

Submission to the Special Committee on Electoral Reform

By
Floyd McCormick

September 30, 2022

To the Members of the Special Committee on Electoral Reform:

Kate White, MLA, Chair

Brad Cathers, MLA, Vice-Chair

Hon. John Streicker, MLA

Dear Committee Members,

I believe that the Yukon should change the system it uses for electing members to the Yukon Legislative Assembly. The change should be to cease using the single-member plurality, first-past-the-post (FPTP) electoral system and adopt the single-member majority Alternative Vote (AV) system as described by Keith Archer in *Options for Yukon's Electoral System: A Report prepared for the Special Committee on Electoral Reform, Yukon*.¹

I will proceed in this submission by explaining why I believe an AV system would serve the Yukon better than FPTP. I will also explain why I favour an AV system over the Open List Proportional Representation (OLPR) electoral system and the Mixed Member Proportional (MMP) electoral system proposed in the Fair Vote Canada (FVC) written submission. I will also offer some brief thoughts on whether the Yukon should form a citizen's assembly to further consider electoral reform, whether the implementation of electoral reform should ultimately be decided by a referendum and whether such a decision should be subsequently reviewed.

I will not try to provide a comprehensive overview of all the strengths and weaknesses of all these electoral systems. I will focus, instead, on those features

¹ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> pages 27-29.

that I think are most important in explaining my support for an AV electoral system.

Contextual Comments

First, however, I will make some general contextual comments.

My first contextual comment is, I believe that the most important issue facing the Yukon Legislative Assembly is not the way in which its members are elected; it is improving the Legislative Assembly's ability to scrutinize and hold to account the cabinet and the executive branch of government. I will not go further into this subject in this submission. I mention it to highlight its importance and make the point that improving accountability is an issue that the Legislative Assembly will continue to face whether the Yukon adopts a new electoral system or not.

That being said, electoral system change is an important issue. It is an issue that has been discussed over a period of time and is deserving of the attention it has received from the special committee and the Yukon public.

My second contextual comment is, I believe that the Yukon is the most challenging jurisdiction in Canada when it comes to matters regarding the conduct of elections. As Archer notes in his report "the Yukon...covers 482,000 square kilometres"² making it larger than Newfoundland and Labrador and larger than Nova Scotia, New Brunswick and Prince Edward Island combined.³ Also,

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. Therefore 71.2% of the residents of the Yukon reside in Whitehorse. Thus, from a population distribution perspective,

² <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 53.

³ <https://www150.statcan.gc.ca/n1/pub/11-402-x/2010000/chap/geo/tbl/tbl07-eng.htm>

the Yukon is a highly urbanized territory combined with areas of expansive land with low population density.⁴

The Northwest Territories and Nunavut also have vast geography and low populations but neither of those territories (or any province) have such a large proportion of their population living in one community. This combination of factors makes it more difficult to provide effective representation to all Yukoners while ensuring that electoral districts are not prohibitively large and that there is some measure of parity in terms of the number of voters in each electoral district.

My final contextual comment is, if there were an electoral system that could be all things to all people at all times it would already be in use. No such system exists. This means that there will be trade-offs involved whether we choose to keep the existing FPTP electoral system or adopt a different one. So, in choosing the right electoral system for the Yukon we need to decide which characteristic we want at the core of our electoral system and then flesh out the rest of the system's features from there.

Local Representation

As far as I am concerned, the idea which should be at the core of our electoral system is local representation. This is especially important because of the vast geography and sparse population that exists outside Whitehorse. Not only are most of these communities distant from Whitehorse, they are also distant from one another. The legitimacy of the Yukon Legislative Assembly as a representative institution rests, in part, on its ability to provide effective representation to Yukoners within the geographic and demographic constraints mentioned above and the comparatively small size of the legislative assembly (19 seats).

According to Archer, one of the advantages of constituency-based electoral systems like FPTP and AV is the

⁴ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 17.

Direct connection between voters and representative in their community...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.⁵

The final report of the most recent Electoral District Boundaries Commission (EDBC) (April 2018) addressed local representation in the Yukon. The section entitled “Providing reasonable and effective representation for electors in Pelly-Nisutlin” provides a concise description of the difficulties involved in providing effective representation for communities within the same electoral district that have small populations, are far from Whitehorse, are distant from one another and, in some cases, have little interaction with one another.⁶ This is why the EDBC recommended creating a new electoral district outside Whitehorse even though the number of voters in the proposed electoral district would fall below the +/- 25% variance from the average elector population per electoral district that the EDBC tried to follow.

Similar observations could be made about the electoral districts of Kluane and Mayo-Tatchun. The relevance of all this is that maintaining the maximum number of electoral districts is important to improving the legitimacy of the Legislative Assembly as a representative institution for Yukoners. An electoral system that reduces the number of electoral districts will do the opposite.

Alternative Vote

Adopting a single-member majority AV voting system will, I believe, help improve the ability of the Legislative Assembly to provide effective, local representation. As Archer describes it, “The Alternative Vote electoral system...Like the

⁵ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 25.

⁶ <https://yukonassembly.ca/sites/default/files/inline-files/sp-34-2-58.pdf> pages 28-31.

FPTP system...is based on single member constituencies.”⁷ So, like FPTP, an AV electoral system provides the direct connection described above and maximizes the number of electoral districts thereby maximizing local representation.

However, an AV electoral system improves upon our current FPTP system because “a candidate is required to receive a majority of votes in order to win the election”⁸ rather than just a plurality of votes.

With some exceptions, the Yukon Liberal Party, the Yukon Party and the Yukon NDP field candidates in all electoral districts during a general election. In electoral districts where the race is highly competitive a candidate can be elected with less, sometimes much less, than a majority of votes cast.⁹ According to Archer

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 first choice. For most voters, the winning candidate was more preferred than the candidate finishing second.¹⁰

Requiring a winning candidate to receive a majority of the votes cast in their electoral district provides a stronger mandate to the member who is elected. There is also a second, less obvious, but potentially more profound advantage that Archer attributes to an AV voting system:

⁷ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 28.

⁸ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 28.

⁹ In the 2021 general election five of 19 winning candidates drew less than 40% of the votes cast in their electoral district. https://electionsyukon.ca/sites/elections/files/ge_2021_ceo_report_to_leg_assembly.pdf

¹⁰ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> pages 27-28.

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.¹¹

Giving parties and candidates incentives to co-operate during an election campaign is important. One of the greatest current threats to democracy is hyper-partisanship and the polarization and divisiveness that result from it. In Canadian federal elections we see that hyper-partisanship and polarization are not just unfortunate outcomes but are increasingly used as campaign tactics. Divisiveness can work as a campaign tactic in an electoral system where a candidate needs fewer than a majority of votes in their electoral district to get elected. Divisive tactics are less likely to be successful where a majority of votes is required. A voting system that encourages co-operation amongst those involved (even if the co-operation is based on political self-interest) has a chance of improving political behaviour during elections.

Moderation of behaviour may also have a positive effect on the policies offered by political parties. An electoral system that encourages political parties and candidates to solicit support from the supporters of other candidates and political parties is more likely to produce policy proposals that are designed to appeal to a broader range of voters, rather than just those who share a political party's philosophy or ideology. This means that parties have an incentive to move to where the voters are on matters of policy, rather than forcing voters to move to where the parties want them to be.

Proportional Representation (PR) systems can also promote co-operation amongst political parties. A general election using a PR system is less likely than a FPTP system (plurality or majority) to lead to a majority government. The result is usually a single-party minority government (which may or may not have a

¹¹ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 28.

confidence and supply agreement with another party) or a coalition government. Either of these outcomes may require co-operation in order to provide a functioning government.¹² However, this co-operation takes place after the election is over and the results are known. Voters are not a part of this equation as they are under an AV system where co-operation is a feature of the election campaign.

So an AV system is more likely than a PR system to change the way candidates and parties conduct themselves during elections. Improved behaviour during elections can have knock-on positive effects on behaviour in the Legislative Assembly and throughout our political system.

I say all this knowing that trying to forecast future political behaviour based on electoral system change is always speculative no matter what system one prefers. We can't predict with 100% certainty how voters, candidates and parties will react to a new political environment. However, we can improve our odds of improved behaviour by adopting an electoral system whose built-in incentives encourage co-operation, rather than divisiveness, during election campaigns. That may sound idealistic, but I'd rather be an idealist than an ideologue.

Open List Proportional Representation

According to Archer "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."¹³ Achieving proportionality between votes and seats is not a bad thing. The questions to ask are, what features does a PR voting system have to have in order to achieve proportionality? And, how would these features fit into the Yukon's unique political context?

¹² Although in some situations coercion can also be used.

¹³ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 33.

Again, quoting Archer, “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.”¹⁴

In its submission to the special committee Fair Vote Canada (FVC) offered two proposed electoral systems for the Yukon. The first is Open List Proportional Representation (OLPR). This proposal featured six electoral districts, two in Whitehorse (one with four members and one with seven members) and four outside Whitehorse. The proposed community electoral districts and their representation are:

- One member for Vuntut Gwitchin (the same as the current situation);
- Two members for North Yukon (combining the electoral districts of Klondike and Mayo-Tatchun),
- Two members for Southwest Yukon (combining the electoral districts of Kluane and Lake Laberge), and
- Three members for Southeast Yukon (combining the electoral districts of Watson Lake, Pelly-Nisutlin and Mount Lorne-Southern Lakes).¹⁵

So the number of community MLAs would remain the same (8) through there would be fewer electoral districts (4).¹⁶

If this electoral system were implemented it would, I don’t doubt, yield a greater proportionality between votes and seats than a single-member constituency system. However, in order to accomplish this, the Yukon would have to adopt much larger electoral districts outside Whitehorse. Enlarging these electoral districts risks worsening the difficulties involved in representing these communities, as highlighted in the EDBC report:

¹⁴ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 33.

¹⁵ <https://yukonassembly.ca/sites/default/files/2022-01/scer-35-submission-2022-01-26-fairvotecanada-writtensubmission.pdf> pages 22-23.

¹⁶ A historical note on multi-member districts in the Yukon: The general elections for the first four wholly-elected territorial councils (1909, 1912, 1915 and 1917) featured five two-member electoral districts. Single member districts came into use in 1920 when the council was reduced from 10 members to three. The Yukon has had single member districts since then. (Steve Smyth, *The Yukon’s Constitutional Foundations, Volume 1: The Yukon Chronology (1897-1999)* pages 8-10.)

Travel to rural communities is time-consuming and, for much of the year, is dependent on weather. Both are factors that affect the ability of MLAs to serve electors in the various communities.

Most of the electoral districts contain a number of small communities, increasing the likelihood that an MLA will struggle with competing interests for assistance and resources. These communities have varying degrees of dependence on territorial governance. While some have access to services and facilities provided by municipal or First Nations governance, others rely more on their MLA for assistance in identifying and accessing services.¹⁷

Large, multi-member districts would not improve this situation since each MLA would have to serve the entire electoral district.

There is also a risk that all the members elected for a given electoral district could come from the same community. Something similar to this occurred during the 1974 general election. The context was different in important ways: The Yukon had only 12 single-member electoral districts; this is was prior to responsible government; and before the formal recognition of political parties in our electoral and legislative systems, though some candidates made their partisan affiliations known. However, there is a rough parallel to the proposed North Yukon electoral district.

In 1974 the electoral district of Ogilvie included part of Dawson City, Clinton Creek, Eagle Plains and Old Crow. The electoral district of Klondike included part of Dawson City, Stewart Crossing, Pelly Crossing and Carmacks. The result of the election was that both electoral districts were won by candidates from Dawson City. So the entire central and northern part of the Yukon was served by two members from the same community. At least in this case they were separate electoral districts so each candidate was only responsible for serving their part of central and north Yukon.¹⁸

¹⁷ <https://yukonassembly.ca/sites/default/files/inline-files/sp-34-2-58.pdf> page 27.

¹⁸ Report of the Chief Electoral Officer (Canada), Yukon Territory Elections Held During The Year 1974. https://electionsyukon.ca/sites/elections/files/1974_general_election_0.pdf

In the OLPR proposal the two-member North Yukon electoral district would include Eagle Plains, Dawson City, Elsa, Keno Hill, Mayo, Stewart Crossing, Pelly Crossing and Carmacks. Having two seats in one district increases the odds that the result will be proportional, but this proportionality would come at the expense of local representation, especially if both members were from the same community. I don't think people in the rest of the electoral district would see that as providing effective representation.

It's also worth noting that the boundaries of the electoral district of Mayo-Tatchun were drawn prior to the 1992 general election specifically for the purpose of creating a riding where the Northern Tutchone would constitute a majority of the population. Combining Mayo-Tatchun with Klondike eliminates that factor.

FVC noted in its submission that this OLPR proposal model "is based on merging existing ridings, and keeps the legislature at 19 members. New boundaries could be drawn by a boundary commission, and MLAs could be added either to improve proportionality or reduce riding sizes."¹⁹ Such changes could, of course, moderate some of the potential problems. But we also can't guarantee that such changes would take place. How many more MLAs would have to be added to the Legislative Assembly to reduce the problems associated with larger electoral districts? Would Yukoners be willing to add this many seats (whatever number that may be) for this purpose?

Mixed Member Proportional

FVC also offers a mixed-member proportional (MMP) proposal.²⁰ Under this system the existing 19 single-member electoral districts would remain as they are and voters in them would elect a local MLA according to the existing system. The new feature is that voters would also get to elect six additional MLAs to regional top-up seats. There would be three top-up seats for Whitehorse, two for the southern region (Kluane, Lake Laberge, Mount Lorne-Southern Lakes, Pelly-

¹⁹ <https://yukonassembly.ca/sites/default/files/2022-01/scer-35-submission-2022-01-26-fairvotecanada-writtensubmission.pdf> pages 22-23.

²⁰ <https://yukonassembly.ca/sites/default/files/2022-01/scer-35-submission-2022-01-26-fairvotecanada-writtensubmission.pdf> pages 24-26.

Nisutlin and Watson Lake) and one for the northern region (Klondike, Mayo-Tatchun and Vuntut Gwitchin). The distribution of top-up seats would help achieve greater proportionality between the number of votes a given party receives and the number of seats it has in the Legislative Assembly.

The issue I have with the MMP proposal is the addition of the six top-up MLAs. This would expand the Legislative Assembly to 25 members. The *Yukon Electoral Reform Survey Report* addressed the issue of an expanded Legislative Assembly. It reported:

While 46.1% of respondents said they felt the Yukon Legislative Assembly should remain the same size, 45.1% said they thought it should increase, either to improve levels of representation (29.6%), or to support a different voting system (15.5%; Figure H1).²¹

I was pleasantly surprised to see that a substantial number of respondents would support expanding the legislative assembly for one reason or another. However, I wonder how many would support adding six additional members, none of them elected to represent an electoral district and, therefore, not having constituents to serve.

Adding MLAs without electoral districts would, for the first time, create two classes of MLAs in the Legislative Assembly: those with constituents and those without. As MLAs the special committee members may have some views about how this might affect the distribution of responsibilities within their caucuses and the operation of the Legislative Assembly.

Because I favour maximizing local representation, I would prefer that if the Legislative Assembly were to expand (to whatever number) that this expansion would provide additional electoral districts. In its final report the EDBC said

Throughout the course of the consultation with outlying communities, the Commission repeatedly heard concerns from rural residents that decisions affecting their livelihoods were disproportionately being influenced by the

²¹ <https://yukonassembly.ca/sites/default/files/2022-06/scer-35-survey-report-2022-05-31.pdf> page 22.

greater number of urban electoral districts. While the proportion of electors residing within the Whitehorse city limits is approaching three quarters of Yukon's total, the city accounts for less than 1% of the land mass.

The Commission believes that the proposed addition of a rural electoral district addresses these concerns and provides a measured ratio of urban to rural influence in the representation within the Legislative Assembly. The Commission is satisfied that these proposals reflect the considerations set out in the [Elections] Act, with the goal of effective representation for all electors in Yukon. Most rural electoral districts fall below the +/-25% variance, and the Commission agreed that greater variances were warranted in those cases.²²

One more community electoral district, as proposed by the EDBC, would provide additional representation for communities outside Whitehorse and bring greater parity between the number of Whitehorse MLAs and those who serve the communities. Adding one or more additional electoral districts in Whitehorse as well would bring greater parity between the average number of voters in community electoral districts and those in Whitehorse. This, I believe, would make for more effective, local representation.

In short, if there is interest in increasing the number of MLAs these members should each have an electoral district to represent.

Conclusion

As previously stated, my preference is for an AV electoral system that improves effective representation in the Yukon Legislative Assembly by prioritizing local representation and ensuring that those elected to the Legislative Assembly do so on the basis of majority support in their electoral district. I believe that such a system could prevent the hyper-partisanship, polarization and divisiveness we see elsewhere. Ultimately, the decision to keep the existing FPTP electoral system or replace it with an alternative it is a matter of choice, one that will prioritize

²² <https://yukonassembly.ca/sites/default/files/inline-files/sp-34-2-58.pdf> page 27.

certain core principles over others and may exclude certain features that we might otherwise like to see in a voting system.

Citizens' Assembly

Another issue related to electoral reform is whether the Yukon should, after the conclusion of the special committee process, establish a citizens' assembly to continue examination of the issue of electoral reform. I think there is value in the citizen's assembly as a democratic exercise. Once the special committee process ends there will be a lot of information for people to consider before a decision is made to either retain the FPTP electoral system or adopt a different system (however that decision is made). A citizen's assembly could facilitate a public dialogue on that question.

My only reservation is whether there is enough public interest (and support) for continuing the electoral reform process in this way. As FVC points out in their written submission doing a citizens' assembly properly will require resources

A successful citizens' assembly would be fully funded by the government but run by an independent, impartial organization that specializes in deliberative processes. Equitable access would be ensured by covering costs related to travel, lost wages, and childcare.²³

I'm not sure what "fully-funded" means in precise dollar terms. But I believe the Legislative Assembly needs to determine that there is adequate interest before making such a commitment. Adequate public interest, support and participation are necessary to make the citizens' assembly worthwhile.

If we do decide to establish a citizens' assembly there are also practical questions to be answered about how large it will be, how individuals will be named to the assembly and how long it will have to do its work. Most importantly is the kind of authority it will have. Will it be empowered to only make recommendations for

²³ <https://yukonassembly.ca/sites/default/files/2022-01/scer-35-submission-2022-01-26-fairvotecanada-writtensubmission.pdf> page 9.

electoral reform to the Legislative Assembly or will it be a decision-making body whose decisions are binding?

Referendum

Another related issue is whether the question of electoral reform should ultimately be put to Yukoners in the form of a referendum. FVC is unsparing in its condemnation of referendums as a means of deciding on whether to implement electoral reform. They state, for example, that

Studies confirm that referendums are not inherently neutral: they are flawed by a consistent and substantial bias towards the status quo.

The side advocating for change, in this case changes to the voting system, must convince voters that life will be better in an imagined future with a new voting system, while the advocates for the status quo can easily capitalize on anxiety, doubt and fear.²⁴

Advocates for the status quo can also capitalize on the fact that most people probably don't see the electoral system as a problem and so don't see changing it as a solution. But that's not always the case. Consider, for example, Archer's description of how New Zealand changed its electoral system:

Following [the National Party's] 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 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

²⁴ <https://yukonassembly.ca/sites/default/files/2022-01/scer-35-submission-2022-01-26-fairvotecanada-writtensubmission.pdf> pages 4-7.

being favoured 53.9% to 46.1%. MMP was therefore implemented for the following general election in 1996.

The fact that 84.7% of those who voted in the indicative referendum supported changing the electoral system suggests there was a deep and wide antipathy to the electoral system then in use. It is easy to see how that would weaken the status quo and provide a basis for a successful referendum campaign.

The challenge for those of us who would like to see FPTP replaced by something else is to convince Yukoners that change is necessary and will be beneficial. According to the Yukon Electoral Reform Survey Report, 48.7% of respondents agreed or strongly agreed that the current electoral system should be changed²⁵ though there was no consensus on what system ought to replace it. Convincing Yukoners to accept a particular change will be a challenge because I have no reason to believe that Yukoners hold the same kind of antipathy to FPTP as New Zealanders did in 1990.

Despite FVC's criticism of electoral reform referendums, some of which I agree with, I don't see how the question of electoral reform can be decided without one. As much as we want the issue to be decided on an objective assessment of the merits of various proposals we also need to ensure that any change to the voting system is widely supported by Yukoners. The electoral system, after all, belongs to all Yukoners not just those of us who immerse ourselves in the subject. The onus is on us to convince other Yukoners that change is needed and that the results of change will be beneficial. It would be detrimental to our democracy for a new electoral system to be viewed as something that was 'imposed' upon the Yukon by a small number of self-nominated persons who were randomly-selected to be part of a citizens' assembly.

²⁵ <https://yukonassembly.ca/sites/default/files/2022-06/scer-35-survey-report-2022-05-31.pdf> page 12.

Review

Finally, I would like to briefly address the issue of reviewing the decision to change the electoral system, if a change does occur. According to Archer

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. With this definitive result, no change was made to the MMP system, and it remains in place.²⁶

Should the Yukon decide to change its electoral system I think Yukoners should have an opportunity to review that decision. I think the appropriate timing would be to review the new system after two general elections run under the new system to see if Yukoners are satisfied with it.

Thank you for considering my submission.

Floyd McCormick

²⁶ <https://yukonassembly.ca/sites/default/files/2021-11/SCER-35-Options-for-Electoral-Reform-research-report.pdf> page 61.