

Gender Equal Legislatures: Evaluating the Proposed Nunavut Electoral System

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Cet article donne et évalue la proposition d'une loi garantissant l'équité sexuelle dans la nouvelle province de Nunavut. Il conclut que cette proposition est en accord avec les droits démocratiques et met en valeur les relations de représentation et de responsabilité entre l'électorat et le législateur. Comme telle, la proposition représente une réforme innovatrice qui adapte les traditions politiques afin de tenir compte des clivages sociaux. Même si le résultat du référendum de 1997 empêche la mise en place de cette proposition dans le nouveau territoire, cette proposition demeurera une contribution importante pour les discussions de politique concernant la sous-représentation des femmes dans des postes publics.

The article outlines and evaluates a proposal for mandated gender parity in the legislature of the new territory of Nunavut. It concludes that the proposal is consistent with democratic rights and enhances desirable relationships of representation and accountability between elector and legislator. As such, the Nunavut proposal represents an innovative reform that adapts Canadian political traditions to accommodate contemporary social cleavages. Although the results of a 1997 referendum in Nunavut preclude the implementation of the proposal in the new territory, the proposal remains a relevant contribution to policy discussions concerning the underrepresentation of women in elected office.

The underrepresentation of women in both numeric and substantive terms has proven a persistent and intractable problem in Canadian politics. Since 1970, when the Royal Commission on the Status of Women (1970) asserted that “no country can make the claim to having equal status for its women so long as its government lies entirely in the hands of men,” (p. 335) the question of women’s representation in the formal political sphere has made periodic

appearances on the public agenda. Despite efforts of feminist organizations and political parties, in no Canadian legislature does the proportion of women exceed one-third (Arscott and Trimble 1997; Maillé 1990; Studlar and Matland 1994, 1996). Related to this numeric underrepresentation is a substantive underrepresentation of women wherein women’s concerns and the differential effects of public policy on women are peripheral to the central political agenda.

This is the backdrop against which the institutional design for a new territorial government in the eastern arctic was carried out. The Canadian north is not exempt from the aforementioned representational deficit. Even though there are some high-profile women in northern politics (including former premier Nellie Cournoyea and former Inuit Tapirisat president Rosemarie Kuptana), only seven women have ever been elected to the Legislative Assembly of the Northwest Territories and, in the part of the NWT that will become the predominantly Inuit Nunavut Territory in 1999, only one of ten MLAs is a woman (Native Women's Association of the NWT and Status of Women Council of the NWT 1994, p. 5; Nunavut Implementation Commission 1994, p. 2).

In an effort to remedy this persistent representational deficit, the Nunavut Implementation Commission (NIC) has proposed a dual-member constituency electoral system with gender equality. Under the proposed system, each electoral district would be represented by one male and one female MLA. Voters would cast two ballots: one for their preferred male candidate and the other for their preferred female candidate. In this variation on a dual-member plurality electoral system, the male and female candidates who received the largest number of votes would each be elected. The proposal was defeated by a 57 percent "no" vote in a non-binding (but politically decisive) referendum held on the issue on 26 May 1997. Had it been adopted, the Nunavut Legislative Assembly would have been the world's first democratically elected legislature with mandated gender parity.

Although the proposal will not be implemented in Nunavut, ongoing concern about underrepresentation of women in elected bodies in Canada and elsewhere ensures the proposal's ongoing relevance. In fact, French Prime Minister Lionel Jospin recently advocated enshrining the goal of political parity between men and women in the French constitution, prompting speculation that the National Assembly would be elected from two-member dis-

tricts for which each party would field a woman and a man (*Economist* 1997).

The purpose of this article is to evaluate the merits of the gender-equal legislature in general terms, not in the particular, predominantly Inuit, context of Nunavut. The latter evaluation involves complex and sensitive cultural considerations that can only be resolved by the population of the new territory. Rather, the article will evaluate the gender equality proposal as a corrective for the persistent underrepresentation of women, and will consider its acceptability in the context of a democratic electoral system. The article argues that the proposal is consistent with democratic and egalitarian values and is an innovative reform that adapts Canadian political traditions to accommodate contemporary social cleavages.

NUNAVUT AND THE PROPOSAL FOR GENDER EQUALITY

When the territory of Nunavut (Inuktitut for "our land") comes into being on 1 April 1999, it will encompass over two million square kilometres of land in the eastern part of the current Northwest Territories and will have a population of approximately 22,000. Over 80 percent of the population will be Inuit. The formation of Nunavut is integral to the land claim agreement reached between the Inuit and the federal government in 1992. According to Cameron and White (1995, p. 92), the federal government's acceptance of the principle of a Nunavut government can be attributed in large part to the Inuit decision to follow a public government model (encompassing Aboriginal and non-Aboriginal residents) rather than an Aboriginal self-government model.

The NIC, an appointed body advising on a broad range of issues including development of governmental institutions for the new territory, was mandated to recommend a process for the election of the first legislative assembly and the determination of electoral districts. The institutional design has

moved in the direction of a legislature similar to that of the NWT, a Westminster-style legislature without parties and with respect for Aboriginal culture (see White 1991). Early in its mandate, the commission established as an objective the representation of women in the legislative assembly in something approaching their presence in the territorial population. Toward this end, it developed the proposal for a system of two-member constituencies outlined above.

In the discussion paper introducing the proposal, the NIC identified three reasons for employing such a system. The first and most prominent was the representation of women as a group. The paper argued that

As groups, men and women have had different relationships with the laws and institutions created through public policy, and have had different life experiences. As a result, there are differences in the ways in which men and women approach politics.... One can ... acknowledge that women's underrepresentation in politics helps explain why they are more likely to be poorer (especially if they're single parents) than men are, earn lower wages for work of equal value, face other forms of discrimination in the workplace, are discriminated against by pension systems, and have limited access to affordable child day-care. The call for balanced representation in politics is therefore more than a call for recognition of shared interests, it is a call for recognition for equality for a historically mistreated group in society. (1994, p. 5)

In constructing this as a group claim, the discussion paper noted the established practice of recognizing group rights in Canadian politics, including the recognition of Aboriginal rights that are reflected in the settlement of the Nunavut Land Claim and the formation of the Nunavut territory.

The second argument offered in support of the proposal was the extensive Canadian experience with dual-member constituencies. Noting that every

Canadian province except Quebec has at some time employed dual-member constituencies (albeit without gender parity), the paper argued that dual-member constituencies are "not a new or an untested tool" and are consequently more suited to use in a Canadian legislature than other electoral systems such as proportional representation would be (p. 15).

The final, and least compelling, argument in the NIC discussion paper relates to the issue of the size of the proposed legislature. NIC noted that the current boundaries would produce an unworkably small legislature. By employing dual-member constituencies, the legislature would be large enough to function smoothly and would offer a larger pool of talent from which the Cabinet would be drawn (pp. 2-3).¹

During the referendum campaign, supporters put forward the aforementioned arguments and asserted that the gender-equal plan would reestablish a partnership between Inuit women and men that would be essential to achieving healing of social problems in Inuit communities. Opponents of the plan rejected the notion that it reinforced traditional Inuit values and asserted that leadership should be decided on the basis of merit, not gender. Opponents also labelled the plan discriminatory and insulting to women, as it assumed they could not win election without representational guarantees (Platiel 1997; *Numatsiaq News* 23 May and 30 May 1997). With the exception of the controversy over Inuit traditions, these are essentially the arguments one would expect in a debate over a similar proposal elsewhere. That said, some observers of the referendum have suggested that both an anti-elite backlash against the NIC and a preference for more concentrated geographic representation contributed to the defeat of the proposal.

THE NUMERIC UNDERREPRESENTATION OF WOMEN: CAUSES

The numeric underrepresentation of women in Canadian legislatures, be they federal, provincial or territorial, remains an intractable problem. Although

the numbers of women elected to these representative bodies is gradually increasing, the rate of change remains slow, and in no legislature is gender parity being approached. A decline in the number of women in the Ontario legislature after the 1995 election demonstrates that the upward trend in the number of women in Canadian legislatures is neither inevitable nor permanent.

An extensive body of academic literature on this question has not isolated a single causal factor for women's numerical underrepresentation. Rather, a complex and interactive combination of cultural and resource-related factors is responsible for this phenomenon. The first study of the subject (Brodie 1985) argued that parties discriminated against women, nominating them only as "sacrificial lambs" in ridings the party was unlikely to win. More recent research has found less evidence of overt discrimination against female candidates since the early 1980s (Studlar and Matland 1994). At the federal level, women who run for a party nomination are just as likely to get elected as their male counterparts and, once nominated, are almost as likely as men to be elected (Carty and Erickson 1991). A recent study concluded that at the provincial level since the mid-1980s, there is no evidence to suggest that parties were biased against women in nominating candidates for winnable seats (Studlar and Matland 1996).

If there is little or no overt discrimination against women candidates, why are more women not elected? In large part, this can be attributed to the relatively small number of women seeking party nominations. The first dimension of this is the persisting legacy of unequal patterns of gender relations in Canadian society. Women did not win the vote, and thus attain the minimum condition of political citizenship, until long after male suffrage was extended.² Traditional gender roles held that women's place was in the private, rather than the public, sphere. Equal access to education, training, and the workplace are recent developments (and arguably not yet fully attained). The ultimate public domain

— elected office — proved to be a difficult arena for women to enter. Traditional gender roles discouraged women's entry into the formal political arena not only through the hostility of the male inhabitants to female incursions, but also through a subtle process of self-regulation. As long as political activity was "inappropriate" for women, women themselves would perpetuate their own underrepresentation. Although this has waned as traditional gender roles have been eroded, women are still less likely to seek public office than are men. Even though the presence of women in politics is no longer considered socially inappropriate in most quarters, the poor fit between the heavy demands of political careers and the family responsibilities women have traditionally assumed serves as a contemporary equivalent.³ As a result, women may be less willing to put themselves forward as candidates. A survey of constituency associations in 1988 found that women were more likely to run in a riding that had a candidate search committee — in other words, when they were invited to run (Erickson 1991, p. 115). The second, and related, dimension is an unequal access to political resources such as powerful social networks and money. Contesting a competitive party nomination requires considerable social and financial capital, and women have tended to have less access to both than men, thereby making candidacy less accessible to women (Royal Commission on Electoral Reform and Party Financing 1991, pp. 107-8).

INSTITUTIONAL REFORMS

Most efforts to remedy women's representational deficit have centred either on giving women the skills and confidence to contest public office or on reforming parties' candidate selection procedures (see Young 1997). Only rarely has the underrepresentation of women been constructed as a problem for public policy. The 1991 Report of the Royal Commission on Electoral Reform understood the representational deficit as a problem requiring institutional reform. It recommended legislated

spending limits for candidate selection contests in large part to diminish the financial barrier to women's election, as well as a system of incentives such that

should the overall percentage of women in the House of Commons be below 20 per cent following either of the next two elections, then:

(1) at the two elections following the next election, the reimbursement of each registered political party with at least 20 per cent female MPs be increased by an amount equivalent to the percentage of its women MPs up to a maximum of 150 per cent;

(2) this measure be automatically eliminated once the overall percentage of women in the House of Commons has attained 40 percent. (p. 273)

The difficulty with this proposal (aside from the low threshold of 20 percent and the 40 percent cap) is its assumption that candidate selection is in some way controlled by the national party. Although the national party can determine the rules for candidate selection and the leader has effective veto power, candidate selection is the traditional preserve of constituency associations, and efforts to impose affirmative action or other regulatory schemes on it have met with resistance.

Another institutional reform periodically suggested is the adoption of some variation of a Proportional Representation (PR) electoral system, as such systems have proved amenable to increased numeric representation of women under certain circumstances (Young 1994). Although highly favoured by many political scientists for a variety of reasons, and advocated as a means for increasing the numeric representation of women, PR electoral systems are regrettably alien to the Canadian political tradition. Moreover, as Seidle (1996, p. 300) observes, the self-interest of a majority government in Canada does not dictate changing a system that facilitates majorities, so it is unlikely that any Canadian jurisdiction would adopt such a system.⁴

Finally, a proposal involving profound institutional change is Boyle's (1983) "home rule" for women, which advocated a dual-member constituency system in which men and women vote in separate elections in each constituency, with women voting for women and men for men. This proposal offers a radical challenge to Canadians' conceptions of their political identity, as it proposes essentially dividing the electorate according to gender, thereby privileging gender as the central and defining element of political identity. Moreover, it would entrench the idea that only women can represent women, and only men can represent men, a departure from common understandings of the representational relationship. Although Boyle's proposal holds a certain appeal for some feminists, the conception of political identity underlying this proposal is at odds with prevailing understandings of citizenship and representation and has consequently failed to attract significant support.

GENDER, POLITICAL IDENTITY, AND REPRESENTATION

The Nunavut proposal is best understood not as an affirmative action plan, but rather as an electoral system. Affirmative action measures are temporary remedies imposed to combat past or current discriminatory practices. Electoral systems, in contrast to this, are devices which establish the framework for representative democracy. They provide a mechanism for translating voters' preferences into legislative outcomes; they establish lines of accountability between representatives and groups of electors. Most significantly for the purpose of this discussion, electoral systems reflect which elements of political identity are salient and warrant representation.

The electoral institutions currently in place in Canada are not neutral instruments. The geographic basis of electoral arrangements in Canada holds, essentially, that political interests are integrally related to the geographic location of one's primary

residence. Because it organizes the Canadian electorate into constituencies of people who live in bounded geographic areas, the single-member system conceives of voters as individuals whose primary political identity stems from their membership in geographically based constituencies. Stewart (1991, p. 118) notes that “election in territorial districts implicitly assumes that geographic community is a legitimate aspect of representation because it makes territorial community — the electoral district — the mediating link between the elector and his or her representation.”

Such a method of electoral grouping facilitates a representational relationship between citizen and legislator that is one of the great strengths of the Westminster system. Moreover, the intrinsic relevance of geographic community is supported by the fact that residential patterns are themselves not random. Where people live depends on the sector of the housing market to which they have access, which in turn depends on their affluence and various socioeconomic characteristics (Stewart 1991, pp. 123-4). The one such characteristic that is almost never found in geographic clusters, however, is gender.

The purpose of this discussion is not to suggest that geographically organized constituencies are an inappropriate means of grouping voters, but rather to point out that the practice is neither neutral nor “natural,” but merely an accepted practice to which Canadians have become accustomed. Even given the Canadian penchant for the geographic grouping of constituencies, there are precedents recognizing other elements of political identity in designing electoral arrangements. Most notably, Prince Edward Island has employed a dual-member constituency electoral system, designed to provide representation for different groups. Landholders elected assemblymen and non-landholders elected councillors, although over time the two positions effectively became the same.⁵ Similarly, Canadian electoral law allows for considerable deviation from the principle of the equality of the vote in order to accommo-

date regional differences (both within and between provinces) as well as urban/rural cleavages.

This raises the difficult question of whether gender warrants representational guarantees. There is no simple test to determine that one aspect of political identity warrants representation while another does not. Rather, electoral arrangements that accommodate group differences reflect either a societal or an elite consensus that the differences are salient and require accommodation.

To determine whether gender warrants representational guarantees, one might consider whether men and women have different political interests. Certainly, women as a group earn less than men, tend to be poorer than men, and have been on the losing end of discriminatory public policies. Moreover, women play a different role in reproduction and, to an extent, childcare than do men, resulting in a shared interest that some political theorists argue constitutes a common interest warranting political representation (Sapiro 1981). However, the argument that women share certain objective and subjective interests denies the complexity of women’s lives. This can be clearly illustrated by considering the differences between the women of Nunavut and those in the rest of Canada. Women in Nunavut are struggling to heal communities torn apart by the legacy of Canadian colonialism in the north. Their daily reality and the issues that concern them (such as teen suicide, substance abuse, and health care) are for the most part greatly removed from the issues concerning non-Aboriginal women in the south.

To deny that women are a monolithic group with shared fundamental interests is not to suggest, however, that women have no representational claim to make. It must first be noted that Canadian electoral rules accommodate other groups that share some interests but are not monolithic. Just because not all Albertans have the same objective or subjective interests regarding energy policy, it does not follow that Alberta cannot claim entitlement to a proportionate number of seats in the House of Commons,

nor does it imply that Alberta's interests can be adequately represented by a Newfoundlander sympathetic to Alberta's concerns. By the same token, the absence of a set of universally shared interests or preferences among women does not imply that the interests of women lack a representational claim.

Political theorist Iris Marion Young has developed an understanding of differentiated citizenship which rejects as myth mainstream democratic theory's assertion that it is possible to achieve impartial perspective (a general point of view transcending all particular interests, perspectives, and experiences). Young (1990) argues that

People necessarily and properly consider public issues in terms influenced by their situated experience and perception of social relations. Different social groups have different needs, cultures, histories, experiences and perceptions of social relations which influence their interpretation of the meaning and consequences of policy proposals and influence the form of their political reasoning. These differences in political interpretation *are not merely or even primarily a result of differing or conflicting interests*, for groups have differing interpretations even when they seek to promote justice and not merely their own self regarding ends.⁶ (p. 120, emphasis added)

Young's theoretical framework allows us to understand women's representational claim in contextualized, relational terms. This claim stems not so much from shared political interests as from a history of systematic exclusion of women as a group, beginning with women's disenfranchisement. By transcending the notion of shared interests as the basis for representational claims, theorists (and activists) are spared the burden of finding interests that *all* women in society share at all times in their lives. Within the conception of identity-based representation, women can make claims for representation as women without having to present themselves as a monolithic single-interest group.

Thus, we can understand the proposal for mandated gender parity in the legislature not as a temporary affirmative action plan, but rather as a recognition that gender, like geographic location or province of residence, is a relevant aspect of political identity with roots in the state's disenfranchisement and subsequent differential treatment of women. More precisely, the proposal for gender parity would recognize gender as a second-order aspect of political identity, subsumed under the first-order category of geographic location. As a second-order aspect of political identity, gender does not require an exclusive representational relationship (where women vote only for women and men for men). Rather, it requires only that both groups be represented in the legislature. The institutional arrangements in the Nunavut proposal reflect an understanding that women's diverse interests, as well as the general interest of the polity, are best served if women are present in equal numbers in the legislature.

IS THE PROPOSAL DEMOCRATIC?

Because it guarantees the outcome of gender parity, the Nunavut proposal may at first glance seem undemocratic. To consider the validity of such concerns, the proposal will be discussed in the context of democratic rights and mechanisms of accountability.

Democratic Rights

The *Charter of Rights and Freedoms* establishes that all Canadian citizens have the right to vote and be qualified for membership in the country's governing bodies, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. After hearing a case regarding the equality of the vote in redistricting decisions, the Supreme Court of Canada (1991) ruled that

the purpose of the right to vote enshrined in s. 3 of the *Charter* is not equality of voting power

per se but the right to “effective representation.” Ours is a representative democracy. Each citizen is entitled to be *represented* in government. Representation comprehends the idea of having a voice in the deliberations of government ... [I]t is a practical fact that effective representation cannot be achieved without taking into account countervailing factors. ... Factors like geography, community history and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. (pp. 10-12)

Although this ruling cannot be interpreted as *requiring* measures to ensure the representation of previously underrepresented groups, it certainly can be understood as allowing for the possibility of such measures.

It would in any case be difficult to construct a coherent argument to the effect that the Nunavut proposal in any way interferes with the right to vote; under the proposal, qualified electors would be entitled to vote twice, once for their preferred male candidate and once for their preferred female candidate. By the same token, the proposal in no way interferes with the ability of individuals to put their names forward as candidates. Rather, by enhancing the opportunity for women to run for office, this proposal makes the right to be qualified for membership in a legislative assembly more meaningful for a substantial portion of the electorate.

Democratic Representation and Accountability

As noted above, the Nunavut proposal establishes gender as a second-order element of the representative relationship, as it does not establish or even imply an exclusive representational relationship between women voters and women legislators. Rather, both legislators from each constituency are elected by and, consequently, accountable to the entire electorate in the constituency. Each must face the electorate during periodic elections and thus will remain accountable to the citizens of his or her con-

stituency. Like any dual-member system, the Nunavut proposal has the potential to enhance the representative relationship between citizen and representative, as all citizens would have two members of the legislature to approach when seeking assistance or redress in dealings with government. Moreover, to the extent that the two representatives of each constituency represent different political views or parties, a greater proportion of the electorate will find its views represented directly in the legislature. Thus, as was the case with democratic rights, the Nunavut proposal promises to enhance rather than detract from the representative relationship between citizen and legislator.

In almost all contemporary democratic systems, political parties play a central role in structuring political accountability. The gender-equal proposal in no way interferes with parties' ability to structure democratic accountability. Within the general constraint of having to nominate one male and one female candidate in each electoral district, parties' nomination practices and other functions would not change. A party that objected strongly to the practice could, of course, choose to nominate only one candidate, although this would significantly decrease the potential size of the party's caucus.

CONCLUSION

Guaranteed representation for numerically underrepresented groups is a controversial question, in part because it forces us to confront the failings of our democratic institutions and consider alternative conceptions of political citizenship and representation. That the Nunavut proposal received serious consideration speaks to changing understandings of political representation and the political salience of gender. Although the Nunavut legislative assembly will not be elected through this system, the public debate over the proposal may have contributed to a subtle rethinking of the merits of electoral systems that consistently produce legislatures that underrepresent women and other groups.

NOTES

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¹There is no compelling reason not to divide the territory into smaller constituencies or to use a dual-member system without gender parity. In fact, in light of the outcome of the referendum, dual-member constituencies might provide a compromise position, as they could well contribute to an increase in the number of women elected, albeit through informal means.

²It would be inaccurate to describe this as universal male suffrage as there were numerous exclusions based on ethnic considerations, most notably the explicit exclusion of many Aboriginal people from the electorate until 1960.

³For a “supply-side” analysis of the question of underrepresentation, see Erickson (1991) and Royal Commission on Electoral Reform and Party Financing (1991, pp. 105-11). Although most of this research focuses on the national level, essentially the same factors come into play at the provincial level.

⁴It must be noted that the Lortie proposals and the idea of a PR electoral system are inapplicable to political systems without parties, as will likely be the case in Nunavut. In the context of a political system without parties, “supply side” explanations for the small number of women who run are convincing, as there are no parties to act as gatekeepers.

⁵Moreover, the as-yet unimplemented Report of the Royal Commission on Electoral Reform and Party Financing recommended a system of Aboriginal Electoral Districts that would allow Aboriginal people to opt to vote in specially designated Aboriginal districts.

⁶Young’s critique of the myth of undifferentiated citizenship is even more resonant when one considers the place of Aboriginal people within the Canadian political system. On one hand, there is the legacy of an exclusionary conception of citizenship that denied most Aboriginal people the basic entitlements of citizenship such as voting. On the other hand, a universalist concep-

tion of citizenship denies the specificity of Aboriginal people within the Canadian polity. Given the historical legacy of the treatment of Aboriginal people at the hands of the Canadian state and in Canadian society, a conception of citizenship that denies the importance of group membership is at best meaningless and at worst an indication of ongoing attempts to assimilate Aboriginal people.

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