



## DISCUSSION PAPER

### ***“Temporary Special Measures”***

### ***To Increase the Representation of Women in the NWT Legislative Assembly***

Prepared by the Office of the  
Speaker of the Legislative Assembly

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## Introduction:

One of the priorities of the 18<sup>th</sup> Legislative Assembly is “supporting initiatives designed to increase the number of women running for elected office in the NWT.” On March 8, 2018, a motion was adopted by the Legislative Assembly establishing a goal of increasing the representation of women in the Legislative Assembly to 20 per cent by 2023 and to 30 per cent by 2027. This paper is intended to generate discussion on the advancement of these goals.

## Current Representation of Women in Canadian Legislatures

Jurisdiction	Total Seats	Seats Held by Women	% of total seats held by women
British Columbia	86	33	38.4%
Yukon	19	7	36.8%
Ontario	107	36	33.6%
Alberta	87	29	33.3%
Nova Scotia	51	17	33.3%
Quebec	125	37	29.6%
Canada	308	88	28.6%
Nunavut	22	6	27.3%
Saskatchewan	61	16	26.2%
Nfld. and Labrador	40	10	25.0%
Manitoba	57	14	24.6%
P.E.I.	27	5	18.5%
New Brunswick	49	8	16.3%
<b>Northwest Territories</b>	<b>19</b>	<b>2</b>	<b>10.5%</b>

In many ways, the Northwest Territories and its institutions are an example to the rest of Canada and to the world in terms of progressiveness and diversity. In 1991, Nellie Cournoyea became only the second woman in Canada, and the first Indigenous woman, to hold the position of Premier. Since the return of full responsible government to the NWT in 1983, a majority of the Members of the Legislative Assembly have been Indigenous, as have all but two of its Premiers. At the time of its passage in 2002, the NWT *Human Rights Act* was the most comprehensive law of its kind in Canada, affording protection from discrimination to vulnerable groups that are still not in place in many parts of the country. The Commissioner of the Northwest Territories, the Chief Justice of the NWT Supreme Court, the Senior Judge of Territorial Court, the NWT Languages Commissioner, Chief Electoral Officer, Access to Information and Protection of Privacy Commissioner and the President and CEO of the NWT Power Corporation are all women.

Despite the many successes noted above, the NWT Legislative Assembly ranks last among Canada’s 15 parliaments in terms of the representation of women. Since Division, the proportion of women in our legislature has only surpassed ten per cent once. Three women, constituting 15.8 per cent, were elected to the 16<sup>th</sup> Legislative Assembly. Prior to Division, three of the twenty-four members of the 10<sup>th</sup> Assembly were women (12.5%). The high water mark was reached following the election of Manitok Thompson in a by-election during the 12<sup>th</sup> Assembly, increasing the number of women to four of twenty-four members, or 16.7 per cent.

In 1990, the United Nations determined that 30 per cent is the critical threshold of women in parliament required to bring about significant and lasting policy changes. Almost thirty years later, women represent only 22.6 per cent of democratically-elected parliamentarians worldwide.<sup>1</sup> The Canadian House of Commons, at 28.6 per cent, now ranks 50<sup>th</sup> among the world’s national parliaments. Our sister territory, Nunavut, recently elected six women to its expanded 22 Member House, bringing it very close to the 30 per cent critical mass. In many ways, this is not surprising given that a referendum to entrench across-the-board gender parity in the Nunavut Assembly was only narrowly defeated in the run-up to Division. To the west, Yukon ranks near the top of Canadian legislatures with almost 37 per cent women members.

The strongest determinant of the number of women elected to public office is the number of women who actually run. The obstacles to greater participation of women in NWT elections are similar to those that exist elsewhere in Canada, including cultural, social, financial and political barriers. However, despite its strengths, our system of consensus government lacks an important tool available to party-based systems to increase the representation of women. Increasingly, political parties themselves are voluntarily or required by legislation to run a specific proportion of women in each election. Parties that fail to do so are sometimes disqualified, penalized financially or subject to political backlash. Jurisdictions that have adopted systems of proportional representation are commonly required to populate their electoral lists with equal numbers of men and women. Absent political parties or proportional representation, the NWT Legislative Assembly has limited structural means to influence the number of women candidates who run in a given election.

A number of small nations in the South Pacific, in partnership with the United Nations Development Program (UNDP), have recently experimented with various proactive measures to increase the representation of women in their respective parliaments. The example of Samoa is worthy of examination.

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<sup>1</sup> International Parliamentary Union, Women in national parliaments, online <<http://www.ipu.org/wmn-e/world.htm>>

**Samoa’s Experience with “Reserved Seats”**

Samoa is a small, isolated island nation in the South Pacific Ocean with a population of 196,000 inhabitants. As a member of the Commonwealth of Nations, it is a parliamentary democracy established upon the British Westminster model. It is a party-based system, with 49 electoral districts each returning one member on the “first-past-the-post” system familiar to Canadians.

In June of 2013, on the initiative of the ruling Human Rights Protection Party, the Samoan Constitution was amended to guarantee a minimum of five seats in the legislature for women. Under this system, if a general election returns fewer than five women, additional seats are added to meet this benchmark. The women candidates who attained the highest percentage of votes, but were unsuccessful in the election, are deemed elected in these additional seats. The following table illustrates the application of the Samoan reserve seats provision:

**Samoa Model: 5 guaranteed seats for women**

Number of Women Elected	Number of reserve seats required	Total Number of Seats	Percentage of Women in the Assembly
5	0	49	10.2%
4	1	50	10.0%
3	2	51	9.8%
2	3	52	9.6%
1	4	53	9.4%
0	5	54	9.3%

Samoa has had one general election since these amendments were enacted. Four women were elected through the normal channels, resulting in the addition of one reserve seat. Of note, the participation of women candidates increased by 9 per cent over the previous election. It would appear that the implementation of the measure itself provided a catalyst to discuss and debate the value of women in public life and encourage more to let their names stand. During debate of these amendments, **arguments against** the introduction of Temporary Special Measures included the following:<sup>2</sup>

- Reserve seats are not based on merit and give preference to women over men;

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<sup>2</sup> United Nations Development Programme, “Temporary Special Measures to Increase Women’s Political Participation in the Pacific,” (UNDP: Suva, Fiji, 2017)

- Women may feel uneasy about winning a seat “just because of their gender” and may be stigmatized or valued less than other colleagues;
- Reserve seats make women compete against women rather than work together to make change;
- Reserve seats are undemocratic and limit voter choice;
- Quotas can act as an upper ceiling as opposed to a lower floor.

Arguments **in favour** of the introduction of Temporary Special Measures included the following:

- They are a fast track and temporary way to overcome persistent barriers and move the yardsticks closer to the goal of gender balance;
- They diminish barriers that prevent women from election;
- If women perform well, voters are more likely to support them in the future;
- More women in parliament will encourage others to let their names stand in the future (“If you can see it you can be it”);
- Women have the right not only to equal opportunity but equal representation;
- More women in parliament benefits society by drawing on the full range of talent and resources that the nation has to offer.

### **Could This Work in the NWT?**

In its 2017 report on the use of temporary special measures in the South Pacific, the UNDP identified three critical conditions for success:

- (1) political will on the part of existing power holders;
- (2) a receptive electorate; and
- (3) measures tailor-made to reflect the political realities of the jurisdiction in question.

This paper will not address the first of these conditions. The motion adopted on March 8, 2018 speaks for itself. It will, however, suggest a way of measuring the second condition and offer options for the third.

There are many possible ways to structure Temporary Special Measures to increase the representation of women in the NWT Legislative Assembly. Drawing directly on the Samoan model, a fixed *number* of seats could be determined for women MLAs. If the general election failed to return the predetermined number of women, additional seats would be added to achieve the goal. Application of the Samoan model to the NWT would look something like this:

### **Samoan Model applied to NWT: 5 guaranteed seats for women**

Number of Women Elected	Number of reserve seats required	Total Number of Seats	Percentage of Women in the Assembly
5	0	19	26.3%
4	1	20	25.0%
3	2	21	23.8%
2	3	22	22.7%
1	4	23	21.7%
0	5	24	20.8%

Alternatively, the Assembly could designate a target *percentage* of women MLAs. If the target percentage was not returned in the election, additional seats would be added until the target percentage was satisfied. For example, assuming a 19 member House, a target of 20 per cent would require at least four women to win seats in the general election through the normal process. A target of 30 per cent would require at least 6 women to win seats. No further action would be required if these targets were met through the normal electoral process. However, if fewer than four or six women were elected respectively, additional seats would be created to achieve the designated target. As the following tables demonstrate, the maximum number of additional seats required to achieve a 20 per cent and a 30 per cent target are five and nine respectively.

### **Guaranteed 20% representation of women in the NWT Legislative Assembly**

Number of Women Elected	Number of reserve seats required	Total Number of Seats	Percentage of Women in the Assembly
4	<b>0</b>	<b>19</b>	<b>21.1%</b>
3	<b>1</b>	<b>20</b>	<b>20.0%</b>
2	<b>3</b>	<b>22</b>	<b>22.7%</b>
1	<b>4</b>	<b>23</b>	<b>21.7%</b>
0	<b>5</b>	<b>24</b>	<b>20.8%</b>

**Guaranteed 30% representation of women in the NWT Legislative Assembly**

Number of Women Elected	Number of reserve seats required	Total Number of Seats	Percentage of Women in the Assembly
6	0	19	31.6%
5	1	20	30.0%
4	3	22	31.8%
3	4	23	30.4%
2	6	25	32.0%
1	7	26	30.8%
0	9	28	32.1%

In each of the scenarios presented above, careful consideration would need to be given to how these additional seats would be filled. For example, if three additional seats were required and the three non-elected women candidates with the highest percentage of the vote were all from the same region of the Territory (i.e. North, Yellowknife, South), a regional imbalance would result. One possible solution would be to allocate the first seat to the woman candidate with the highest overall percentage vote, the second seat to the woman candidate with the next highest percentage vote from a region other than the one that the first woman candidate represents, and the third seat to the woman candidate with the highest percentage vote from the remaining region. A similar rotation could be applied to subsequent additional seats as necessary.

How would this option have played out in the last three general elections? In the 2015 and 2011 elections, two women were elected through the normal process. Under the 20 per cent and 30 per cent scenarios presented above, three and six additional seats would have been required to meet the respective targets. Three women were elected in the 2007 election. Under the 20 and 30 per cent scenarios, one and four additional seats would have been added respectively.

In the **2015 general election**, two women, Ms. Cochrane and Ms. Green, were elected in their respective ridings through the normal process. The six highest percentage votes garnered by non-elected women candidates were:

- **Jane Groenewegen, Hay River South (35%)** (South)
- **Yvonne Doolittle, Sahtu (26.4%)** (North)
- **Nigit’stil Norbert, Yellowknife South (25.8%)** (Yellowknife)

- **Jan Fullerton, Frame Lake (25.7%)** (Yellowknife)
- **Ethel-Jean Gruben, Nunakput (23.4%)** (North)
- **Rosemary Gill, Nahendeh (20.4%)** (South)

In both the 20 and 30 per cent target scenarios, the three and six additional candidates required would be evenly distributed according to the political regions recognized in the Legislative Assembly (i.e. North, Yellowknife, South).

In the **2011 general election** two women, Ms. Bisaro and Mrs. Groenewegen, were elected in their respective ridings through the normal process. The six highest percentage votes garnered by non-elected women candidates were:

- **Bertha Rabesca Zoe, Monfwi (45%)** (North)
- **Arlene Hache, Yellowknife Centre (42%)** (Yellowknife)
- **Bertha Norwegian, Nahendeh (23%)** (South)
- **Jeannie Marie-Jewell, Thebacha (22%)** (South)
- **Beatrice Emily Lepine, Hay River North (17%)** (South)
- **Mary Clark, Mackenzie Delta (14%)** (North)

Again, for the 20 per cent target, the additional three seats would be evenly distributed amongst the three regions. For the 30 per cent target, however, the six additional seats would include two from the north, one from Yellowknife and three from the south. Because there were only six women candidates in this election, the results would be maintained creating a slight regional imbalance in the south (8 in the North, 8 in Yellowknife and 9 in the South).

The **2007 general election** demonstrates how the risk of regional overrepresentation could be overcome. In this election, three women, Mrs. Groenewegen, Ms. Lee and Ms. Bisaro, were elected in their respective ridings through the normal process. The top six women candidates who were not elected received the following vote percentages:

- **Denise Kurszewski, Inuvik Twin Lakes (45.87%)** (North)
- **Amy Hacala, Yellowknife South (31.8%)** (Yellowknife)
- Sue Glowach, Yellowknife Centre (27.7%) (Yellowknife)
- **Mary Joanne Clark, Mackenzie Delta (27.2%)** (North)
- **Jeannie Marie-Jewell, Thebacha (16.6%)** (South)
- Keyna Norwegian, Nahendeh (7.8%) (**South**)

In the case of a 20% target, the one additional seat would have been allocated to Ms. Kurszewski, of Inuvik Twin Lakes. The resulting regional balance would be seven from the



North, seven from Yellowknife and six from the South. For the 30 per cent target, the top four candidates represented two constituencies from the North (Inuvik Twin Lakes, Mackenzie Delta) and two from Yellowknife (Yellowknife South and Yellowknife Centre). The resulting regional balance would be eight from the North, nine from Yellowknife and six from the South. To overcome this imbalance, the third seat, instead of being awarded to the candidate with the third highest percentage (Ms. Glowach), would be awarded to Ms. Marie-Jewell of Thebacha (South) and the fourth seat to Ms. Clark of Mackenzie Delta (North), resulting in a regional distribution of eight in the North, eight in Yellowknife and seven in the South.

An alternative approach to the distribution of additional seats would be on the basis of representation by population. Under this approach, additional seats would be awarded to the constituencies that have the highest level of relative underrepresentation. This determination would need to be made on the basis of the findings of an Electoral Boundaries Commission. The last Electoral Boundaries Commission Report, submitted in May of 2013, identified the Monfwi, Yellowknife and Sahtu constituencies as having the highest level of underrepresentation. As population growth and migration continue to put pressure on the NWT’s electoral boundaries, Temporary Special Measures to increase the representation of women in the Legislative Assembly may present a potential solution.

Regardless of which option is pursued, a number of areas require additional study. Foremost amongst these are the resulting make-up of cabinet, how vacancies would be filled between general elections, and whether additional women members would represent specific ridings or the Territory at large. It is expected that all of the options discussed above would require amendments to existing legislation.

## **Conclusion**

The Northwest Territories ranks last amongst Canadian legislatures in terms of the representation of women. Temporary Special Measures have been used effectively in other parts of the world, notably the South Pacific Islands, to overcome persistent barriers to women attaining political office. These measures are called “temporary” for two reasons. First, they are often put in place for a limited timeframe, for example, two or three elections, after which the legislation establishing them automatically sunsets. Second, they often have the result of encouraging more women to run, which in turn renders them unnecessary, i.e. they are self-fulfilling.

If the Northwest Territories were to adopt Temporary Special Measures, it would be the first legislature in Canada to do so. Political parties at the federal and provincial level in Canada and systems of proportional representation in other countries have responded to the

underrepresentation of women in their legislatures by setting minimum targets of women candidates for election or ensuring that electoral lists are gender balanced. These options are not currently available to the Northwest Territories.

Prior to the implementation of Temporary Special Measures, steps would be necessary to ensure that the second critical condition for success, a receptive electorate, was in place. This might involve the establishment of a special committee of the Legislative Assembly to study the matter, seek public input and make recommendations. The question could also be put to the electorate by way of a non-binding **plebiscite** in conjunction with a general election. Finally, depending upon the results of the plebiscite, the preferred option could be referred to an **Electoral Boundaries Commission** for consideration, examination and recommendation prior to the drafting of legislation.

A potential implementation timeline might be as follows:

May 2018	Discussion Paper tabled in Legislative Assembly
October 2018	Establishment of a special committee study options
May 2019	Special Committee report tabled
October 2019	Plebiscite on TSMs in conjunction with general election
October 2020	Referral of TSM options to Electoral Boundaries Commission
September 2021	Report of Electoral Boundaries Commission
May 2022	Legislative amendments enacted
October 2023	First general election with TSMs
October 2027	Second general election with TSMs
November 2027	TSM legislative provisions expire

The time has come for bold action to overcome the persistent underrepresentation of women in the NWT Legislative Assembly. Temporary Special Measures are one potential solution. This paper is intended to initiate a serious public discussion about this and other concrete steps that can be taken to attract more women to public office.