://electionsyukon.ca/sites/elections/files/whitehorse_ed_16x20_26may2016.pdf)

districts. Using this grouping, the 11 constituencies in Whitehorse comprise 57.9% of the constituencies in the Yukon. If one were to consider strict “representation by population”, then Whitehorse, with 71.2% of the population, would be allocated 71.2% of legislative seats, or 13.53 seats, which would round up to 14 seats. Consequently, Whitehorse is short 3 constituencies on a population basis. Put another way, the constituency based FPTP electoral system, combined with interpretations taken by the Legislative Assembly on the recommendation of a series of electoral boundaries commissions, has provided the Yukon with a measure of rural over-representation in the legislature.

The extent of rural over-representation can also be understood by comparing the average size of constituencies, as well as the “special” constituency of Vuntut Gwitchin at the time of the 2016 election<sup>26</sup>. Using data on the number of registered voters on the voters list, the 8 rural constituencies had a population of 8509, for an average of 1064 voters per constituency. The 11 urban constituencies had a population of 16,858, for an average of 1533 voters per constituency. The territorial average for 2016 was 1335 registered voters per constituency, and the variance of +/- 25% produced a range of 1002 to 1669 voters per constituency. The special district of Vuntut Gwitchin, the most northerly constituency, had 175 registered voters, which is 87% below the average<sup>27</sup>. Thus, the Yukon constituency based electoral system has provided for differences in representation for urban and rural voters.

#### Considerations

How important is it to have a direct connection between a representative and people living in specific geographical areas? What benefits arise from people having a specific MLA to whom they can turn for support? What are the drawbacks of this system? What benefits might arise from having MLAs who were not tied to representing a particular geographical group? What are the drawbacks of this system?

How important is rural over-representation in the legislative assembly? Can one provide for “effective representation” while also proposing representational equality?

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<sup>26</sup> Data from Elections Yukon, Report of the Chief Electoral Officer on the 2016 General Election, available at: [https://electionsyukon.ca/sites/elections/files/english\\_website\\_2016\\_election\\_report\\_1.56.55\\_pm.pdf](https://electionsyukon.ca/sites/elections/files/english_website_2016_election_report_1.56.55_pm.pdf)

<sup>27</sup> The Yukon is not alone among Canadian jurisdictions in providing over-representation to “special” areas due to their northerly location and sparse population. For example, the BC Electoral Boundaries Commission in 2015 recommended an electoral district of Stikine, with a population 61.2% below the provincial average. See, British Columbia Electoral Boundaries Commission, Final Report, September 2015, Available at: [https://elections.bc.ca/docs/rpt/BC-EBC\\_Final\\_Report-Sept\\_24\\_2015.pdf](https://elections.bc.ca/docs/rpt/BC-EBC_Final_Report-Sept_24_2015.pdf), p. 148. As well, in the 2020 general election in Saskatchewan, one of the two northern constituencies, Athabasca, had 9,136 voters on the voters list, compared to Saskatoon Willowgrove with 20,102 and Saskatoon Stonebridge-Dakota with 19,683. See, Elections Saskatchewan, Report of the Chief Electoral Officer on the 29<sup>th</sup> General Election, Volume 1, Statement of Votes. Available at: <https://cdn.elections.sk.ca/upload/2020-Statement-of-Votes-Volume-1-web-viewing.pdf>

## Other factors influencing representation

In addition to the factors discussed above that relate in one way or another to the electoral system, there are other factors that can affect representation and that can also affect citizen attitudes towards politics and political participation. Two items worth considering in this regard are the eligible voting age and political financing.

### Eligible voting age

The discussion of changes to the voting age that have occurred in several jurisdictions, and put into practice, for example, in elections to the Scottish Legislative Assembly, generally focus on reducing the age of voting from 18 to 16. The voting age federally in Canada was reduced from 21 to 18 in 1970 and has been in effect in federal elections since 1972. For Yukon voters in territorial elections, the age of vote has been 18 years throughout the period under review (1978 to present). If one were to lower the voting age in the Yukon from 18 to 16, data from the Yukon Bureau of Statistics indicate that the number of people directly affected by such a change would be quite low, less than 900.<sup>28</sup>

Elections Canada has published estimates of voter turnout by province and territory among different age groups and among men and women for the 2019 federal election. The data from the Yukon in this study is instructive. The researchers found, firstly, that young voters continue to participate at significantly lower rates than their older counterparts. This lower level of participation is based on lower interest in politics, lower trust in politicians, a greater tendency to see political participation as a choice rather than as a duty, and a greater likelihood to be impacted by “administrative barriers” such as not being on the voter list and receiving a Voter Information Card, and not knowing where and when to vote<sup>29</sup>. With respect to respondents from the Yukon, the research found that 72.1% of women voted, but among those aged 18-24, only 51.6% of eligible female voters voted. They further examined the differences between those in this age group who were eligible to vote for the first time versus those in this age group for whom this was the second election in which they were eligible. For first time youth women voters, 48.8% voted compared to 55.0% among those who previously were eligible. Younger men showed even a greater disinclination to vote. Overall, 66.9% of Yukon men were estimated to have voted in the 2019 federal election. Of Yukon men aged 18-24, that dropped

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<sup>28</sup> For example, the Bureau of Statistics Population Report for the first quarter of 2020 provides age projections in 5-year intervals, and projects that 2,098 people are between the ages of 15 and 19. If people were spread evenly over these five years, there would be 423 people in each yearly age group. Reducing voting from 18 to 16 includes a two-year reduction, producing  $423 * 2$ , or 846 people. One can assume, therefore, that somewhat less than 900 people would be directly affected by such a change in voting age. See Yukon Bureau of Statistics, Population Report, available at: [https://yukon.ca/sites/yukon.ca/files/ybs/populationq1\\_2020.pdf](https://yukon.ca/sites/yukon.ca/files/ybs/populationq1_2020.pdf)

<sup>29</sup> Elections Canada, First Time Electors – Youth, available at: <https://www.elections.ca/content.aspx?section=res&dir=rec/part/yth&document=index&lang=e>

to 40.3%. Once again it was lower among first-time eligible young men (38.6%) and remained low among non-first-time eligible young men (42.4%)<sup>30</sup>.

One of the arguments in favour of lowering the voting age to 16 years is that by doing so, an opportunity is created to increase instruction on voting and elections within the secondary school social science curriculum, since many students would become eligible to vote while still attending high school. A related matter, which does not go quite as far as lowering the voting age to 16, is providing for 16- and 17-year-olds to be included on a provisional voter register. Data has shown that eligible voters aged 18-24 are less likely to be registered to vote than their older counterparts, and that not being registered is a barrier to voting. Some jurisdictions, such as Ontario and Nova Scotia, currently allow 16- and 17-year-olds to be included on a provisional voter register, and in 2018 the Chief Electoral Officer of British Columbia also made this recommendation to the legislative assembly.<sup>31</sup> The idea behind these initiatives are to encourage more training of civic engagement within the high school curriculum, and to encourage younger citizens to participate earlier in political life.

#### Considerations

Currently, young voters are less likely to be interested in elections and have lower voter participation than other Canadians. In what ways will lowering the voting age lead either to higher participation overall, or to other benefits in the political system?

Are there indications that reducing the voting age to 16 will produce more interested and informed voters either among this group, or as these voters age?

#### Political Financing

One important aspect of politics is raising funds to provide for the ability to contest elections. Political parties and candidates normally require funds for a campaign office and equipment, at-times paid staff members or those who provide their services as in-kind contributions, information gathering through mechanisms such as polling and other research efforts, travel of the candidate, advertising, event-hosting, and the like. For the first century of confederation, there were virtually no restrictions on the raising or spending of money for federal elections, and no requirement for parties or candidates to disclose the source of their funding. This changed in the 1970s with new restrictions on the raising and spending of money and new disclosure requirements, to provide for a more level playing field among political contestants, and great transparency to assist voters in understanding the raising and spending of political funds. Over the following years, provinces and territories followed suit, at times following the federal government's lead, and at other times, charting their own course.

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<sup>30</sup> Elections Canada, Estimation of Voter Turnout By Age Group and Gender at the 2019 General Election, available at: <https://www.elections.ca/content.aspx?section=res&dir=rec/eval/pes2019/vtsa2&document=p1&lang=e#>

<sup>31</sup> Elections British Columbia, Report of the Chief Electoral Officer on Recommendations for Legislative Change, May 2018, p. 3. Available at: <https://elections.bc.ca/docs/rpt/2018-CEO-Recommendations.pdf>

Today there is a wide range of provisions for political financing in Canada. Some jurisdictions have significant limits on contributions by individuals and ban outright contributions from corporations, unions, or other organizations, whereas other jurisdictions have more generous contribution limits for individuals, allow contributions from corporations, unions and other organizations. Some jurisdictions, like the Yukon, have no contribution limits either on individuals or organizations. Virtually all jurisdictions in Canada require disclosure of political contributions, although the contribution threshold can vary from one place to another. In the Yukon, a contribution of \$250 triggers a requirement to disclose the name of the contributor. Jurisdictions vary in the degree to which they place limits on candidate and party spending during an election period. In some jurisdictions there are limits on both party and candidate spending in an election campaign. Furthermore, some jurisdictions provide partial reimbursements to parties and candidates, who can recover some of their expenditures during the election period, but not expenditures outside the election period. In the Yukon, there are no limits on party or candidate spending during the election period, and no reimbursements to parties or candidates for election spending.

Political parties in the Yukon are required to file with the Chief Electoral Officer annual financial returns, identifying the funds raised by cash or cash equivalents, the funds raised by in-kind contributions, and the name of corporations, unions or individuals who contributed \$250 or more in cash or equivalents, or through in-kind contributions. The most recent data is from 2020. The report<sup>32</sup> for that year indicates that the Liberal Party raised \$41,160, the NDP raised \$91,163.10, and the Yukon Party raised \$110,246.48. For the Liberal Party and the Yukon Party, the funds included both cash and in-kind contributions. The NDP had no in-kind contributions. Overall, the political financing system in place in the Yukon is probably best described as adhering to a lower regulatory standard. The transparency of what the parties receive and who provides the funding, is in keeping with many other jurisdictions, although some are moving toward a more frequent publication of data (with closer to real-time updates provided to the data). On the matter of contribution limits and election spending limits, the Yukon is among a decreasing number of jurisdictions that continue to provide no limits in either of these respects.

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<sup>32</sup> Elections Yukon, Report of the Chief Electoral Officer to the Legislative Assembly, 2020 Annual Revenue Returns Contributions Made to Political Parties, January 1, 2020 to December 31, 2020. Available at: [https://electionsyukon.ca/sites/elections/files/v\\_arr\\_2020\\_report\\_eng.pdf](https://electionsyukon.ca/sites/elections/files/v_arr_2020_report_eng.pdf)



## Considerations

Is there a consensus view on the question of whether there should be limits either on political contributions or election expenses, either by candidates or parties, in the Yukon? If so, what is the consensus?

Is there evidence that the public either supports or opposes the current system of political financing in the Yukon? Is there a linkage in the territory between attitudes towards political financing and the electoral system? Would there be a logical linkage between changes to the electoral system and changes to the system of political financing?

### **4. Electoral System Options and their characteristics**

Electoral systems are often categorized into three types – plurality or majority systems, proportional representations systems, and mixed electoral systems, which contain elements of each of the former types. Within each of the families of electoral systems, there are further differences in specific characteristics of electoral systems. This is the case because within each electoral system family, there still may be differences in the way the three key criteria, discussed above, are addressed. These are the number of candidates a voter is voting for (one candidate or multiple candidates), the way in which a voter expresses his or her preferences (with a simple choice of one candidate or party, a ranking of the candidates or otherwise), and the rule for determining when a candidate is elected (through a plurality, a majority, achieving an electoral quotient, or otherwise).

Electoral systems structure the choices for voters and provide quite different incentive structures for political parties and candidates. By using different processes for translating popular votes into legislative seats, the systems can produce quite different, but predictable, outcomes. For example, plurality and majority systems tend to favour a party system with a relatively small number of parties. They have a tendency to over-reward the party that wins the most votes, and under-reward parties finishing in second, and particularly those finishing in third place or lower. By over-rewarding the winning party, they have a tendency to majority government, and can reward a party with a majority government even with a minority (but plurality) of votes. Since many plurality and majority systems are constituency-based, they feature a direct connection between representatives and the communities they represent.

Proportional representation systems, in contrast, place a higher emphasis on ensuring that parties receive a proportion of legislative seats that more closely approximates its share of votes. Generally this means that there is a lower threshold to entry for political parties, including new political parties, and thus a tendency for a larger number of parties. More parties in the legislative assembly means that it is less likely that any party will receive a majority of seats, and therefore a greater likelihood that at least some parties will need to cooperate to form government. In order for proportionality to take effect, there is a need for a larger



number of people to be elected from an electoral district, thereby expanding the size of districts and weakening the ties between representatives and the community that elected them. It also tends to increase the strength of parties, as the parties often determine the placement and order of candidates on their list. Mixed electoral systems attempt to combine the strengths of the other two electoral system families, creating legislatures in which some representatives are elected under one system, and some legislatures under another system. At their root, they attempt to create a greater proportionality to the election outcome, while maintaining a direct link between elected representatives and their community.

Selecting between electoral system families does not imply that one is choosing between a “good” and a “bad” electoral system. Nor is the choice between a “democratic” and a “non-democratic” system. Instead, it is a choice between different ways of reflecting the way in which democratic votes are translated into legislative seats, with knowledge that each of the systems has its own characteristics. The system that is adopted will have an impact on the way that parties structure voting choices, and ultimately how the legislative assembly functions.

## **Plurality and Majority Electoral Systems**

This section reviews four types of electoral systems characterized as plurality or majority systems – First Past the Post, Alternative Vote, Block Vote, and Two Round systems. Following the description of each electoral system, several advantages and disadvantages are presented.<sup>33</sup>

### **First Past the Post (FPTP)**

The First Past the Post electoral system is the one with which Yukoners will be most familiar since it is the system in use in federal and territorial elections. Sometimes called the single member plurality system, FPTP divides the jurisdiction into a number of electoral districts, or constituencies, generally based on population, and assigns one representative to each district. In FPTP systems, candidates can compete either as representatives of a political party or as unaffiliated or independent candidates, and the candidate with the most votes wins the seat. In a system in which there are two candidates contesting the seat, the winner will receive a majority of votes cast. However, with three or more candidates, the winning candidate is not required to have a majority of votes, but rather simply to have more votes than any other candidate (that is, a plurality). If the votes are relatively evenly split among the three candidates, with each candidate receiving about one-third of the votes cast, then the losing candidate can have the support of just almost two-thirds of voters, with only about one-third supporting the winner. As the number of candidates continues to increase, a smaller percentage of votes may be required to win the seat. To determine the winner of the election, the individual contests in each of the electoral districts are summed to determine how many

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<sup>33</sup> The list of proposed advantages and disadvantages is not purported to be exhaustive. Rather, they are indicative of arguments often made in criticism or defence of each of the electoral systems.

seats were won by each party or independent candidate. Generally, the winning party is the party that won the most seats.

### *Advantages*

Direct connection between voters and representative in their community. The FPTP electoral system is constituency-based. This means that each elector has his or her representative, who is responsible for providing a constituency service function within the constituency. The member of the legislature can serve as a conduit between electors and the more general system of government, and therefore provides an important liaison function.

Simple to understand. The translation of votes into seats in an FPTP system is very easy for voters to understand. They vote for a person in their community (electoral district), and the person with the most votes wins.

Easy to see who won. In any electoral district, identifying the winner is simple and straightforward, and generally is known on election night, when the counting of votes is concluded. The ballots themselves are very simple, with candidates for a single office listed on the ballot. And the winner can be identified as soon as the counting of the simple ballots concludes.

Tendency toward majority government. Although not everyone views this as an advantage, the FPTP electoral system has the characteristic in some systems, depending on the percentage votes of the winning party, of transforming a minority of votes into a majority of legislative seats. The result is relatively stable government, that can carry out its legislative agenda for the duration of its term. The Yukon Legislative Assembly has experienced this tendency on a regular basis since territorial elections were conducted since 1978 (see Tables 1A and 1B). In the 12 elections conducted since 1978, no party has won a majority of votes. However, during this period, a majority government has been elected 9 times (75%) and a minority government 3 times (25%). In addition, each of the major parties has benefitted from this feature, including the Yukon party (and its predecessor the PC party) five times, the Liberal party twice and the NDP twice.

### *Disadvantages*

In multi-party systems, most voters may vote for losing candidate. It is common in FPTP systems that more than two parties compete in many electoral districts. Where this occurs, it is not necessary for a candidate to receive a majority of votes to win in their district. It is common in systems that use FPTP, and that have multi-party systems, that no candidate receives a majority of votes in a district. When this is repeated in many districts across the country, the result is that more voters cast their ballot for losing candidates than for winning candidates. Furthermore, when this is combined with the feature about majority governments discussed above, the result is that it is often the case that a minority of votes is used to produce not only a government, but a majority government.

Can be highly distorting between votes and seats. A FPTP system is often characterized as a “winner take all” system. A party coming in a close second to the winner in an electoral district receives as many seats as a party that loses by a wide margin – namely, nothing. A party that finishes first in many districts by a small margin, and loses other districts by a large margin, will likely have their votes produce an inflated number of seats. In contrast, a party that loses by a small margin, but nonetheless loses consistently, is likely to have a significant under-representation in their seats. The exception is with parties with relatively narrow, but regionally concentrated support. Where support is concentrated regionally, the party is likely to be over-represented in seats compared to votes.

Relatively difficult for new and emerging parties, except those that are geographically concentrated. FPTP systems are considered to have fairly high thresholds of entry into the legislative arena. For a nascent political party to gain an electoral foothold, it must win one or more constituency contests outright. It can be very challenging to go from the formation of a political party to a position of being able to beat all alternatives in an electoral district. Therefore, although FPTP system can often develop into multi-party systems, generally such systems support a fairly small number of political parties, often no more than four or five competitive parties.

Can be barriers to entry for women, and for minority candidates. Plurality and majority systems generally, and FPTP systems in particular, present barriers to entry for women and minority candidates. Voters who may have preconceived biases against any class of candidates, based on the candidate’s gender, religion, ethnicity, age, or other characteristics, may bring those biases into their voting decision. In addition, political parties, through the nomination process for candidates, may take the position that a candidate is less likely to win in a district if they come from a historically under-represented group. Therefore, a female candidate, or a candidate from a religious or ethnic minority group, may face greater challenges under a FPTP system in being nominated in a competitive electoral district (that is, a district in which their party stands a reasonable chance of electing their member), or once nominated, in overcoming social or cultural biases against them. Furthermore, although political parties may adopt policies to encourage citizens from historically under-represented groups to seek a nomination and run as a candidate, the party has no independent way of guaranteeing that it has a balance of diverse candidates elected.

#### Considerations

Changing the electoral system in the Yukon implies getting rid of the FPTP system. Overall, what is the assessment of the performance of FPTP? Is there a consensus in the Yukon that FPTP should be replaced?

Have the perceived negative impacts of the FPTP electoral system changed over time? Are they perceived as more or less problematic today?

Why is now the time to replace FPTP in the Yukon?

## Alternative Vote (AV)

The Alternative Vote electoral system is sometimes referred to as Preferential Voting. Like the FPTP system, it also is based on single member constituencies. However, unlike FPTP, a candidate is required to receive a majority of votes in order to win the election. In an AV system, a voter receives a ballot for the electoral district, listing the name of each candidate. Beside each candidate's name is a square. The voter must rank the candidates from highest preference (number 1) to lowest preference (number x, where x is the total number of candidates)<sup>34</sup>. A candidate is declared the winner when they receive a majority of votes cast. This can be done in one of two ways. First, the ballots are sorted according to the first preferences of all voters. If one of the candidates receives a majority of first preference votes, they are declared elected. If no candidate receives a majority of first preference votes, then the second procedure is used. The candidate with the lowest number of first preference votes is eliminated, and the second preferences of their voters are distributed among the remaining candidates. If no majority winner is declared, then this procedure continues in a series of rounds, in each round eliminating the candidate with the lowest number of votes, and distributing the subsequent preference of their voters to the remaining candidates. Eventually, one candidate will obtain a majority.

AV is not widely used, and the most significant instance of its use is for elections to the House of Representatives (the lower house) in Australia. Alternative voting was introduced by the National party government in Australia in 1918, following a period in which the two more conservative candidates running in the same constituency were consistently losing to a single more progressive party candidate running under the Labour Party.<sup>35</sup> To prevent this so-called vote-splitting from negatively impacting the election of conservative candidates, the Alternative Vote method was introduced so that, if no party received a majority, in subsequent tallies the preferences of "like-minded" citizens could be aggregated into a majority.<sup>36</sup>

### *Advantages*

Winning candidate guaranteed to have majority support. Where a concern with FPTP is that in a multi-candidate contest it takes less than a majority vote to win, the Alternative Vote system solves this problem. Winning candidates, by definition, won with a majority. This has the practical effect of indicating that most voters indicated more support for the winning candidate than for the losing candidate, notwithstanding the fact that the winner may not have been their

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<sup>34</sup> For a description of how to cast a ballot in an Alternative Vote election, see the description by the Australian Electoral Commission entitled, "House of Representatives Ballot Papers," available at:

[https://www.aec.gov.au/Voting/How\\_to\\_Vote/Voting\\_HOR.htm](https://www.aec.gov.au/Voting/How_to_Vote/Voting_HOR.htm)

<sup>35</sup> See, ACE project, The Alternative Vote in Australia, available at:

[https://aceproject.org/main/english/es/esy\\_au.htm](https://aceproject.org/main/english/es/esy_au.htm)

<sup>36</sup> For an argument in favour of using this system in federal elections in Canada, see Tom Flanagan, "The Alternative Vote: An Electoral System for Canada," in Henry Milner, ed. Making Every Vote Count: Reassessing Canada's Electoral System. Peterborough: Broadview, 1999, pp. 85-90.

first choice. For most voters, the winning candidate was more preferred than the candidate finishing second.

Simple to understand. Like FPTP, the voting process in Alternative Vote is easy to understand, although the way in which preferences are counted is less straight-forward.

Voters indicate a fuller range of preferences. Voters attitudes towards candidates and parties may be complicated and nuanced. The FPTP system requires that voters reduce their choice to a single statement – they like candidate A more than all others. The choice in Alternative Vote is more detailed and more nuanced, does not require voters to make strategic considerations about which parties may win and lose, and encourages them to provide a true expression of their range of preferences.

Encourages parties to cooperate. Since it is possible, and in fact probable in many instances, that no candidate will win a majority of first preference votes, this system encourages parties and candidates to court one another and their supporters as possible second, third or fourth alternatives. In doing so, the system encourages parties to cooperate.

### *Disadvantages*

Other than ensuring the winning candidate has a majority, AV shares many of the shortcomings of FPTP. It can be equally distorting as FPTP, and overall provides no improvement on the distortion between votes for a party and its legislative seats. It also can have the same effect on under-representing historically under-represented groups.

Evidence from Australia suggests the result of seat allocation based on the majority system may have a mixed effect. On the one hand, in the 2019 election, only 46 of the 151 seats in the House of Representatives were decided on first ballot preferences. The other 105 seats were decided based on the preferences of lower-ranked candidates.<sup>37</sup> On the other hand, seats decided by preferences do not mean that the candidate leading on first preferences loses. Data from the 1990s indicates that about 6% of members elected were not the leader on first preference votes<sup>38</sup>. Thus, while preferences make a difference, and can affect which party forms government, in general the effect is somewhat muted.

Large number of excluded ballots. Although the ballot used in an Alternative Vote system like that in the lower house in Australia is straight-forward, the way a voter must mark the ballot is very prescriptive. A voter must indicate a rank order for each candidate listed on the ballot, with the minor exception that they may leave one square unmarked, with the understanding that the unmarked square is for their least favourite candidate. If the ballot is marked in any

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<sup>37</sup> Australian Electoral Commission, “Seats Decided on First Preferences,” available at: <https://results.aec.gov.au/24310/Website/HouseSeatsDecidedOnFirstPrefs-24310.htm>

<sup>38</sup> See, the ACE project, “The Alternative Vote in Australia”, Available at: [https://aceproject.org/main/english/es/esy\\_au.htm](https://aceproject.org/main/english/es/esy_au.htm)

other way (such as marking for only some of the candidates), then it is considered an “informal”, or invalid, ballot. In the 2019 election, 835,223 of the 15,088,616 of the ballots (5.54%), were declared informal and therefore not counted<sup>39</sup>.

#### Considerations

The AV electoral system provides constituency representation, like FPTP, but ensures through a voter’s ranking of candidates that the winning candidate will obtain a majority of votes in the constituency. However, it tends not to correct for disproportionality of voting results to seat results. For those who consider FPTP to be flawed, is the principal flaw its disproportionality overall or that constituencies have winners with only a plurality of votes. In other words, does an AV system correct the most significant concern with the current electoral system?

Does the current electoral system work against collaboration among political parties, and if so, would there be more collaboration under AV?

Is vote-splitting currently a problem with some Yukon parties being under-rewarded and some consistently over-rewarded? Would this situation change under AV?

#### **Block Vote (BV)**

The Block Vote electoral system is essentially the same as the FPTP system, with the exception that more than one member is elected from an electoral district, and voters are able to vote for as many candidates as are elected. For example, if an electoral district has three seats, voters can cast a ballot for up to three candidates, and these candidates may be from the same party or from different parties. The voter does not indicate his or her preferences among the three candidates, as could be done by ranking them. Instead, like in FPTP, the voter simply indicates their support for up the three candidates. The winning candidates are those who have received the highest number of votes. In any electoral district, more than one candidate from the same party can be elected.

#### *Advantages*

Easy to understand. Like the FPTP system, the BV electoral system is viewed as simple to understand and to administer. The ballot is simple, and voters need only indicate with a mark which candidates they support.

Ballots counted at polling station. Local results are known immediately after the count concludes. In his discussion of the use of the Block Vote system for the first elections of the Palestinian Legislative Council in 1996, Ellis notes that the relatively high level of societal distrust led to the agreement to use an electoral system in which the tabulation of results is

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<sup>39</sup> Australian Electoral Commission, “Informal Votes by State,” available at: <https://results.aec.gov.au/24310/Website/HouseInformalByState-24310.htm>

easy, straight-forward and could be done at the local polling station.<sup>40</sup> This decision eliminated the possibility of using preference ballots, such as in use in AV or Single Transferable Vote system, in favour of BV.

### *Disadvantages*

High distortion. The absence of any factors leading to proportionality of election results means that the Block Vote system can be similarly distorting as FPTP.

Large number of parties in legislature. Unlike FPTP, which tends to lead to a relatively small number of parties with legislative seats, the Block Vote system can reward multiple parties with seats from any multi-member district, thereby leading to a larger number of effective parties in the legislative assembly, and a lesser likelihood of majority government. For example, Hicken indicates that prior to Thailand abandoning BV in the 1990s, elections often produced six or more effective parties in the legislature, making stable governance more challenging.<sup>41</sup>

Intraparty fighting among candidates. The existence of multiple seats in a constituency, with parties able to run a candidate for each of the seats, means that a candidate is vying for a seat not only against candidates from other parties, but also against candidates from his or her party. This can have the effect of heightening intraparty divisions and weakening political parties, as Hicken suggest occurred in Thailand under the Block Vote system.<sup>42</sup>

### Considerations

Would a BV electoral system improve representation in the Yukon? There is no evidence to suggest that electoral distortion of votes to seats improves with the Block Vote system over FPTP. What advantages would this system bring to the Yukon. Would its disadvantages, of likely weakening party ties through more intraparty competition, be a desirable outcome?

Constituencies in the Yukon outside of Whitehorse already are large. What would be the impact in the territory of increasing the size of electoral districts and adding one or more MLAs to each of the districts?

If one is using a constituency-based electoral system, as is the case with either FPTP or BV, is it preferable in the Yukon to elect a single representative in an electoral district using current electoral districts, or is it better to elect multiple representatives from each district, but in doing so recognizing that the size of the electoral districts will increase significantly?

<sup>40</sup> Andrew Ellis, "Political Realities Shape the System," in Reynolds, Reilly and Ellis, 2005, pp. 45-46.

<sup>41</sup> Allen Hicken, "Thailand: Combatting Corruption Through Electoral Reform", in Reynolds, Reilly and Ellis, 2005, pp. 105 – 107.

<sup>42</sup> Hicken, "Thailand: Combatting Corruption Through Electoral Reform", p. 106.

## Two-Round systems (TRS)

As its name implies, two-round electoral systems, sometimes called run-off systems, provide for a second election to be held soon after the first if no candidate receives a majority of votes in the first round. There are differences in the criteria used to determine whether a candidate is entitled to be on the second ballot. In some instances, such as occurred in the election for US Senator from the state of Georgia following the 2020 election, both Senate seats were up for election, and for each seat, since no candidate received a majority of ballots, the candidates with the two highest vote totals contested the second, run-off election. The run-off election, which took place on January 5, 2021, resulted in Democrats winning both seats (after trailing their Republican counterparts in the first round), thereby providing an even 50-50 split in the US Senate among Democrats and Republicans<sup>43</sup>. A run-off election between the two candidates will always produce one person with a majority of votes. A second method of identifying the run-off candidates, used in parliamentary elections in France, is for candidates receiving more than one-eighth of the votes (12.5%) to be entered in the second election. The winner of the second election is the candidate with the most votes, meaning that this system is not necessarily a majority system, since with more than two candidates one can win with less than 50% + 1 of the votes. This electoral system often is used in a country-wide vote for president and is used in many parliamentary elections as well.<sup>44</sup>

### *Advantages*

Enables voters to vote their “true preference” on first ballot, not a strategic vote. A criticism of the FPTP system is that voters may be faced with a dilemma, of voting in favour of their most preferred candidate, or voting to try to prevent their least preferred candidate from winning. This so-called strategic voting is not necessary in a two-round system, as long as no candidate wins a majority of votes on the first round, voters are able to vote their first preference in round one, and to vote against their least preferred candidate in round two.

Encourages interests to coalesce around a preferred candidate. The two round system encourages, at least informally, alliance-building among parties, or among candidates from competing parties, since a candidate may rely on the support from their opponents in the second-round ballot.

Minimizes the penalty for vote-splitting among otherwise similar parties. A concern of some people with FPTP is that if two or more similar parties compete against one another, a third

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<sup>43</sup> It was unusual that both Senate seats from Georgia were up for election in 2020, since Senators serve 6-year terms, and the terms for Senators within states are staggered so as not to elect both in a single election. One Senate seat was held by David Purdue, whose 6-year term had expired. Purdue faced a run-off against Democratic challenger Jon Ossoff, who won. The second seat was held by Kelly Loeffler, a Republican who was appointed to this seat by Governor Kemp following the resignation (for health reasons) of Johnny Isakson in 2019. Since Loeffler was appointed to the seat, it also was up for election for the duration of the initial term. Loeffler lost in the run-off to Democratic challenger Raphael Warnock.

<sup>44</sup> Reynolds, Reilly and Ellis, p. 52.



party, with less support than the combined support of the first two, may be elected. This appeared to be the situation federally in Canada during the period in the 1990s in which the Reform Party and the Progressive Conservative parties each won a significant share of the votes, but in which the Liberal party was able to win elections with a declining overall share of the vote. The second-round ballot, particularly if available to only the top two candidates, eliminates this effect.

### *Disadvantages*

Very challenging for election administration. Although deciding upon which electoral system to have in place generally is not determined by how easy or difficult it is for an election agency to administer the system, nonetheless it should be acknowledged that administering a two-round system is very challenging, whether the second round occurs a week after the first, as in France, or a couple months after the first, as in the US state of Georgia.

The challenge to voters of turning out multiple times. Two-round systems are challenging not only for election administrators, but for candidates and parties, and for voters. Although voter turnout in Yukon territorial elections has remained relatively high, nonetheless it is often the case the voter turnout in second round elections is lower than the first round in systems that use TRS.

Can be highly disproportionate. TRS makes no provision for increasing the proportionality of voting. It is notable that France, which often is viewed as the most salient example of the two-round voting system, has among the highest electoral distortion of any Western democracy.

### Considerations

Conducting elections in the Yukon is very challenging for all concerned. Is it reasonable to expect that, where voting does not produce a majority winner, that voters be asked to return to the polls a short time later for a second round?

Are the political interests of Yukoners accurately reflected in the composition of the legislative assembly following most elections? Would a two-round system likely produce a significantly different composition of the legislative assembly that would more accurately represent the wishes of people in the territory?

## Proportional Representation Electoral Systems

Proportional representation electoral systems have a single overarching rationale – to ensure that the seats in the legislative assembly are generally at or near the same proportion as the popular vote obtained by the parties. To accomplish this, parliamentary seats must have multiple members, and the degree of proportionality can increase as the number of seats in the district increases. The seats are generally allocated according to regionally-based multi-member districts, although in some instances, they are determined by the parties' overall vote in the country. There are several formulas for allocating seats under a proportional representation system, referred to as the "highest average" or the "largest remainder" methods, although in most instances the difference between the two does not make an appreciable difference to the degree of proportionality. Proportional representation systems are widely used around the world. According to the Handbook of Electoral System Design published by International IDEA, 72 of the 199 countries or significant territories that they categorized use a system of proportional representation, almost all of which (70) use a list PR system<sup>45</sup>. The Single-Transferable Vote system is used in two jurisdictions, and the Single Non-Transferable Vote, which they categorize as an "other" system, is used in 4. These data were as of the time of publication in 2005.

### List Proportional Representation (List PR)

As its name implies, a List Proportional Representation system is one in which parties present a list of candidates to the voters, voters indicate their vote for a party, and the parties receive seats in the legislative assembly based on the proportion of people who voted for the party. The party lists represent a ranking of the candidates, and candidates are elected in the order in which they appear on the list. Thus, if a party is contesting 20 seats and wins 40% of the vote, then the party would receive  $(20 * 0.4)$ , or 8 seats. The candidates listed first through eighth on the party list would be declared elected, and the candidate listed ninth would not, nor would candidates with a lower ranking. In this way parties have a very high degree of control over who will represent them in the legislative assembly – they simply don't know how many of their selections to which they are entitled.

#### *Advantages*

High proportionality between vote and seat percentages. The most significant and most distinctive feature of party list PR systems is the close alignment between a party's votes and seats. To the extent that there is a visceral attachment to the idea that the division in the legislature should reflect the division in the electorate, the party list PR system comes closest to manifesting this feature.

Encourage formation of many political parties, as the barrier to entry is lower. Under list PR, depending upon the number of legislative seats in the regional or national district, it may not

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<sup>45</sup> Reynolds, Reilly and Ellis, 2005, p. 30 and 57.

require a very high proportion of votes to qualify for one or more legislative seats. Consequently, the barrier to entry for a political party is relatively low, and as a result, more parties are likely to emerge and to find representation in the legislature. This is especially the case with a pure list PR system, without thresholds. However, as discussed below, various thresholds could be put in place to make entry into the legislative assembly more difficult.

Can facilitate the representation of women and minority groups. Under a majority or plurality electoral system, although voters know of the party affiliation of a candidate, they are casting a ballot directly for the candidate. As a result, although parties may nominate women candidates or candidates from minority communities, there is no guarantee that such candidates will be elected. Under a list PR system, in contrast, the party controls the placement of members on the list. Therefore, if the party is committed to gender equity in representation, it can ensure that its candidates alternate between males and females. The party can also ensure that candidates of minority groups are placed on their lists in a position that is likely to ensure the election of these candidates.

### *Disadvantages*

Majority government is very unlikely. List PR tends towards coalition government. The flip side of the observation that a list PR system leads to more parties being represented in the legislature is that it is more difficult for any party to form a majority government. The tendency is towards the increased fractionalization of the party system and governing therefore often requires multiple parties to work together, including doing so formally through a coalition government arrangement. Although coalition governments are not necessarily less stable than majority governments, they can be.

Disproportionality in power of minor parties that are government partners. It is perhaps paradoxical that discussions of proportional representation focus on the relative alignment of votes in an election to seats in the legislative assembly but focus less on the relative power exercised by the different parties depending on whether they fit in possible coalition arrangements. It is commonplace following an election under a list PR system that party leaders engage in negotiations, sometimes protracted negotiations, to determine what set of parties can come to a coalition agreement. In such negotiations, it can be the case that a party with a relatively small support base and vote total effectively holds the balance of power in a coalition. Where this occurs, the party's effective power can be significantly disproportional to its vote percentage.

Difficult to vote a party out of power. Coalitions are arrived at through party negotiations. The reliance on coalition governments, and the tendency for there to be a relatively large number of political parties with legislative seats, means that a fairly large "centrist" party may be a key figure in many different coalition possibilities. To the extent this is true, it makes it difficult for voters to vote a government out of office if the legislative party can find enough coalition partners to remain in government.

No direct tie between voters and representatives. In a list PR system, the direct connection between citizens and their representatives is broken. To the extent that the party lists are based on regional lists, then there may be some continuing connection between representatives and the people in a regional who voted for them (through the party). However, elected members are highly dependent upon following will of the party, perhaps more so than the will of the electorate. Under this system, a member's first allegiance may be to his or her party, rather than to his or her constituents. In addition, since the system emphasizes the vote received by an entire party in a constituency (whether that is a regional constituency or a national constituency), it heavily disadvantages independent candidates.

#### Considerations

Among the values that should be expressed in an electoral system, where does the value of proportionality fit? Is this the most important characteristic, or are one or more other characteristics equally or more important?

Proportionality can increase as the number of seats in an electoral district increases. For example, if a district has only three seats, and the election produces a result in which one party wins 45% of the votes, a second party gets 35% of the votes and a third party gets 20% of the votes, there will still be a high amount of disproportionality in seat allocation. However, with 10 seats, the disproportionality can decrease substantially. If a list PR system is used in the Yukon, how many seats would be included in each electoral district? Would there be a Whitehorse district and a non-Whitehorse district?

Does the Yukon legislative assembly have enough seats available for a list PR system to be implemented? How many seats would be required for the system to work well in the Yukon?

List PR systems are said to favour the development of a larger number of political parties. Would it be a good thing in the Yukon for there to be more parties with seats in the legislative assembly?

Some list PR systems impose thresholds to make it more difficult for very small parties to have a legislative seat. For example, a party may need to obtain 5% of the vote to be eligible for any seats. Would such thresholds be desirable in the Yukon if a list PR system was adopted, and if so, what would be relevant thresholds?

#### **Single Transferable Vote (STV)**

The Single Transferable Vote electoral system combines aspects of the list PR and AV systems. Like list PR, it uses multi-member districts and can include party lists of candidates. However, voters are not required to follow the ranking of candidates based on the parties' lists, and instead can indicate which party they prefer as well as indicate which candidate(s) they prefer, by providing a ranking of the candidates for whom they are voting. Although STV is popular among political scientists, it has had relatively few applications for national legislature

elections, the two most prominent cases being the Republic of Ireland and Malta. One of the challenges of STV is the complicated method used to count ballots and allocate seats. It begins by establishing a quota, based on first preference votes. The quota is defined as the total number of votes divided by the total number of seats plus one, with one added to the product. For example, if there were 1,000 votes and four seats, the quota would be  $((1,000/(4+1)) + 1$ , which is 201. Therefore, each candidate with 201 votes would be declared elected. If there were not four candidates with 201 votes, then a series of steps would be taken until another candidate achieved the quota. This would involve taking the “excess” votes from the elected candidates (that is, those with 201 votes), and redistributing their votes over 201 to the remaining candidates. It also would involve successively removing the candidate with the lowest vote and redistributing their next preferences, until all seats were filled.

### *Advantages*

Similar advantages as other PR systems. By increasing the proportionality of vote and seat counts, STV can lead to greater confidence in the election process and its outcomes.

Maintains proportionality while also retaining a connection between representative and those they represent. The ability of voters to cast their ballot not only for a party but for specific candidates increases the likelihood that a direct relationship will develop between representatives and those in the constituency who elected them.

### *Disadvantages*

Very complicated method of calculating winners. The ballot counting procedure is not intuitively clear to many voters. The process of tallying the votes and redistributing vote preferences must be done at the election agency’s headquarters, not at the polling place. The method of calculating winners is opaque.

Can introduce internal fragmentation into parties since candidates for the same party can be seen as competing with one another. Parties exert less control over their candidates compared to list PR systems, and therefore candidates may seek an advantage over a candidate from the same party.

### Considerations

Although STV often is given high praise by political scientists who study electoral systems, it has not been widely adopted. One of the reasons for this is the complicated process used for determining the winner. Would this electoral system be widely accepted in the Yukon if people had difficulty understanding how a winner is determined?

While providing the opportunity for voters to rank candidates is viewed by some as an improvement over list PR systems, in which parties determine the order of candidates, it can also lead to some internal conflict within parties, since candidates from the same party can be

seen as competing with one another. Parties' ranking of the candidates is therefore non-binding on the voters. Would this be a desirable or undesirable aspect if this system was used in the Yukon.

### Single Non-transferable Vote (SNTV)

The Single Non-transferable Vote electoral system is sometimes categorized among proportional representation systems<sup>46</sup> and sometimes as an “other” system<sup>47</sup>. It is similar to a BV electoral system, with multi-member electoral districts, but unlike BV, where voters can cast a ballot for each seat elected from the district, in SNTV, the voter casts only one vote. Seats are awarded based on the largest number of votes obtained by the candidates, and therefore candidates are elected based on the number of votes they receive. This also implies that candidates are elected based on the proportion of votes they receive. Thus, the proportionality of seats is based on the proportionality of candidate votes, not on the proportion of a party's vote. It is a system that can reward minor parties and encourages all parties to act strategically in the presentation of candidates.

To illustrate a SNTV system, imagine the following hypothetical distribution of votes and seats for the following 6 candidates, when 1,000 votes are cast and where four candidates are elected:

Votes	Candidate	Party
300	1	A
90	2	A
200	3	B
180	4	B
120	5	C
110	6	D

Of the 1,000 votes, candidate 1 finished with the most votes, 300, followed by candidates 3, 4 and 5. These are the four candidates that would be elected. But consider that happens when looking at the outcome from the perspective of votes obtained by each party:

<sup>46</sup> Andre Barnes, Dara Lithwick and Erin Virgint, Electoral System and Electoral Reform in Canada and Elsewhere: An Overview, Background Paper, Library of Parliament, 2016, p. 9. Available at: [https://lop.parl.ca/sites/PublicWebsite/default/en\\_CA/ResearchPublications/201606E](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201606E)

<sup>47</sup> Reynolds, Reilly and Ellis, 2005, p. 113.

Party	Votes	Vote %	Seats
A	390	39.0	1
B	380	38.0	2
C	120	12.0	1
D	110	11.0	0

In this hypothetical election, party A received 39% of the votes, but only one seat, compared to party B receiving 38% of the votes and two seats. The single candidate for party C received only 12% of the votes, but obtained one seat, as many as party A with more than 39% of the votes. The distribution of votes among party B candidates was more evenly divided than among party A candidates, enabling it to win two seats. Therefore, the proportionality of the system characterizes the seat distribution among candidates more so than among parties. Thus, it provides a greater opportunity for minor parties to obtain representation.

#### *Advantages*

Direct connection between voters in an electoral district and elected members. As a constituency electoral system, emphasizes direct linkage with voters.

Likelihood that multiple parties will be elected from an electoral district. With multiple candidates being elected from an electoral district, there is an increased chance that candidates from more than one party will be elected, perhaps more so than with other multi-candidate systems.

Easy to understand. The candidates with the most votes win.

#### *Disadvantages*

Requires parties to be highly strategic in nominating candidates. Parties perform better when their two or more candidates have support distributed fairly evenly.

One candidate receiving many votes can disadvantage a party. A party that nominates a candidate with overwhelming support, may disadvantage its other candidate(s), by drawing most of the support of those party supporters.

Can be disproportionality in vote to seat counts for parties, although candidates with the most votes win. Depending on the distribution of votes among party candidates, the outcome may be more or less proportional.

Intraparty competition is heightened. Candidates within a party can view one another as competitors, thereby decrease intraparty unity.

## Considerations

The SNTV system is premised on the use of multi-member electoral districts. Is there a compelling reason to use multi-member districts in Yukon territorial elections? What would the multi-member districts look like – would there be one for the city of Whitehorse, and one for the rest of the territory, or something different?

SNTV systems provide greater opportunities for minor parties to be represented in the Legislative Assembly. To what extent is the fact that minor parties are not present in the Yukon legislative assembly a problem that should be addressed through electoral system reform?

The SNTV system encourages the parties to be highly tactical in the way in which they nominate candidates for multi-member elections. Would this be a good thing for Yukon elections?

There is no guarantee that the seat distribution in the legislature under SNTV is less distorted in relation to votes cast than under FPTP. Are there other advantages that this system brings that make it an attractive alternative?

## Mixed Electoral Systems

Mixed electoral systems attempt to capture the best of both worlds. They generally combine a list PR system with some other form of electoral system, often FPTP, to ensure both a direct connect between at least some of the legislators and their constituents, with the ability to reduce the distortions in plurality and majority systems between vote and seat percentages. The two types of systems within the mixed family are parallel electoral systems, which essentially run two types of electoral systems alongside one another, taking the results of each independently, and mixed member proportional systems, which use the seats determined from party lists to compensate for distortions arising from the seats allocated using the plurality or majority system.

### Parallel

Parallel electoral systems provide two electoral systems that run alongside but independent of one another. In most cases they combine a plurality or majority electoral system with a list PR system. In their review of electoral systems in 2005, Reynolds, Reilly and Ellis identified 21 countries that used parallel electoral systems, from large countries like Russia to small one like Seychelles and Kazakhstan. They found a wide discrepancy between the proportion of seats assigned to the constituency contests (using plurality or majority systems) and those assigned to party lists. Of the 21 jurisdictions, 8 of them had one-third or fewer of their seats determined by the party lists, 10 had between one-third and two-thirds of their seats as party list seats, and 3 had more than two-thirds of their seats decided by party lists. As well, of the 21 countries, two of them had legislative assemblies with fewer than 30 members (24 in Monaco and 28 in



Andorra), and four had legislatures with 450 or more members (Japan, Russia, Thailand and Ukraine). Of the two smallest legislatures using a Parallel electoral system, Monaco assigned one-third of its seats by party list and two-thirds by constituency vote, and Andorra assigned 50% to each.

### *Advantages*

Reduces the distortion that may be caused by a majority or plurality electoral system. The existence of the party list PR system is intended to reduce some of the distortions, although this will be less so than with the MMP system.

Provides an opportunity for minor parties to be represented, despite the distortion that may be present due to the plurality or majority system. However, there must be sufficient list PR seats to provide relatively minor parties with a chance to achieve an electoral quota that would provide them with seats. If the number of list PR seats is relatively small, there is little opportunity for minor parties to receive list PR seats, and thus little difference between the result obtain by the plurality/majority system

### *Disadvantages*

To the extent that there is distortion in the electoral system, it may be insufficiently compensated. This system is not intended to compensate for under-representation based on the plurality or majority system. Rather, it simply provides a second opportunity for parties to receive seats.

### Considerations

The Parallel electoral system introduces two kinds of MLAs sitting simultaneously. One type represents electoral districts, and one represents parties. Would these MLAs have different status in the legislature?

Is the Yukon legislative assembly big enough to have two different types of MLAs? If the division between types is 50/50, the current 19 constituencies would be reduced to 9 or 10 constituencies. Is this desirable? Or is it better to add more seats to the legislature?

Will list PR seats simply reinforce the relative advantage received by the party with the largest vote total, and the largest number of constituency seats?

## Mixed Member Proportional (MMP)

The Mixed Member Proportional electoral system allocates some seats by a plurality or majority system and others based on list PR. The key aspect of this electoral system is that party list seats are used to determine a party's seat entitlement and are added to a party's seat allocation after the constituency seats have been allocated. This method ensures that a party's total seat allocation approximates very closely its proportion of the party list vote. At the same time, because it includes seats elected in constituencies, it combines the principles of providing a direct link between voters and representatives in their local area, with the principle of proportionality.

The MMP system used in New Zealand can illustrate the manner of seat allocation using this method. New Zealand uses the St. Lague formula to allocate the total number of seats to which each registered party is entitled. New Zealand has a dual threshold system in place for allocating list seats – a party is entitled to list seats if it has won at least one constituency seat, or if it has won at least 5% of all votes cast in the election. Determining the number of seats to which each party is entitled is a multi-step process which proceeds as follows:

**Step 1.** Draw a table that lists all parties, their total votes, their percentage of party votes, and the number of constituency seats. Eliminate from consideration all parties that did not win a constituency seat or did not win 5% of all party votes.

**Step 2.** Divide each party's total vote by a sequence of odd numbers, starting with one, until the 120 highest quotients have been found (there are 120 seats in the New Zealand Parliament). Assign to each party the number of seats it has in the highest 120 quotients.

**Step 3.** Assign to each party the constituency seats it won and add to this the difference between total seats assigned and constituency seats to determine the number of party list seats. Assign each party the party list seats to which it is entitled and declare elected the top-ranking candidates on the party's list until their seat entitlement is filled.<sup>48</sup>

The way in which this system works in practice can be seen by using data from the 2020 general election. Appendix 1 shows the result of calculating the quotients for party list seats for the top 5 parties in the election. The Labour party received 1,443,545 votes. This number is divided by odd numbers sequentially until, once it is divided by 129, it produces the 120<sup>th</sup> largest quotient of all parties using this method. Summing the number of seats included in the Labour party tally, this system entitles the party to 65 seats. In contrast, for the Maori party, their 33,630 party votes entitle them to only two seats.

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<sup>48</sup> Abridged version of Elections New Zealand, [St. Lague formula explained](https://www.electionresults.govt.nz/electionresults_2020/statistics/sainte-lague-formula.html), available at: [https://www.electionresults.govt.nz/electionresults\\_2020/statistics/sainte-lague-formula.html](https://www.electionresults.govt.nz/electionresults_2020/statistics/sainte-lague-formula.html)

Table 5 demonstrates the seat allocation for constituency and list seats. The Labour party won 46 constituency seats. Since it is entitled to 65 seats overall, it therefore is entitled to 19 party list seats. In contrast, the Green party, with 226,757 votes is entitled to 10 seats. However, it won only a single constituency seat. Therefore, it is allocated 9 party list seats. The result is that some parties are compensated at a higher proportion than others depending on how the constituency seats are allocated. Also, it is noteworthy that in New Zealand, the district magnitude for calculating party list seats is the country, with 120 seats and one electoral district.

### *Advantages*

System is more proportional since list seats are compensatory. The seats allocated based on party lists are only allocated after the constituency seats are factored into the total seat allocation for a party. In this way, they are intended to compensate for the plurality or majority system over-rewarding some parties and under-rewarding others.

Improved proportionality while maintaining constituency-based representation. The system tries to take advantage of the positive attributes of both plurality/majority systems and PR systems. It includes MLAs elected by constituencies, thereby maintaining a direct tie with representatives, but also improves proportionality.

### *Disadvantages*

Like parallel systems, a MMP system would appear to require a legislative assembly with a relatively large number of seats. The rural constituencies in the Yukon already are large. This system would likely require them to be larger.

With very few list PR seat to allocate, it would likely be that the party list seats would be allocated through one Yukon-wide district. This may raise challenges for diversity.

### Considerations

Like the Parallel electoral system, the MMP system elects some MLAs using one electoral system such as FPTP, and others using another electoral system, such as list PR. Is the Yukon legislative assembly large enough to accommodate two types of electoral systems, and two types of representatives?

Under MMP what would be the proportion of constituency MLAs and the proportion of list PR MLAs? Would the two types of MLAs have different roles and functions?

Would list seats come from the Yukon as a whole, or from different constituencies?

**Table 5. General Election results, New Zealand, 2020**

<b>Party</b>	<b>Party Votes</b>	<b>% of Votes</b>	<b>Electorate Seats</b>	<b>List Seats</b>	<b>Total Seats</b>
Labour Party	1,443,545	50.0	46	19	65
National Party	738,275	25.6	23	10	33
Green Party	226,757	7.9	1	9	10
ACT New Zealand	219,031	7.6	1	9	10
Maori Party	33,630	1.2	1	1	2
New Zealand First Party	75,020	2.6	--	--	--
The Opportunities Party	43,449	1.5	--	--	--
New Conservative	42,613	1.5	--	--	--
Advance NZ	28,429	1.0	--	--	--
Aotearoa Legalise Cannabis	13,329	0.5	--	--	--
ONE Party	8,121	0.3	--	--	--
Vision New Zealand	4,237	0.1	--	--	--
NZ Outdoors Party	3,256	0.1	--	--	--
TEA Party	2,414	0.1	--	--	--
Sustainable New Zealand Party	1,880	0.1	--	--	--
Social Credit	1,520	0.1	--	--	--
HeartlandNZ	914	0.0	--	--	--
<b>Total</b>	<b>2,886,420</b>		<b>72</b>	<b>48</b>	<b>120</b>

Source: Elections New Zealand, 2020 General Election and Referendum – Official Result, available at: [https://www.electionresults.govt.nz/electionresults\\_2020/](https://www.electionresults.govt.nz/electionresults_2020/)

## Key issues in PR systems

This section reviews three key issues in proportional representation systems – the district magnitude of electoral districts, the use of thresholds to provide a standard of support that must be met for a party to win a seat, and the use of open or closed lists, which involves a decision on whether voters are able to adjust a party's ranking on its list of candidates.

### District magnitude

District magnitude refers to the number of members that are elected from an electoral district. Single member districts, such as those in FPTP systems or AV systems, by definition have only one member. On the other hand, multi-member districts have more than one member. Proportional representation systems attempt to provide greater proportionality in voting results by increasing the number of seats that are under consideration by the electoral formula. In their definitive study of electoral systems, Reynolds, Reilly and Ellis<sup>49</sup> suggest there is almost universal agreement among electoral specialists that the number of members elected in each district is the most important determinant of whether an electoral system is proportional. Those with fewer members, in general, are less proportional than those with more members. And with relatively small district magnitude, it is difficult for smaller parties to break through to win legislative seats. For example, with a district magnitude of 3 seats, a party is required to obtain at least 25% + 1 of the votes to guarantee a seat. A party that receives 10% of the vote would require a district magnitude of 10 to guarantee it would receive a seat. Notwithstanding this fact, Reynolds, Reilly and Ellis suggest that district magnitudes between 3 and 7 tend to provide reasonable proportionality, while also suggesting results are improved when the number of seats per district is an odd number.<sup>50</sup>

### Thresholds

Whereas increasing the district magnitude is one way of making it easier for smaller parties to gain entry to legislative seats, thresholds have the opposite effect, by making it more difficult to gain entry. Thresholds can either be *de facto*, meaning they exist simply by virtue of the character of the electoral system, or they can be *de jure*, meaning that they are designed specifically to exclude some parties (or some groups) from effective representation. A FPTP electoral system imposes a *de facto* threshold, excluding parties (or at least limiting them) if they cannot win outright any seats on the basis of the candidate with the most votes wins. A system provides *de jure* thresholds if the law prevents a party from receiving seats unless it has surpassed some pre-established indicator of success. For example, Germany, New Zealand and Russia all impose a 5% threshold to obtain any party list seats. This provision was put in place in the German constitution following World War II as a way of preventing parties with extremist

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<sup>49</sup> Andrew Reynolds, Ben Reilly and Andrew Ellis, *Electoral System Design: The New International IDEA Handbook*, p. 77, available at: <https://www.idea.int/sites/default/files/publications/electoral-system-design-the-new-international-idea-handbook.pdf>

<sup>50</sup> Reynolds, Reilly and Ellis, p. 82.

views from obtaining a hold in the legislature. In some countries that use a threshold, a secondary measure may be used to partially by-pass the threshold. For example, in New Zealand a party is eligible for party list seats if it has elected one member through the constituency elections, whereas in Germany, this is done provided the party wins three constituency seats.

The data in Table 5 from the 2020 election in New Zealand illustrates how this threshold works. Although 17 parties contested seats in the New Zealand election, only four of them achieved 5% of the votes in the country. However, a fifth party, the Maori party, won a single constituency seat, which made them eligible to receive party list seats, of which it earned one. In contrast, 12 of the 17 parties did not win a constituency seat, and did not achieve 5% of the votes, and therefore were denied any seats in Parliament. Three of the parties that were denied seats (New Zealand First, The Opportunities Party, and New Conservative) won more votes than the Maori party, which won two seats. In general, proportional representation leads to more political parties contesting elections because smaller parties have a greater chance of winning legislative seats. Imposing legal thresholds on the allocation of seats to smaller parties counters this general tendency of PR systems and leads to a larger disproportionality than would otherwise exist.

### **Open and Closed Lists**

In proportional representation systems, the question of whether voters can choose only the party, or whether voters also can choose candidates within the parties, is determined on whether the system uses open or closed lists. With a closed list, the party ranks its candidates from highest to lowest, and the voter can choose only among the parties, but not among the candidates. If, for example, a party wins 30% of the votes in a 50-seat legislature, it is awarded 30% of the seats, or 15 seats. The candidates who rank from 1 to 15 in the party's list are declared elected, and the 16<sup>th</sup> through the lowest ranked candidate on that party's list are not elected. With an open list, in contrast, voters can cast a ballot both for the party, and can indicate their support for specific party candidates within the party's list. This has the effect of enabling voters to effectively overturn the party's internal ranking of its candidates, while still supporting the party. In their discussion of open and closed lists, Reynolds, Reilly and Ellis suggest that open lists in some jurisdictions have been used to negate attempts by political parties to represent minority or historically under-represented groups. They note, for example, that in Sri Lanka, attempts by major Sinhalese parties to increase representation of the Tamil minority have been thwarted by the tendency of voters to vote for lower-ranked Sinhalese candidates above the party's higher ranked Tamil candidates. They also point out that in Kosovo, the change from closed to open lists increased the number of extremist candidates that were elected.<sup>51</sup>

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<sup>51</sup> Reynolds, Reilly and Ellis, p. 90.

## 5. Special considerations

The discussion of electoral systems thus far has centred on the extent to which they provide relatively proportional representation in legislative assemblies. The general conclusion is that systems known as proportional representation electoral systems place a higher value on ensuring that the proportion of members of a party elected to the legislature is similar to the proportion of votes received. These systems are designed to reduce the distortion in translating votes into seats. Plurality and majority electoral systems, in contrast, place a higher value on the direct representation of constituency interests. In addition, their proponents often point to their tendency to transform a minority of votes for the winning party into a majority of legislative seats as an advantage of the system. Detractors of majority and plurality systems, however, tend to view this feature of plurality/majority systems in negative terms. Mixed electoral systems attempt to combine the advantages of both types of systems.

In addition to the translation of votes into seats, several other factors can be examined to assess the features of an electoral system. Three of the features discussed above in the review of the performance of the Yukon electoral system, which can be considered more generally, are the impact of an electoral system on the representation of women, Indigenous peoples, and urban versus rural residents. A particular interest in the consideration of electoral systems in the Yukon is the impact that population size and the size of the legislative assembly have on the selection of an electoral system. These matters are reviewed in this section.

### Representation of Women

There is a considerable body of research that demonstrates that countries that use list PR electoral systems are more likely to elect women legislators than countries that use majority or plurality electoral systems. For example, in a ranking of the proportion of women legislators in a selection of 25 countries in 1997, Donley Studlar<sup>52</sup> found that countries using PR or Mixed electoral systems on average elected 20.9% female legislators, compared to 15.4% among those using FPTP or majoritarian systems, a difference of 5.5 percentage points. Citing data from 2004, Reynolds, Reilly and Ellis<sup>53</sup> found that countries using list PR systems elected female legislators at a rate of 19.5% compared to 11.1% among FPTP systems. However, Erin Tolley<sup>54</sup>, citing data from 2016, cautions against ascribing the differences in women's representation to electoral system differences. As Tolley notes,

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<sup>52</sup> Donley Studlar, "Will Canada Seriously Consider Electoral System Reform? Women and Aboriginals Should," in Henry Milner, ed., Making Every Vote Count: Reassessing Canada's Electoral System, Peterborough: Broadview, 1999, p 129.

<sup>53</sup> Reynolds, Reilly and Ellis, 2005, p. 61.

<sup>54</sup> Erin Tolley, "The Electoral System and Parliament's Diversity Problem: In Defence of the Wrongfully Accused," in Andrew Potter, Daniel Weinstock and Peter Loewen, Should We Change How We Vote? Evaluating Canada's Electoral System, Montreal and Kingston: McGill-Queen's University Press, 2017.

“...there are countries with proportional electoral systems where the proportion of women legislators barely deviates from the level that has been achieved in Canada under SMP (Single Member Plurality). This is the case in Poland and Israel, which both use proportional representation and have legislatures where women make up 27 percent of the members. Ireland uses the single transferable vote, and yet only 22 per cent of lower house members are women. In other countries with proportional representation, the number of women legislators is surprisingly low. In Uruguay and Hungary, both of which use proportional representation, the proportion of women in the lower house is just 16 per cent and 10 per cent, respectively.”<sup>55</sup>

Rather than blaming the under-representation of women on the electoral system, Tolley instead argues that it is the failure of political parties to recruit a diverse selection of candidates, that accounts for a lack of gender equality among legislators. In a chapter in the same book, Angelia Wagner and Elisabeth Gidengil provide an alternative explanation that also does not point to the electoral system. They maintain that in Canada, there is a general trend towards the over-representation of rural areas and the under-representation of urban areas, a situation they describe as malapportionment. Further, they suggest that in general, parties that are more conservative in orientation are less likely to nominate and elect female candidates and are more likely to perform better in rural areas, thereby resulting in fewer elected female members. Parties on the political left, they argue, are more likely to nominate and elect women, are more likely to do better in urban centres, but the urban centres are under-represented in the legislatures. Therefore, the under-representation of women, they propose is a by-product of the distribution of urban and rural seats.<sup>56</sup>

A nuanced analysis of the effect of the electoral system on women’s representation was recently completed by Therese Arseneau, in which she examines the impact that the switch to a MMP electoral system from FPTP has had on the representation of women and Maori people since 1996.<sup>57</sup> Examining data from 1990 to 2011, Arseneau found that women in the legislative assembly increased from 21 per cent in 1993 (the last year FPTP was used) to 29 per cent in 1996, and hovered between 28 percent and 32 percent in the next five elections. Furthermore, she found that the increased diversity “has come predominantly from party lists.... Of all MPs elected to Parliament from party lists, 43 per cent have been women compared to only 24 per cent of MPs elected from electorates (that is, constituency seats from the general or Maori districts)”.<sup>58</sup>

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<sup>55</sup> Tolley, 2017, pp. 116-7.

<sup>56</sup> Angelia Wagner and Elisabeth Gidengil, “Addressing Representational Deficits in Canadian Legislatures,” in Andrew Potter, Daniel Weinstock and Peter Loewen, Should We Change How We Vote? Evaluating Canada’s Electoral System, Montreal and Kingston: McGill-Queen’s University Press, 2017, p. 143.

<sup>57</sup> Therese Arseneau, “The Impact of MMP on Representation in New Zealand’s Parliament – a view from outside Parliament”, paper presented at the Australian Study of Parliament Group, 2017. Available at: <https://www.aspg.org.au/wp-content/uploads/2017/08/Session-2-Dr-Therese-Arseneau-The-Impact-of-MMP-on-Representation-in-New-Zealands-Parliament.pdf>.

<sup>58</sup> Arseneau, “The Impact of MMP”, p. 4.



Overall, the findings of research on women's representation and electoral systems suggest several conclusions. Women tend to be elected at higher rates in proportional representation and mixed systems than in plurality or majority systems, but the relationship is not overwhelmingly strong. Second, the success of women candidates in PR systems varies across political parties – smaller parties, and parties considered more “progressive” tend to place women candidates higher on party lists. A key to the success of electing more female candidates is by examining the incentives for parties to endorse female candidates in the party nomination process.

#### Considerations

There is a relationship, albeit an imperfect relationship, between electoral systems and the representation of women candidates. How does the Yukon perform in electing women MLAs in comparison to other jurisdictions? Is female under-representation a significant concern, and if so, is it best addressed through electoral system reform?

If female representation in the Yukon legislature is a concern, in what ways might this be addressed outside of electoral system reform? What are the comparative advantages and disadvantages of addressing this issue as an electoral system issue versus another type of issue (such as an issue of party nominations, campaign financing, etc.?)

#### **Representation of Indigenous People**

It is generally considered that electoral systems that are based on plurality or majority electoral systems present a challenge for voters from minority groups. Being part of a minority places an added difficulty for minority candidates, particularly for those who wish to highlight the political significance of their minority characteristic. The challenge is to indicate that one's minority characteristic is an important part of their self-image and self-concept, and to seek the support of voters, a majority of whom do not share that identity. This can have the effect of either encouraging candidates from minority communities to de-emphasize the political importance of their minority identity, or simply have more difficulty in appealing to an electorate a majority of whom do not share the identity. It also could lead political parties from being averse to nominating a candidate from a minority community and could lead minority members to be disinclined to seek elective office. However, where members of a minority community are concentrated in a geographical area, then the incentive structure in a plurality or majority electoral system can change. If, for example, a national or regional minority group is concentrated in a local area, it may be part of a local majority. When this occurs, a person from a minority group may have an advantage over a person from the majority population in the local constituency contest.

As was the situation with women's representation, the representation of minority groups (for the purposes of the Yukon we focus on Indigenous persons as the key minority group) can be enhanced by a system of proportional representation. Once again, the key is with the ability of

political parties to order the candidates on its party list. If a minority candidate is ranked relatively high, they have a greater chance of being elected. This leads Reynolds, Reilly and Ellis to conclude that people from minority groups tend to be less under-represented in list PR electoral systems than in plurality or majority systems.<sup>59</sup>

In her discussion of the change from a FPTP to a MMP system, Arseneau confirmed the representational advantage provided to Maori by the MMP system. She found, firstly, that Maori under-representation was never as low in New Zealand as it might otherwise have been, in part due to the early (1867) provision of four seats, called the Maori electorates, which have now increased to seven seats (compared to 65 general electorate seats). She also found that since the introduction of MMP, there has been an increase in Maori representation, such that in some elections there has been a higher percentage of Maori members elected to the legislature than their proportion of the population. However, most of the change has come about not because Maori candidates are more successful in the constituency seats – their success in this regard has not changed consistently. Instead, they have been more successful in securing seats from the party lists.<sup>60</sup>

Examining the situation in Canada, Wagner and Gidengil suggest that Canada's FPTP electoral system has facilitated higher rates of representation among visible minorities and some First Nations because, "the system works to the advantage of groups that are regionally concentrated."<sup>61</sup> They cite a study conducted by Karen Bird, who studied visible minority representation in Canada (First Past the Post), Denmark (Proportional Representation) and France (Two Round system). She concluded that Canada's electoral system encouraged the parties to nominate visible minority candidates in electoral districts with higher percentages of visible minority citizens<sup>62</sup>. Consistent with this finding, Erin Tolley's examination of data from the 2015 Canadian election found that "Indigenous peoples made up 33 percent of the population in the ten ridings where Indigenous MPs were elected."<sup>63</sup>

The effect of the electoral system on the representation of minority interests, and in the case of the Yukon, on the representation of Indigenous electors, is somewhat nuanced. Although the general trend is for PR systems to be more generous in representing minority group interests, particularly if those are taken up by the political parties, the situation in plurality and majority electoral systems is not straight-forward. Although minority candidates may experience difficulties in getting elected in electoral districts in which their numbers are small, where they are concentrated, they have a greater chance at election. As well, the special character of some

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<sup>59</sup> Reynold, Reilly and Ellis, p. 61.

<sup>60</sup> Arseneau, 2017, pp. 12-14.

<sup>61</sup> Wagner and Gidengil, 2017, p. 142.

<sup>62</sup> Karen Bird, "The Political Representation of Visible Minorities in Electoral Democracies: A Comparison of France, Denmark, and Canada," *Nationalism and Ethnic Politics* 11 (2005), pp. 425-65, cited in Wagner and Gidengil, 2017, p. 142.

<sup>63</sup> Erin Tolley, "Visible Minority and Indigenous Members of Parliament," in Alex Martland and Thjierry Giasson, eds. *Canadian Election Analysis: Communication, Strategy, and Democracy*, Vancouver: UBC Press, 2015, 50-51, cited in Wagner and Gidengil, 2017, p. 142.

districts, such as Vuntut Gwitchin, with a high Indigenous population and sparse population overall, helps ensure that Indigenous people are more likely to be represented in the legislature.

#### Considerations

Does the geographic distribution of Indigenous peoples in the Yukon lead to the First Past the Post electoral system under-rewarding them with legislative seats?

To what extent would either a proportional representation system, or a mixed electoral system, change the representation of Indigenous peoples in the Yukon?

#### **Community representation (urban and rural)**

The issue of urban and rural representation is most relevant in a constituency-based electoral system. Since plurality and majority electoral systems tend to be constituency-based, then one can calculate the degree to which the urban and rural constituencies have legislative seats that are roughly proportional to their population. A common approach in Canada is for rural areas to have fewer voters on average than urban areas. This rural over-representation has been facilitated by the court's interpretation of the requirements of the right to vote, set out in section 3 of the Charter of Rights and Freedoms. The court has maintained that the right to vote guarantees Canadians the right to "effective representation", and that variations in constituency size of 25% above or below the average population is consistent with this provision. Furthermore, some jurisdictions, like British Columbia have included the +/- 25% standard in legislation setting out the terms of reference for electoral boundaries commissions. Furthermore, variations even beyond +/- 25% are permissible where doing so will provide for effective representation. Although the Yukon Elections Act, section 7, does not specifically identify the variation of +/- 25% as the standard to be used by electoral boundaries commissions, the commissions have tended to abide this standard, while also making an exception for the Vuntut Gwitchin constituency in the north, which has a population much smaller than 25% below average.

Under list PR electoral systems, where the list is drawn on a national, or jurisdictional, basis (that is, one district for an entire country, state, province, or territory), the matter of urban and rural representation does not really arise, since representatives do not represent a geographical area. However, where the lists are based on electoral districts, it is possible to consider the relative voting power of people in rural and urban areas. Recall, however, that as the size of an electoral district becomes smaller, in the number of legislative seats assigned to it, then the proportionality of the system is reduced. With a legislative assembly the size of the Yukon's, with 19 seats, one could not introduce very many constituencies using a proportional representation model without sacrificing most of the benefits that would be expected from having the list PR system.

In this context, it is useful to consider one of the options that was on the ballot in 2018 in British Columbia in a referendum on electoral reform. In the referendum, BC voters were able to express their view on two matters – first, whether they supported the FPTP electoral system or a proportional representation system. Secondly, they were then asked to rank three proportional representation options – dual member proportional, mixed member proportional, and rural urban proportional. Voters favoured FPTP over proportional representation by a ratio of 61.3 to 38.7, and of the proportional representation options, voters favoured MMP the highest, dual member second, and rural urban third.<sup>64</sup>

Because of the relative novelty of the rural urban proportional representation option, it is useful to consider it in some detail. This option, which is viewed as a PR model, provides different ways to represent people in urban and in rural areas. In urban areas, the model proposed using a Single Transferable Vote option. Thus, if this model were used in the Yukon, it would imply a single constituency in the city of Whitehorse with multiple representatives, and voters would cast their ballots for multiple candidates. The candidates elected in the city's constituency would be proportional to the votes cast for the parties. In rural electoral districts, in contrast, the BC rural urban proportional system would provide for MMP representation, which would include a number of constituency seats, with added list seats to top-up parties who were under-represented in the constituency seats. The number of rural constituencies would either need to be reduced from current levels if this was used in the Yukon so that some compensatory seats could be created, or more seats added to the current legislative assembly to provide the additional top-up seats.

Two criticisms of the use of the rural urban proportional model in BC were that, firstly, it is an electoral system that has never been used in any jurisdiction. Its novelty is such that the system has no track record and has not been demonstrated to be workable. A second criticism, raised by Richard Johnston, a leading scholar of voting and elections, is that “it’s two quite different systems .... Everyone should be voting under the same system. Everyone should be dealing with similar levels of complexity.”<sup>65</sup> Those in favour of this option tended to view it as a novel way of enabling proportional results in districts with different characteristics. The defeat of the proportional representation option in the referendum on electoral reform in BC, and of the low relative ranking of the rural urban proportional model, means that the system continues to be untested.

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<sup>64</sup> Elections BC, [2018 Referendum on Electoral Reform Results Available](https://elections.bc.ca/news/2018-referendum-on-electoral-reform-voting-results-available/), available at: <https://elections.bc.ca/news/2018-referendum-on-electoral-reform-voting-results-available/>

<sup>65</sup> “The PR Option: Rural-Urban Proportional Recognizes Province’s Diversity,” The Tyee, Oct 12, 2018, available at: <https://thetyee.ca/Analysis/2018/10/12/PR-Options-Rural-Urban/>

## Considerations

The FPTP electoral system, as a constituency-based electoral system, provides a way for the Yukon to consider the representation of urban and rural interests. How well is this system currently working? Does the Yukon currently provide “effective representation” for urban and rural areas in a manner consistent with Canadian standards?

By switching to a proportional representation system, will there be more or fewer opportunities to consider the representation of urban and rural interests? The recent BC referendum on electoral reform introduced a novel idea of electing urban and rural representatives using different electoral systems. Does this idea have any merit when considering electoral reform in the Yukon?

## Population size and Size of the legislative assembly

The size of the legislative assembly has an important bearing on the way electoral districts can be configured, and the ability to achieve a relatively high level of proportionality. Larger legislative assemblies can more readily accommodate multiple districts with multiple MLAs. The presence of multiple electoral districts ensures that diverse interests in different regions are likely to be accommodated and reflected in the legislative assembly. If, for example, there is only one or two electoral districts, there is no guarantee that people from all areas of the jurisdiction will be elected, and thus some geographic interests may go underrepresented. In addition, there must be a minimum number of legislative seats from a district for the voting system to produce a reasonable semblance of proportionality in converting votes into seats. It is generally found that a district needs a minimum of three to seven seats to achieve reasonable proportionality. In small legislative assemblies, these two principles of multiple electoral districts and a reasonable number of elected members per district work as counterpoints to one another. If the total number of legislative seats is relatively small (for example, 30 or fewer legislative seats), then efforts to have a larger number of seats per district mean there will be fewer districts. Balancing these competing values is challenging, and likely is a key reason that among jurisdictions with small legislatures, there is a strong tendency to adopt a plurality or majority electoral system over a proportional or mixed system.

This result can be seen in Table 6, drawn from a review of the electoral system used in 213 independent countries and related territories. In this table, part A presents the type of electoral system used in all jurisdictions that had 30 or fewer members elected to their legislative assembly. Of the 30 “small” legislatures, 23 or 77% of them, used a plurality or majority electoral system. Three of the 30 used proportional representation, two used a mixed system, and two used a system that did not fit this classification. Part B of Table 5 looks in more detail at the electoral systems used among the 23 jurisdictions that used a plurality or majority electoral system. Of this group, 13 or 57% used first past the post, 4 used block voting, 2 used a two-round voting system, and 4 used a combination of systems.

It is instructive to review in more detail those jurisdictions with small legislatures that used electoral system other than plurality or majority systems. The three jurisdictions with small legislatures that use proportional representation are Liechtenstein, Aruba, and the Netherlands Antilles. Liechtenstein is one of Europe's smallest countries, covering 160 square kilometres (compare this to the Yukon, which covers 482,000 square kilometres). It is divided into two electoral districts, Oberland with 15 seats and Unterland with 10 seats. Voters in Oberland can vote for up to 15 candidates as well as indicating their party preference, and those in Unterland can vote for up to 10 candidates. The 2021 election result produced a fairly high degree of proportionality – the Patriotic Union party received 35.89% of the votes and 10 of the 25 seats (40%). The Progressive Citizens party received almost identical votes (35.88%) and received 10 seats (40%). The Free List party (a Green party) received 12.86% of the votes and 3 seats (12%), and the Democrats for Liechtenstein received 11.14% of the votes and 2 seats (8%). 28% of the candidates elected in 2021 are women<sup>66</sup>, up from 12% in the 2017 election<sup>67</sup>. None of the candidates elected in 2021 were under the age of 30.

Aruba (180 square kilometres) is a second example of a small country with a small legislative assembly using proportional representation. Aruba uses an open list PR system, with a single electoral district in the country. In the election of June 2021, the People's Electoral Movement received 9 of 21 legislative seats (42.9%) based on 35.3% of the vote. The Aruban People's Party received 7 seats (33.3%) on 31.3% of the vote. Three other parties received 2 or 1 seats on votes ranging from 9.4% to 5.8%. Seven parties failed to achieve the threshold and received no seats.

Andorra is an independent country on the Iberian Peninsula, bordered by France on the north and Spain on the south. With an area of 465 square kilometres and a population of 78,015, it is another one of the world's smallest countries. It uses a mixed electoral system for its 28 legislative seats, in which 14 are elected by block voting and 14 by proportional representation using closed lists. The country is divided into 7 parishes dramatically different in size, from Andorra de Villa, with a population of 22,537 to Canillo, with 4,422 inhabitants. Despite these differences in size, each parish elects two members to the legislature. The other 14 members are elected in a single nationwide constituency based on proportional representation. In the 2019 election, the Democrats for Andorra won 6 of 14 constituency seats (42.9%) based on obtaining 34.9% of the vote. The Social Democrats and Liberals offer joint lists of candidates for the constituency elections and won 4 seats (28.5%) based on 38.1% of the votes. For the proportional representation seats, the Democrats for Andorra received 5 of 14 seats (35.7%) based on 35.1% of the votes. The Social Democrats received 5 seats from 30.6% of the votes, and the Liberals obtained 2 seats from 12.5% of the votes. Smaller parties also received 2 constituency seats and two PR seats. The result is a minority Democrats for Andorra government with 11 of 28 legislative seats (39%). The Democrats for Andorra formed a coalition government with the Liberal party and Committed Citizens.

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<sup>66</sup> <https://www.coe.int/en/web/electoral-assistance/elecdata-liechtenstein>

<sup>67</sup> [http://archive.ipu.org/parline-e/reports/2187\\_E.htm](http://archive.ipu.org/parline-e/reports/2187_E.htm)

**Table 6. Electoral systems among small countries or territories<sup>68</sup>**

***Part A. All Countries or territories with 30 or fewer members of the legislative assembly***

Type of Electoral System	Number of countries/territories	Percentage
Plurality/Majority	23	76.7
Proportional Representation	3	10.0
Mixed	2	6.7
Other	2	6.7
<b>Total</b>	<b>30</b>	<b>100.0</b>

***Part B. Countries or Territories using a Plurality or Majority system***

First-past-the-post	13	56.5
Block Voting	4	17.4
Two-round system	2	8.7
Combination	4	17.4
<b>Total</b>	<b>23</b>	<b>100.0</b>

<sup>68</sup> Source: Data are from Andrew Reynolds, Ben Reilly and Andrew Ellis, Electoral System Design: The New International IDEA Handbook, International IDEA, Stockholm 2005, Appendix A; available at <https://www.idea.int/sites/default/files/publications/electoral-system-design-the-new-international-idea-handbook.pdf>. Note that territories are included in this summary when they have no representation in the legislature of the country with which they are associated.

## Considerations

Most small countries use FPTP, in part due to the challenges of achieving proportionality due to limitations in a small legislative assembly. Those that use proportional representation are very small geographically, and not confronted with the challenges that geography presents in the Yukon. Is some form of PR the best option in jurisdictions with a small number of legislative seats?

Those countries with small legislatures that use PR are geographically small, about 1/1,000 of the size of the Yukon, or even less. Is constituency representation more important in jurisdictions that are larger and more diverse?

## 6. Changing electoral systems: Key challenges

An important feature of electoral systems is that they tend to endure over extended periods of time. In any jurisdiction, the best predictor of which electoral system will be used in the next election is the electoral system used in the last election. Changing an electoral system is not impossible, but one should recognize there is substantial inertia in changing an electoral system. Consider the following factors as contributing to the inertia around electoral system reform.

Lack of public attention. There are many things that compete for the attention of citizens. The financial well-being of themselves and their family are paramount concerns. At different stages of life, people are keenly interested in childcare, the cost of housing, their pensions and savings, the quality and availability of the health care system, and many other day-to-day considerations. For most people, interest in and attention to politics is not always a top-of-mind matter. And when attention turns to political matters, it is often on pressing issues of the day, such as the state of the economy, the cost of living, climate change, government spending and the like. Discussions of changing the institutions of government, like the electoral system, is generally well down the list of the priorities of the public. Which is not to say that electoral reform cannot boil to the top of the list periodically. But rather, to note that it will not be a priority issue often nor for too long a period. For an electoral reform initiative to be successful, therefore, it must align with a period in which it is salient for the public at large.

Politician interest. One of the ways in which electoral reform may become more salient is through the efforts of politicians or political parties and their related stakeholder groups to highlight its importance. But political parties do not always agree on the need for electoral system reform. Political parties and candidates often view an electoral system as good or bad in relation to how well the outcome of the current system aligns with their interests and performance. It is difficult for parties not to evaluate electoral systems from the standpoint of their own interest, since parties stand to gain or to lose a lot if the electoral system works to their advantage or disadvantage. Changing an electoral system will almost never work to the advantage of all parties, and therefore in the normal course of events there is unlikely to be a



consensus of changing the electoral system among parties. To the extent that this is the case, any discussion of electoral reform has the risk of being influenced by differences among parties.

Government interest. For electoral reform to proceed, there needs to be some level of support, if not for changing the electoral system, at least for reviewing and considering changes to the electoral system, among the government. But the government, it should be borne in mind, was elected by the current electoral system. To a certain extent, therefore, it may be reasonable for a government to believe that the current electoral system has some merit. In some instances, a government may support electoral system reform because they made a commitment to examining the electoral system while they were in opposition, and their supporters now expect them to follow-through in government. In other instances, a government may have been in opposition for an extended period and may blame their lack of success over the longer term on the electoral system. They may come to believe that electoral system reform is good for their longer-term prospects, and for the jurisdiction. In other instances, governments may introduce reviews of the electoral system because they made a commitment to do so with another party, in exchange for supporting their agenda in the legislature.

Public consultation. In many jurisdictions, the rules for changing the electoral system are not well-articulated since there may be both formal and informal rules involved. So far as the formal rules are concerned, they are often straight-forward. Certainly, in a parliamentary system, the rules involve passing a law, usually called an Election Act, that sets out the procedures used by the election agency in conducting a general election. But since an electoral system is seen to be a part of the “rules of the game” of politics, it is generally understood that changing these rules involves more than a government simply using its majority to pass a bill like other bills. Instead, it involves an effort to engage other political parties in the process and to involve public consultation. The public consultation often is designed to include public input in formulating the options for electoral reform. This can include, for example, a multi-party parliamentary committee leading a process to receive public input through things such as opinion surveys, outreach to stakeholder groups, an invitation to the public to respond to a set of questions, the scheduling of public hearings, and the like. It could also include, as it has in some jurisdictions, establishing a consultative body that does not involve elected officials, such as a Citizens’ Assembly, to structure options around electoral reform. In addition to information gathering and the structuring of options, public consultation often involves a “yea” or “nay” decision by the public through a referendum or plebiscite.

Choosing among which options. As part of the public consultation process, a key part of the outcome is identifying what options are being presented. Presumably there will be a choice between the status quo and some other option. But what is that option? Is the decision to change or not to change, and if change is chosen, to then decide what the change might be? What do citizens know about different electoral systems? As noted above, for most citizens, electoral system reform is not top-of-mind, and there may be a very low level of understanding about the current electoral system, let alone systems of which most citizens have never been a part. If the number of options presented to the electorate is too large, the entire enterprise may be viewed as too complex and off-putting. Thus, there is a need to sift through the options

in electoral reform, and to present the options in a way that is fair and clear, on the one hand, and sufficiently simple to enable people to make an informed choice.

Despite the challenges that must be overcome for electoral system reform to be pursued, there have been many instances in which a country or territory has changed its electoral system. One prominent example is New Zealand, which rejected the First Past the Post electoral system for a Mixed Member Proportional system. It is useful to review this case in more detail.

### **New Zealand's experience with electoral system change: A case study**

Many accounts of the change from FPTP to MMP in New Zealand suggest it was accomplished not because the major parties favoured changing the system, but rather even though they generally did not.<sup>69</sup> For most of the 20<sup>th</sup> century, New Zealand politics was conducted as a contest between two political parties, the Labour party on the left and the National party on the right. This dynamic is partly a function of the FPTP electoral system, which presents a relatively high threshold for new parties that are not regionally based to gain a foothold in the legislature. A series of events and circumstances in the 1970s and 1980s led, however, to the government holding two referendums on electoral reform that led ultimately to the adoption of MMP. The elections of 1978 and 1981 both proved significant in developing sentiment in opposition to FPTP, in that both returned the National party with a majority government despite the Labour party winning more votes in the election.<sup>70</sup> During those two elections, the Social Credit party won 16% and 21% of the votes, respectively, but won only 1 seat in 1978 and 2 seats in 1981. Concern with the election results led the Labour party in Opposition to commit to establishing a Royal Commission on Electoral Reform if they were elected, and once elected in 1984, appointed the Royal Commission the following year. The Royal Commission report in 1986 recommended the adoption of MMP, based on the German electoral system.

The Labour government was re-elected in 1987 and showed little enthusiasm for acting on the recommendations of the Royal Commission.<sup>71</sup> As the 1990 election approached, and to embarrass the government for not taking up the recommendations of the Royal Commission, the National party leader promised a referendum on electoral reform if the party was elected, perhaps surprisingly, since the National party also showed little support for MMP. Following their victory in the 1990 election, the party scheduled a non-binding "indicative" referendum. In the two-part poll, voters were asked first if they wanted to retain or change the current

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<sup>69</sup> See, for example, Peter Aimer, "From Westminster Plurality to Continental Proportionality: Electoral System Change in New Zealand," in Henry Milner, ed., *Making Every Vote Count: Reassessing Canada's Electoral System*. Peterborough: Broadview, 1999, pp. 145 – 155; New Zealand History, *The Road to MMP*, available at: <https://nzhistory.govt.nz/politics/fpp-to-mmp>; Therese Arseneau, "The Impact of MMP on Representation in New Zealand's Parliament – a view from outside Parliament," paper presented at the Australian Study of Parliament Group, 2017. Available at: <https://www.aspg.org.au/wp-content/uploads/2017/08/Session-2-Dr-Therese-Arseneau-The-Impact-of-MMP-on-Representation-in-New-Zealands-Parliament.pdf>

<sup>70</sup> Elections New Zealand, 1890 – 1993 General Elections: Overview. Available at: <https://elections.nz/democracy-in-nz/historical-events/18901993-general-elections/?ref=btn>

<sup>71</sup> Aimer, "From Westminster Plurality to Continental Proportionality," 150 – 1.

electoral system, and then asked to indicate which of four alternatives (MMP, STV, AV, or Supplementary member) they favoured. 84.7% of those voting wanted to change the electoral system, and 70.5% indicated they would like to replace it with MMP. The following year, the government held a second, binding, referendum between FPTP and MMP, with the latter being favoured 53.9% to 46.1%.<sup>72</sup> MMP was therefore implemented for the following general election in 1996.

The immediate aftermath of the election of October 12, 1996, the first election in New Zealand under MMP, confirmed several expectations for the system – that the election of members to the legislative assembly mapped much more closely to vote totals than had been the case in the two preceding elections. Despite the greater proportionality, public opinion data indicated a substantial decline in support for MMP following the election.<sup>73</sup> According to Nagel, the advocates of MMP emphasized three advantages of the system over First Past the Post – there would be greater proportionality between votes and seats, there would be more representation for historically under-represented groups, such as women and Maori people, and there would be a greater likelihood of minority governments, rather than majority governments elected with minority voter support.<sup>74</sup> The first election under MMP produced all three results, and despite this fact, support for MMP declined.

Table 7 presents voting results in New Zealand for the elections in 1990 to 1996, the first two conducted under First Past the Post, and the last under Mixed Member Proportional. In the first two elections, there was a striking deviation between votes received and seats won, with the winning party (National) being heavily over-rewarded for its votes, and the third parties (New Labour, Greens and Democrats, which later became Alliance) heavily penalized. The National party formed a majority government following each of these elections. In 1996, in contrast, the parties were generally awarded seats based on their vote percentages, with no party being over-rewarded or under-rewarded by more than three percentage points. The biggest loser of the MMP system was the minor parties grouped as Other.

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<sup>72</sup> Arseneau, “The Impact of MMP”, p. 1.

<sup>73</sup> Jack H. Nagel, “The Defects of its Virtues: New Zealand’s Experience with MMP,” in Henry Milner, ed. Making Every Vote Count: Reassessing Canada’s Electoral System. Peterborough: Broadview, 1999, p. 157.

<sup>74</sup> Nagel, 1999, p. 158.

**Table 7. Percentages of Votes and Seats Won by Political Parties, New Zealand<sup>75</sup>**

Party	1990 (FPTP)		1993 (FPTP)		1996 (MMP)	
	Votes	Seats	Votes	Seats	Votes	Seats
ACT	--	--	--	--	6.1	6.7
National	47.8	69.1	35.1	50.5	33.8	36.7
United	--	--	--	--	0.9	0.8
NZF	--	--	8.4	2.0	13.4	14.2
Labour	35.1	29.9	34.7	45.4	28.1	30.1
Alliance	13.7	1.0	18.2	2.0	10.1	10.8
Other	3.4	0.0	3.7	0.0	7.5	0.0
Index of Deviation from proportionality	21.3		26.2		7.3	

In addition to producing a legislature with greater proportionality, the first election under MMP also produced a legislature with a more diverse composition of members. Again, the data are provided by Nagel, and appear in Table 8. The number of new members, or those members elected for the first time, varied considerably between 1990 and 1993 under FPTP, from 41.2% to 16.2%. Under MMP, it rose to 37.5%, although this latter change can be accounted in part to the fact that the number of general single member constituencies dropped between 1993 and 1996 from 95 to 60. Therefore, some members lost their seats because their district was eliminated. For the other categories of members, the MMP electoral system saw a consistent increase in the diversity of members. The proportion of women rose from 21% to 29%, Maori members rose from 6% to 12.5%<sup>76</sup>, and Pacific Island members rose from 1% to 2.5%.

<sup>75</sup> Source: Jack H. Nagel, "The Defects of its Virtues: New Zealand's Experience with MMP," in Henry Milner, ed. *Making Every Vote Count: Reassessing Canada's Electoral System*. Peterborough: Broadview, 1999, p. 159.

<sup>76</sup> A significant reason for the increase in Maori members was the change in allocation of seats based on the general electoral roll and the Maori electoral roll, a topic discussed in more detail below in the section, "New Zealand and the representation of Maori electors".

**Table 8. Composition of the New Zealand Parliament after Three Elections, 1990 - 1996<sup>77</sup>**

Number	1990		1993		1996	
	Seats	Percent	Seats	Percent	Seats	Percent
New Members	40	41.2	16	16.2	45	37.5
Women Members	16	16.5	21	21.2	35	29.2
Maori Members	5	5.2	6	6.1	15	12.5
Pacific Island Members	0	0.0	1	1.0	3	2.5
Asian Members	0	0.0	0	0.0	1	0.8
Number of seats in Parliament	97		99		120	

On the surface, it seems paradoxical that the MMP electoral system in New Zealand would achieve its purported objectives, and yet nonetheless support for the MMP system would decrease. Nagel offers the explanation that this was due to events that transpired in the aftermath of the election. As Table 7 makes clear, no party was able to form government following the election since none approximated a majority of seats. This led to a period of protracted negotiation between the parties, and particularly between the New Zealand First party with both the National party, and with a combination of the Labour and Alliance parties, since both combinations could produce a majority government. The sharp criticism of National by NZF during the election campaign led many to expect that NZF would align itself with Labour and the Alliance following the election, particularly since National had been the incumbent government. In the end, NZF, with 14% of seats, was able to negotiate a coalition agreement with National, which provided them with over 30% of cabinet positions. The length of the post-election negotiations, combined with the surprising (to many) outcome, led to a drop in support for MMP in the immediate post-election period. This result led Nagel to caution the following conclusions about MMP and proportional systems more generally – the proportionality of seats does not mean proportionality of power among the parties following the election, that increased representation for historically under-represented groups may produce unexpected results, and the coalition government does not mean consensus government.<sup>78</sup>

<sup>77</sup> Jack H. Nagel, "The Defects of its Virtues: New Zealand's Experience with MMP," in Henry Milner, ed. *Making Every Vote Count: Reassessing Canada's Electoral System*. Peterborough: Broadview, 1999, p. 160.

<sup>78</sup> Jack H. Nagel, "The Defects of its Virtues: New Zealand's Experience with MMP," in Henry Milner, ed. *Making Every Vote Count: Reassessing Canada's Electoral System*. Peterborough: Broadview, 1999, p. 158.

Since the 1996 election, the MMP system has produced a series of governments, mostly with either the National party or the Labour party winning a plurality of seats and able to form governing coalitions or partnerships with minor parties. For example, that National party formed government following the 1996 election with the support of the New Zealand First party. This was followed by three consecutive Labour governments with the support of a variety of parties, including Alliance, Progressive, United Future, Green and New Zealand First 1999 to 2008. In 2008, National won the first of three consecutive elections, with the support of ACT, United Future and the Maori Party, and remained in power until 2017. The latter year saw the return of Labour to government, first in a coalition with New Zealand First and with the support of the Green party through 2020, and then as in the first majority government in the MMP era.

New Zealand voters were provided the opportunity to reconsider whether they supported the MMP electoral system fifteen years after it was implemented. The National government that was elected in 2008 announced they would put the electoral system to a non-binding referendum, which was administered in conjunction with the 2011 general election. The referendum posed two questions. First, “Should New Zealand keep the Mixed Member Proportional (MMP) voting system?” and “If New Zealand were to change to another voting system, which voting system would you choose?” The options included FPTP, AV, STV and Supplementary member. On the first question, 57.8% opted to keep MMP, whereas 42.2% wanted to change to another system<sup>79</sup>. With this definitive result, no change was made to the MMP system, and it remains in place.

### **New Zealand and the representation of Maori electors**

The existence of separate “electorates”, and consequently of separate electoral districts for citizens of Maori descent is one of the unique features of New Zealand’s system of representation. Maori people are indigenous Polynesian people of mainland New Zealand. Beginning with the Maori Representation Act of 1867, Maori people have had specific and designated representation in the country’s Parliament. Initially this was through the establishment of 4 seats set aside for voters of Maori descent. Today, the system of Maori representation is somewhat more complicated, as Maori can get a seat in Parliament through one of three mechanisms – be elected in a Maori constituency, be elected in a general constituency, or be elected by virtue of placement on a party list. To understand this system in practice, it is useful to review the Maori and general voter lists, or as they are referred to in New Zealand, the electorates.

Voters of Maori descent have the option of being included on either the Maori voter list or the general voter list. The number of seats assigned to voters on the Maori list is based on the number of people who declare themselves to be Maori compared to the total number of voters. The process works as follows. The South Island is guaranteed 16 seats in Parliament. The

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<sup>79</sup> Elections New Zealand, Overall Results – 2011 Referendum on the Voting System, available at: [https://www.electionresults.govt.nz/electionresults\\_2011/referendum.html?\\_cf\\_chl captcha tk \\_pmd 5R4clg PRfDyvj.O.CaFV6CuwRjvmdBgxXILHnlVY2Y-1635459137-0-gqNtZGzNA2WjcnBszQpR](https://www.electionresults.govt.nz/electionresults_2011/referendum.html?_cf_chl captcha tk _pmd 5R4clg PRfDyvj.O.CaFV6CuwRjvmdBgxXILHnlVY2Y-1635459137-0-gqNtZGzNA2WjcnBszQpR)

total population of the South Island therefore is divided by 16 to produce the electoral quotient. Once the electoral quotient is determined, then the population of the North Island is divided by the electoral quotient to determine the number of seats allocated to the North Island. Similarly, the number of people who have chosen to be included on the Maori voters list is divided by the same electoral quotient to identify the number of Maori seats<sup>80</sup>. As reported by Elections New Zealand, following the 2018 Maori option, a total of 247,494 (52.4%) voters of Maori descent registered on the Maori roll, and 224,755 (47.6%) voters of Maori descent registered on the general roll<sup>81</sup>. In total, 7 of the 72 constituency seats in the 2021 election were elected in the Maori constituencies. Also, note that there are two sets of electoral boundaries in New Zealand, one set for the general seats, and one set for the Maori seats, so that all parts of the country are assigned to both a general and a Maori seat. It is obvious, then, that the seats assigned to the Maori electorate are much larger geographically, on average, than the general seats.

In addition to having a specific number of seats allocated to the Maori electorate, people of Maori descent can run as a candidate in the general electorate seats. And, because of its use of the MMP electoral system, parties can receive “list seats” based on the proportion of vote the party receives. Parties rank-order their candidates on party lists. A party can include one or more candidates of Maori descent relatively high on its list, increasing the likelihood that the Maori candidate will be elected if the party performs relatively well in the election.

#### Considerations

Representing relatively large minority groups in the legislature through dedicated electoral districts, as is done with Maori electors in New Zealand, is an unusual but effective way of ensuring such groups have guaranteed representation. Is this model applicable to Indigenous people in the Yukon?

Does the current electoral system provide for relative proportionality in the representation of Indigenous people in the Yukon?

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<sup>80</sup> Electoral Commission of New Zealand, New Zealand’s Electoral System: Everything you need to Know about voting under MMP, Wellington, 1996, 49-53.

<sup>81</sup> Elections New Zealand, “What is the Maori Electoral Option,” available at: <https://elections.nz/democracy-in-nz/what-is-an-electoral-roll/what-is-the-maori-electoral-option/>

## 7. Previous attempts at electoral system reform in Canada

### *Federal electoral system reform (2015-2017)*

The recent experience with electoral reform at the federal level in Canada was short-lived. The initiative began in 2015 when the federal Liberal party, in advance of the 2015 general election, published a 32-point plan for “restoring democracy” in Canada.<sup>82</sup> Included in this plan was a commitment to change Canada’s electoral system. When in October the party was elected, perhaps surprisingly, with a majority government, there was considerable interest in how the government would ensure that the 2015 election was “the last run in Canada under the First Past the Post electoral system”. Instead of appointing a commission at arm’s length from the parliamentarians most impacted by the electoral system, the government appointed a minister with responsibility for democratic reform, and parliament established a parliamentary committee, to conduct public hearings and otherwise gather public views. The federal Chief Electoral Officer, Marc Mayrand, had advised the government that Elections Canada would require a two-year time frame to implement a new electoral system, and therefore any reform proposal would need to be finalized by May 2017.<sup>83</sup> The legislative committee conducted hearings across the country during 2016, leading to the committee’s report to the House of Commons in December 2016. The Committee recommended, among other things, that there should continue to be constituency representation for the House of Commons, but that also the amount of distortion should be targeted to be 5 or less using the Gallagher index, an index of disproportionality.<sup>84</sup> Less than two months after the tabling of the Committee’s report, the Minister announced that electoral reform was no longer part of her mandate, and the government moved electoral reform off the federal agenda.

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<sup>82</sup> Potter, Weinstock and Loewen, “Introduction: The History and Politics of Electoral Reform,” in Potter, Weinstock and Loewen, eds. *Should we change how we vote?*, xiii.

<sup>83</sup> Potter et al, 2017, p. xiii.

<sup>84</sup> Canada. House of Commons, Committee Reports, Electoral Reform, available at: <https://www.ourcommons.ca/Committees/en/ERRE/StudyActivity?studyActivityId=9013025>. To calculate the Gallagher Index of Disproportionality, one squares the difference between a party’s share of the votes and its share of seats, sums these values across all parties, divides this sum by 2, and calculates the square root of this value. The higher the value, the more disproportionate is the result. The following table presents the Gallagher index for Yukon elections. In every Yukon election, the Gallagher index is well above the value of 5, recommended by the federal parliamentary committee for federal elections.

**Gallagher Index of Disproportionality, Yukon Elections, 1978 - 2021**

Year	1978	1982	1985	1989	1992	1996	2000	2002	2006	2011	2016	2021
Gallagher Index	27.1	13.2	10.3	11.2	8.8	20.7	17.3	25.0	12.6	16.2	17.2	11.3



## Recent reform proposals in the provinces

*British Columbia (2003 – 2009, 2018).*

There were three referendums on electoral reform in British Columbia in the thirteen years from 2005 to 2018, held under both Liberal and New Democratic governments. The circumstances that led to the referendums were quite different, and in each referendum the decision was to retain the First Past the Post electoral system. However, BC has probably come the closest to any province in adopting an alternative electoral system, so a review of its experience is instructive.

The seeds of electoral reform in BC were first planted in 1996. The general election that year produced a majority NDP government, which won 39 of 75 legislative seats with 39.5% of the vote. The Liberal party “lost” the election because their 41.8% of the votes produced only 33 seats. Subsequently, the Liberal party pledged that if it won the next election, it would initiate a process to consider changing the electoral system<sup>85</sup>. Following their victory in the 2001 election, the Liberal government in 2003 established a so-called Citizens’ Assembly, comprised of a man and women from each of the 79 electoral districts plus one male and one female Indigenous member, to consider electoral reform.<sup>86</sup> The Citizens’ Assembly recommended changing BC’s electoral system from FPTP to a STV system, with 20 multi-member electoral districts. The 2005 general election included a referendum on electoral reform. To pass, the question on changing to STV had to achieve a dual super-majority. The change option needed to be supported by 60% of all votes, and it required majority support in at least 60% of the electoral districts. Despite this very high threshold, the change option almost passed. It achieved majority support in 77 of the 79 electoral districts, clearly surpassing the 60% threshold, but was supported by 57.7% of voters overall, thereby falling just short of the second threshold. As a result, the referendum was defeated.<sup>87</sup>

One of the concerns expressed at the time was that voters in British Columbia were asked to vote on an electoral system without complete information about the new system. Although the Citizens’ Assembly had recommended 20 electoral districts, there was no indication of how those districts were configured. Therefore, the legislative assembly instructed an electoral boundaries commission, struck in 2006, to make recommendations for new electoral districts based on two different models – one for single member districts under a First Past the Post electoral system, and one set of multi-member districts for use in a Single Transferable Vote electoral system. The electoral boundaries commission did so, and the resulting districts were then part of a second referendum put to BC voters in conjunction with the 2009 general election. This time, the result was not close. Only 39.1% of votes were cast in support of STV,

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<sup>85</sup> Keith Archer, “Public Consultation on Electoral Reform Through Referenda or Plebiscite: Recent Experience in British Columbia,” in Andrew Potter, Daniel Weinstock and Peter Loewen, eds., Should we Change How we Vote? Evaluating Canada’s Electoral System, Kingston and Montreal: McGill-Queen’s University Press, pp. 155-65.

<sup>86</sup> Citizens’ Assembly on Electoral Reform, Making Every Vote Count: The Case for Electoral Reform in British Columbia, Technical Report, 2004. Available at: <https://citizensassembly.arts.ubc.ca/>

<sup>87</sup> Archer, “Public Consultation”, p. 161.

and a majority was received in only 8 electoral districts. For the BC Liberal government, the case for electoral reform was closed.

However, perhaps surprisingly, the case was reopened following the 2017 general election, which returned a legislative assembly in which no party achieved a majority of seats. The Liberal party received 40.37% of the votes and 43 of 87 seats. The NDP got 40.29% of the votes and 41 seats, and the Green party got 16.83% of the votes and 3 seats.<sup>88</sup> Subsequently, the Liberal government was defeated on the Throne Speech, and the Lieutenant Governor appointed NDP leader John Horgan as Premier. The NDP and Green parties had signed a confidence and supply agreement, one element of which was the government's commitment to hold a referendum on electoral reform. Following a public consultation process initiated by the Ministry of Justice, a referendum was held during October and November 2018 by mail-in ballot. The ballot included two questions – first whether the voters supported the First Past the Post electoral system or proportional representation, and second, voters were then asked to rank three PR options – Dual Member, Mixed Member and Rural Urban. On the first question, First Past the Post was supported over proportional representation by a margin of 61.3% to 38.7%.<sup>89</sup> Therefore, the results on the rank-order ballots were moot, and changing the system was rejected.

#### *Ontario (2004 – 2007).*

The province of Ontario embarked on a review of electoral system reform in 2004, following the election of the Liberal government in October 2003. Ontario experienced three consecutive elections in 1990, 1995 and 1999 in which a party was elected with a strong majority of seats after obtaining a minority of votes. For example, in 1990 the NDP obtained 37.45% of the votes and 74 of 130 seats (56.9%). In 1995 the Conservatives elected 82 of 130 members (63.1%) based on 44.85% of the votes, while the same vote percentage in 1999 gave the Conservatives 59 of 103 seats (57.3%).<sup>90</sup> Despite taking advantage of a similar characteristic of the electoral system in 2003, when their 46.38% of the votes returned 72 of 103 legislative seats (69.9%), the Liberal government launched their own version of a Citizens' Assembly on Electoral Reform.

The Ontario Citizens' Assembly on Electoral Reform submitted its report in May 2007.<sup>91</sup> The Citizens' Assembly recommended that Ontario change its electoral system from First Past the Post to one based on a Mixed Member Proportional system, with 129 seats in the legislative assembly, up from the 107 seats elected in 2007. Of the 129 seats, 70 would be elected by First

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<sup>88</sup> Elections BC, Report of the Chief Electoral Officer on the May 9, 2017 Provincial General Election, p. 74, available at: <https://elections.bc.ca/docs/rpt/2017-General-Election-Report.pdf>

<sup>89</sup> Elections BC, Report of the Chief Electoral Officer on the 2018 Referendum on Electoral Reform, p. 2, available at: <https://elections.bc.ca/docs/rpt/2018-CEO-2018-Referendum-Report.pdf>

<sup>90</sup> Elections Ontario, General Election Summary of Candidates Elected and Valid Ballots Cast, available at: [file:///Users/user/Downloads/General%20Election%20Summary%20of%20Candidates%20Elected%20and%20Valid%20Ballots%20Cast%202021-Oct-25%20\(1\).pdf](file:///Users/user/Downloads/General%20Election%20Summary%20of%20Candidates%20Elected%20and%20Valid%20Ballots%20Cast%202021-Oct-25%20(1).pdf)

<sup>91</sup> Ontario Citizens' Assembly on Electoral Reform, One Ballot Two Votes: A New Way to Vote in Ontario. Available at: <http://www.citizensassembly.gov.on.ca/assets/One%20Ballot,%20Two%20Votes.pdf>

Past the Post in 70 constituencies, and 39 would be awarded to parties as compensating seats based on party lists. The reform option was presented to voters in conjunction with the October 2007 general election, and like BC, required a double super-majority to pass, with 60% support for change overall, and a majority support in at least 60% of the constituencies. The referendum result produced a strong endorsement of the status quo. Overall, 63.2% supported First Past the Post compared to 38.8% supporting MMP. In addition, a majority supported First Past the Post in 102 of 107 constituencies. With that definitive result, discussion of electoral reform in Ontario effectively ended.<sup>92</sup>

### *Quebec (2018-2021).*

The 2018 general election in Quebec produced an overwhelming majority for the Coalition Avenir Quebec party (CAQ), winning 74 of 125 seats (59%) in the National Assembly, based on 37.42% of the votes. As the party with the third largest number of seats going in to the election, CAQ leader Francois Legault had campaigned on, among other things, the need to reform the electoral system. On September 25, 2019, the Quebec Minister for Responsible Democratic Institutions introduced Bill 39, an Act to establish a new electoral system. The proposal is to replace the First Past the Post electoral system with a Mixed Member Proportional system that includes 80 seats elected as single member seats through First Past the Post, and 45 seats to be elected based on party lists in 17 regions.<sup>93</sup> The legislation provides that the government will not proceed with enacting the new legislation until after it receives public support in a referendum. It was expected that the referendum on electoral reform would be conducted in conjunction with the next provincial election in Quebec, scheduled for October 3, 2022. However, at the time of writing, the legislative assembly has not passed Bill 39. Furthermore, in April of 2021, the Minister responsible for the Bill advised a legislative committee that the Bill would not be passed by June 2021, which was the deadline that was required by the Chief Electoral Officer for a referendum on the topic to be ready for the next general election. Therefore, the government has cancelled plans to conduct a referendum on electoral reform in conjunction with the 2022 general election, although the Minister has stated that the government continues to support the bill and the reform effort.<sup>94</sup>

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<sup>92</sup> For a detailed discussion, see Lawrence LeDuc, Heather Bastido and Catherine Baquero, "The Quiet Referendum: Why Electoral Reform Failed in Ontario," paper presented to the 2008 Annual Meeting of the Canadian Political Science Association, Vancouver: University of British Columbia, June 6-8, 2008. Available at: <https://cpsa-acsp.ca/papers-2008/Leduc.pdf>

<sup>93</sup> Quebec Legislative Assembly, *Bill 39, An Act to establish a new electoral system*, Available at: <file:///Users/user/Downloads/19-039a.pdf>

<sup>94</sup> CBC News, "Quebec Backtracks on Promise, No Referendum on electoral reform in 2022," available at: <https://www.cbc.ca/news/canada/montreal/quebec-electoral-reform-referendum-2022-1.6005897>

### *New Brunswick (2003 – 2006, and 2016 - 2017)*

New Brunswick has had two separate commissions examining electoral reform during the past 20 years. The first was through an 8-person Commission on Legislative Democracy, appointed by Premier Bernard Lord in December 2003 and which issued its report in December 2004.<sup>95</sup> The Commission recommended that the First Past the Post electoral system be replaced by a Mixed Member Proportional system with 56 seats – 36 of which would be single member constituency seats using the First Past the Post system and 20 would be party list seats allocated to four regions with approximately equal population.<sup>96</sup> The Premier announced that a referendum on the recommendation of the Commission would be held in 2008 in conjunction with municipal elections. However, the Conservative government was defeated by the Liberals in the 2006 general election. The Liberal government was not in favour of changing the electoral system to a MMP system and cancelled the referendum. Consequently, there was no referendum on this option.<sup>97</sup>

The second commission was the Commission on Electoral Reform, a five-member commission appointed in November 2016 and who published their report and recommendations in March 2017.<sup>98</sup> This commission had an unusually brief mandate but covered a wide range of issues. On the matter of electoral reform, the Commission recommended the replacement of the First Past the Post electoral system with one based on the Alternative Vote. As noted above, an Alternative Vote system is in use for the House of Representatives (the lower house) in Australia. It uses single member districts, similar to First Past the Post, but enables voters to rank-order candidates. In doing so, the winning candidate is required to obtain 50% + 1 of the votes cast. Candidates are eliminated through a series of tabulations, and the votes of eliminated candidates are distributed based on their subsequent preferences. Following publication of the Commission's report, Premier Gallant announced that a referendum on electoral reform would take place in conjunction with municipal elections in 2020.<sup>99</sup> However, in the general election of 2018, no party won a majority government. The Lieutenant Governor offered the Liberals the chance to form government, but they were subsequently defeated in a vote of confidence. The Conservatives were then offered the chance to form government and were able to maintain confidence of the house until 2020 when Premier Higgs requested dissolution and a new election, which returned the Conservatives with a majority. The Conservative government has not expressed support for the recommendations of the Commission, and thus there has been no further movement on electoral reform in New Brunswick.

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<sup>95</sup> New Brunswick Commission on Legislative Democracy, Final Report and Recommendations, December 31, 2004, available at: <https://www.electionsnb.ca/content/dam/enb/pdf/cld/CLDFinalReport-e.pdf>

<sup>96</sup> New Brunswick Commission, p. 17.

<sup>97</sup> Paul Howe, "A New Electoral System for New Brunswick," *Journal of New Brunswick Studies*, 9 (Spring 2008), p. 5.

<sup>98</sup> New Brunswick Commission on Electoral Reform, A Pathway to an Inclusive Democracy, available at: <https://www2.gnb.ca/content/dam/gnb/Departments/eco-bce/Consultations/PDF/PathwayToAnInclusiveDemocracy.pdf>

<sup>99</sup> Paul Howe, "A New Electoral System", p. 6.

*PEI (2005 – 2019).*

The government of PEI has organized three public consultations on electoral reform over a 14-year period between 2005 and 2019. The first public consultation began in 2003, when the government asked Norman Carruthers to serve as a Commission of one to review and make recommendations for changing PEI's electoral system. Appointed in January, the Commission filed its report in December, recommending that PEI change its electoral system from First Past the Post to Mixed Member Proportional, and recommending that the government appoint a further commission to conduct a more thorough review of this option, and include in its review a more comprehensive discussion of how the public can be brought to increase its understanding of electoral reform options.<sup>100</sup> In response to the report of the Carruthers Commission, the government appointed a Commission on PEI's Electoral Future, which began its work in February 2005 and issued its report in October 2005.<sup>101</sup> The Commission recommended that PEI change its electoral system from FPTP to a MMP system, and that the public be asked to choose between these two options in a plebiscite on November 28, 2005.<sup>102</sup> In advance of the vote, the government announced that a change in the electoral system to MMP would require the same type of double super-majority as used in BC – it required the support of 60% of voters, and a majority of votes in 60% of electoral districts.<sup>103</sup> With an unusually low turnout for PEI elections (33%), 64% of voters preferred FPTP to MMP.

The second public consultation on electoral reform in PEI occurred in 2016. Following the 2015 general election, which saw a considerable growth in support for both the NDP and Green parties, the Liberal government published a White Paper on Democratic Renewal.<sup>104</sup> The White Paper suggested the possibility of dual member electoral districts and the use of preference balloting and suggested that a legislative committee be established to further examine electoral system options. The Special Committee on Democratic Renewal issued its Report and Recommendations in November 2015.<sup>105</sup> The Committee recommended that a plebiscite be offered to PEI voters to select among 5 electoral reform options. These options included First Past the Post, Mixed Member Proportional, Alternative Vote, and two systems that had not previously been used, one called First Past the Post and Leaders, and the other called Dual

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<sup>100</sup> Prince Edward Island, Electoral Reform Commission, 2003, Report, Available at:

[http://www.gov.pe.ca/photos/original/er\\_premier2003.pdf](http://www.gov.pe.ca/photos/original/er_premier2003.pdf)

<sup>101</sup> Prince Edward Island, Commission on PEI's Electoral Future, 2005. Final Report, Available at:

[https://www.electionspei.ca/sites/www.electionspei.ca/files/elec\\_elecfrm05\\_1.pdf](https://www.electionspei.ca/sites/www.electionspei.ca/files/elec_elecfrm05_1.pdf)

<sup>102</sup> PEI, Commission on PEI's Electoral Future, p. 2.

<sup>103</sup> Don Desserud and Jeffrey F. Collins, "The Ongoing Saga of Electoral Reform in PEI," Policy Options, April 11, 2017, Available at: <https://policyoptions.irpp.org/fr/magazines/avril-2017/the-ongoing-saga-of-electoral-reform-in-pe/>

<sup>104</sup> Prince Edward Island, White Paper on Democratic Renewal, July 2015, Available at:

<https://www.assembly.pe.ca/sites/www.assembly.pe.ca/files/whitepaperdemocraticrenew.pdf>

<sup>105</sup> Prince Edward Island, Special Committee on Democratic Renewal, Recommendations in Response to the White Paper on Democratic Renewal, November 27, 2015. Available at:

<https://www.electionspei.ca/sites/www.electionspei.ca/files/Special%20Committee%20on%20Democratic%20Renewal%201st%20copy.pdf>

Member Proportional. The plebiscite on these options was scheduled for October 29 to November 7, 2016, voting could be done either in person or remotely, and the results were to be determined by a ranked ballot. On the fourth count, MMP won out over FPTP. MMP was the preferred option in 22 of the province's 27 constituencies, and on the fourth count MMP received 52.4% of votes compared to 42.8% for FPTP. However, the surprisingly low turnout of 36.5% led the government to quickly indicate it was not committed to putting MMP in place before a more definitive voting opportunity, pitting MMP directly against FPTP.<sup>106</sup>

The third public consultation on electoral reform in PEI occurred in conjunction with the 2019 general election. The referendum question asked voters whether PEI should change its voting system to a mixed member proportional voting system. For the referendum question to pass, it needed the support of a majority of voters (50% plus 1) and have majority support in 60% (that is, 17) of the 27 constituencies. The MMP option was favoured in 14 of the 27 constituencies. Since it did not achieve the required support in 17 constituencies, it was defeated.<sup>107</sup> There has been no further action on electoral reform in PEI following the 2019 referendum.

### **Lessons from Canadian experience with electoral reform**

Among the lessons that can be drawn about electoral reform from the Canadian experience, the following are particularly significant.

First, there are common complaints against the FPTP electoral system. In almost all instances, over-rewarding winning and regionally-based parties and under-rewarding parties finishing in second or third place, has been at the root of concern. But this concern does not necessarily, or often, translate into a change to the electoral system. It is mistaken to believe that demonstrating a gap between votes and seats will lead to a demand for electoral system change. There have been many instances in which voters are willing to accept less than direct proportionality in the vote to seat translation.

Changing the electoral system is difficult. There is not a clear-cut set of rules in place for electoral system change. In addition, there is a considerable amount of inertia in the current system.

Current understanding is that some form of public consultation is important. One of the areas of uncertainty is the way in which public input and consultation is to be facilitated. Although there is no formal requirement for public consultation, the electoral system is viewed as part of the "rules of the game" of politics and requires a broader consultation process than most legislative changes. What the consultation looks like can vary from place to place, but some consultation appears to be a requirement.

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<sup>106</sup> Desserud and Collins.

<sup>107</sup> Elections Prince Edward Island, Electoral System Referendum, available at: <https://www.electionspei.ca/resources/electoral-system-referendum>

It is common to require a super-majority to change. Furthermore, in many instances, governments have required the public consultation to include a super-majority. That is, changing the system requires the support not only of the public, but a higher proportion of the public than is generally the case to pass a law.

Similar questions can produce different results. Timing makes a big difference in electoral system reform. The government of British Columbia asked very similar questions about electoral reform in 2005 and 2009. In the former, reform came within a small margin of passing. In the latter, the status quo won by a wide margin. Context, and the vagaries of public opinion, mean that electoral reformers will be successful only when conditions are propitious.

There should be a process for narrowing options. The public often is not keenly interested in the electoral system used, and often does not hold strong views. Electoral systems by nature are complicated and the results may be very nuanced. It is important to discuss electoral system reform in the mechanics of the systems, so that people know what they will be doing under a new system. But it is also important to discuss the implications of electoral systems. What are the characteristics of the system that is being offered as an alternative? And, offering many alternatives to voters is a recipe for information overload. There should be a process for reviewing and narrowing the options.

Public education on electoral reform is important. Further to the discussion above, it is incorrect to assume that most people will know much about electoral system options, their characteristics, their effect on party competition, and the like. When voters don't understand the nature and implications of alternative electoral systems on a ballot, they are less likely to participate in the election. Low public engagement often is interpreted as a low level of interest in electoral system change.

## **8. Key issues when considering electoral system reform**

Effectiveness of the current electoral system. There may be a tendency for those who advocate changing the electoral system to use an overly simplified way of assessing the advantages and disadvantages of a system. For example, one often hears that a plurality or majority system is not sufficiently proportional, or that a proportional representation system leads to a fragmented party system. Although those things may be true, it is useful to take a broader perspective on how the electoral system overall is working, and how other systems, superimposed on a jurisdiction, would work differently. A useful question to pose is, what are the characteristics of a good electoral system for this jurisdiction? It is very likely the case that no system will meet all of the qualities identified as a "good" system, and that several electoral systems will achieve, to a greater or lesser extent, some of the desirable qualities. Having some clarity about what outcome is desirable in an electoral system will help navigate through the alternatives.

What are the representational values one is seeking to achieve? Further to the discussion about outcomes, what are the underlying values that one seeks to promote through an electoral



system? An obvious question is how important is it to have an electoral system that tends towards the election of majority governments, or is it important to have an electoral system that is likely to produce coalition or minority governments? Is it a good thing to have a party system with many parties having a chance to be elected to the legislature, and potentially form part of government, or better to have fewer parties, and encourage intra-party coalition forming rather than inter-party coalitions? What about the relative position of radical or extremist parties – should they be incentivized, disadvantaged, or precluded from participating in the legislative assembly? Who determines when a party is radical or extremist?

What about the representation of women and minorities, or groups that have historically been under-represented in legislatures? What are the avenues of increasing the representation of such groups that don't involve the electoral system? To what extent has the current electoral system provided opportunities for the representation of historically under-represented groups both in absolute terms, and in relation to other electoral systems? Might reforms to other aspects of governance, such as changing norms of legislative behaviour, changing laws about party and candidate financing, or party nominations, accomplish the goals of encouraging diversity among legislators?

Size of the population and of the legislative assembly. Population and legislative assembly size factor into discussions of the best electoral system in several ways. A population like that of the Yukon, which is at once highly concentrated in Whitehorse, while also being widely dispersed throughout the rest of the territory, presents challenges for any type of electoral system. Proportional systems are most effective at achieving proportionality between votes and seats when there is a relatively large number of seats per electoral district. It is difficult to imagine a reasonable configuration of multi-member electoral districts in the Yukon that includes more than two districts – one for Whitehorse and one for the rest of the territory. The risk in such a system is that for the rural district, there is little opportunity to recognize differences between regions within the district and opens the possibility of some regions being or feeling left out. But there are also challenges with the FPTP system, as the data on distortion presented in tables 1A and 1B demonstrated.

Public engagement is an important element in electoral reform. As has been shown in many jurisdictions, although there tends not to be a specific legislative requirement for the public to be engaged in an electoral reform process, there has emerged an unwritten expectation that some level of public engagement is required to provide the outcome with legitimacy. Although public engagement has come in the form of citizens' assemblies in some jurisdictions, they are but one of the options available for engaging the public. Many other jurisdictions have used independent commissions or parliamentary committees with which to engage the public. The key is to have opportunities for the public to make their views known during the period in which reform proposals are being developed. And an important element of this process is providing civic education on the nature and characteristics of electoral systems. Most citizens do not come to this discussion with well-established or rigid position on electoral reform and thus need guidance to formulate their views on the topic.



There also has developed an expectation that public engagement extends beyond formulating alternatives to consider. Rather, it is conventional wisdom that the public should be directly consulted on electoral reform either through a referendum or plebiscite. This may be a multi-stage process. In some jurisdictions, voters have been presented with two questions – the first on whether the voter would like to keep the present electoral system or change to a new form, such as keeping First Past the Post or changing to a proportional representation system, and then ranking several alternative PR options, including mixed systems. In other instances, a pre-referendum process has identified the top proportional representation option, and offered a choice between the status quo and the other option. This helps simplify the choice for voters in the referendum. But if there is not a strong consensus among proponents of change that the identified option on the ballot is the best option, then it will work against people voting for change. Paul Howe, for example, has suggested that this occurred in New Brunswick with the identification of Alternative Vote as the preferred option of the Commission on Electoral Reform in 2017.<sup>108</sup>

A final consideration relating to changing the electoral system following a referendum or plebiscite is whether a change will be implemented, and if so, can the government revert to the previous electoral system. We have seen several examples of a government announcing a date for a referendum on electoral reform, only to have the government defeated prior to the referendum date. Since parliamentary supremacy means that a current parliament is not able to bind a future parliament, there is not guarantee that a referendum held in conjunction with a general election will necessarily result in the outcome of the referendum being implemented if the government is defeated. Each government makes its own decisions about its priorities. One failsafe procedure to consider is whether there should be a commitment to revisit the issue of electoral system reform at some future date. To a certain extent, changing the electoral system is stepping into the unknown. Although one might have expectations about how an alternative electoral system will function, it is to a certain extent speculation. The decision of offer a second referendum, after electoral reform has been accomplished, provides an opportunity to review the new system once it has been in place. The experience in New Zealand, in which a second referendum on electoral reform was held in 2011 following the adoption of MMP in 1996 is instructive. Despite some initial misgivings about the adoption of MMP, the electorate in 2011 voted 57.8% to 42.2% in favour of retaining MMP. That outcome represents a strong endorsement that for the voters in New Zealand, changing their electoral system was a success.

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<sup>108</sup> Paul Howe, “A New Electoral System”, pp. 6-9.

## Appendix 1: Actual Quotients for Party List Seat Allocation, New Zealand General Election, 2020

Divisor	Party List Seat Allocation									
	Labour Party	Seat No.	National Party	Seat No.	Green Party	Seat No.	ACT New Zealand	Seat No.	Māori Party	Seat No.
1	1443545.000	1	738275.000	2	226757.000	6	219031.000	7	33630.000	39
3	481181.667	3	246091.667	5	75585.667	18	73010.333	19	11210.000	119
5	288709.000	4	147655.000	10	45351.400	29	43806.200	30	6726.000	
7	206220.714	8	105467.857	13	32393.857	41	31290.143	44	4804.286	
9	160393.889	9	82030.556	16	25195.222	54	24336.778	56	3736.667	
11	131231.364	11	67115.909	21	20614.273	65	19911.909	68	3057.273	
13	111041.923	12	56790.385	24	17442.846	76	16848.538	80	2586.923	
15	96236.333	14	49218.333	27	15117.133	88	14602.067	91	2242.000	
17	84914.412	15	43427.941	32	13338.647	100	12884.176	104	1978.235	
19	75976.053	17	38856.579	35	11934.579	111	11527.947	116	1770.000	
21	68740.238	20	35155.952	38	10797.952		10430.048		1601.429	
23	62762.826	22	32098.913	42	9859.000		9523.087		1462.174	
25	57741.800	23	29531.000	46	9070.280		8761.240		1345.200	
27	53464.630	25	27343.519	49	8398.407		8112.259		1245.556	
29	49777.414	26	25457.759	52	7819.207		7552.793		1159.655	
31	46565.968	28	23815.323	57	7314.742		7065.516		1084.839	
33	43743.788	31	22371.970	60	6871.424		6637.303		1019.091	
35	41244.143	33	21093.571	63	6478.771		6258.029		960.857	
37	39014.730	34	19953.378	67	6128.568		5919.757		908.919	
39	37013.974	36	18930.128	71	5814.282		5616.179		862.308	
41	35208.415	37	18006.707	74	5530.659		5342.220		820.244	
43	33570.814	40	17169.186	78	5273.419		5093.744		782.093	
45	32078.778	43	16406.111	82	5039.044		4867.356		747.333	
47	30713.723	45	15707.979	85	4824.617		4660.234		715.532	
49	29460.102	47	15066.837	89	4627.694		4470.020		686.327	
51	28304.804	48	14475.980	93	4446.216		4294.725		659.412	
53	27236.698	50	13929.717	96	4278.434		4132.660		634.528	
55	26246.273	51	13423.182	99	4122.855		3982.382		611.455	
57	25325.351	53	12952.193	103	3978.193		3842.649		590.000	
59	24466.864	55	12513.136	107	3843.339		3712.390		570.000	
61	23664.672	58	12102.869	110	3717.328		3590.672		551.311	
63	22913.413	59	11718.651	114	3599.317		3476.683		533.810	
65	22208.385	61	11358.077	118	3488.569		3369.708		517.385	
67	21545.448	62	11019.030		3384.433		3269.119		501.940	
69	20920.942	64	10699.638		3286.333		3174.362		487.391	
71	20331.620	66	10398.239		3193.761		3084.944		473.662	
73	19774.589	69	10113.356		3106.260		3000.425		460.685	
75	19247.267	70	9843.667		3023.427		2920.413		448.400	
77	18747.338	72	9587.987		2944.896		2844.558		436.753	
79	18272.722	73	9345.253		2870.342		2772.544		425.696	
81	17821.543	75	9114.506		2799.469		2704.086		415.185	
83	17392.108	77	8894.880		2732.012		2638.928		405.181	

Party List Seat Allocation

Divisor	Labour Party	Seat No.	National Party	Seat No.	Green Party	Seat No.	ACT New Zealand	Seat No.	Māori Party	Seat No.
85	16982.882	79	8685.588		2667.729		2576.835		395.647	
87	16592.471	81	8485.920		2606.402		2517.598		386.552	
89	16219.607	83	8295.225		2547.831		2461.022		377.865	
91	15863.132	84	8112.912		2491.835		2406.934		369.560	
93	15521.989	86	7938.441		2438.247		2355.172		361.613	
95	15195.211	87	7771.316		2386.916		2305.589		354.000	
97	14881.907	90	7611.082		2337.701		2258.052		346.701	
99	14581.263	92	7457.323		2290.475		2212.434		339.697	
101	14292.525	94	7309.653		2245.119		2168.624		332.970	
103	14015.000	95	7167.718		2201.524		2126.515		326.505	
105	13748.048	97	7031.190		2159.590		2086.010		320.286	
107	13491.075	98	6899.766		2119.224		2047.019		314.299	
109	13243.532	101	6773.165		2080.339		2009.459		308.532	
111	13004.910	102	6651.126		2042.856		1973.252		302.973	
113	12774.735	105	6533.407		2006.699		1938.327		297.611	
115	12552.565	106	6419.783		1971.800		1904.617		292.435	
117	12337.991	108	6310.043		1938.094		1872.060		287.436	
119	12130.630	109	6203.992		1905.521		1840.597		282.605	
121	11930.124	112	6101.446		1874.025		1810.174		277.934	
123	11736.138	113	6002.236		1843.553		1780.740		273.415	
125	11548.360	115	5906.200		1814.056		1752.248		269.040	
127	11366.496	117	5813.189		1785.488		1724.654		264.803	
129	11190.271	120	5723.062		1757.806		1697.915		260.698	
131	11019.427		5635.687		1730.969		1671.992		256.718	
133	10853.722		5550.940		1704.940		1646.850		252.857	
135	10692.926		5468.704		1679.681		1622.452		249.111	

Number of Party Votes	1443545	738275	226757	219031	33630
Percentage	54.24%	27.74%	8.52%	8.23%	1.26%
Electorate Seats	46	23	1	1	1
List Seats	19	10	9	9	1
<b>Total seats</b>	<b>65</b>	<b>33</b>	<b>10</b>	<b>10</b>	<b>2</b>

Source: Elections New Zealand, [Report on the 2020 Election](https://www.electionresults.govt.nz/electionresults_2020/statistics/party-quotients.html), available at:  
[https://www.electionresults.govt.nz/electionresults\\_2020/statistics/party-quotients.html](https://www.electionresults.govt.nz/electionresults_2020/statistics/party-quotients.html)

## **Appendix 2. Biography of author**

Keith Archer received a BA (1979) and MA (1980) in Political Science from the University of Windsor and a PhD (1985) in Political Science from Duke University. He was Professor of Political Science at the University of Calgary from 1984 to 2011, when he was appointed Professor Emeritus of Political Science. He has written extensively about voting and elections, political parties, and research methods. In 2011 he was appointed Chief Electoral Officer of British Columbia and served in this role until his retirement in 2018. He served on the Electoral Boundaries Commission of Alberta (2009-2010) and the Electoral Boundaries Commission of British Columbia (2014-2015). He continues to conduct research and writing on matters relating to the administration of elections.