

Consensus Government in the Northwest Territories, Canada: A Parliamentary Panacea?

For those who think that a loosening of party discipline is the structural cure for the perceived ills of Westminster-style responsible government, the Northwest Territories (NWT), Canada, provides a useful case study. Proponents of the NWT's so-called "consensus government" argue that the absence of political parties allows for more open and genuine debate on the floor of the Legislative Assembly. The puerile theatrics and acrimony that dominate most partisan legislatures are largely absent. Members are free to vote on issues according to their own values or those of their constituents. Because the Cabinet is in a perennial minority, it must be genuinely responsive to the views of other Members and cannot impose its agenda upon the House. Every elected Member, to the extent that he or she chooses to participate, has a meaningful role to play in shaping public policy. Consensus government, it is argued, reflects the political values of the Aboriginal people who constitute a majority of the Members of the NWT Legislative Assembly and the territory as a whole: a distaste for confrontation; a preference for decentralized power; a belief that the best decisions result from respectful and extensive dialogue; and a lack of enthusiasm for representative as opposed to direct democracy.ⁱ

Although it is true that the particular brand of parliamentary democracy practiced in the NWT offers some valuable lessons to other Westminster-style parliaments, it is by no means a panacea. This paper will explore the salient features of consensus government in the NWT as well as the notable consequences of removing political parties and partisan debate from the parliamentary playing field.

The Northwest Territories has been home to Aboriginal people long before the arrival of European settlers. Dene, Inuvialuit and Métis people still constitute a majority of the Territories' population. Its current boundaries are what remain of a vast land originally purchased by the Dominion of Canada from the Hudson's Bay Company in 1870. The Territories' original boundaries included most of current day Nunavut and Yukon territories and the provinces of Alberta, Saskatchewan, most of Manitoba, northern Ontario and Quebec. The Territories' first Premier, Frederick Haultain, actively discouraged the introduction of party politics to the territory's nascent legislature in the late 1800s. When the provinces of Saskatchewan and Alberta were carved from the Territories' boundaries in 1905, its responsible and representative legislature was abolished and replaced by an appointed Commissioner and Council. For nearly half a century the Commissioner and Council consisted exclusively of federal civil servants residing in Ottawa. As such, they acted more as an interdepartmental committee of the federal government than a representative legislative body. In the years to follow, representative government returned to the Northwest Territories in slow increments. The size of the Council was gradually increased and the appointed members were slowly replaced by elected ones from the North. It was not until 1986 that the chairmanship of the Executive Council, or Cabinet, was assumed by an elected Member and the federally appointed Commissioner relinquished all remaining practical authority. It is understandable that party politics did not take hold under such a hybrid of appointed and elected members. Although candidates representing political parties have been nominated in subsequent territorial elections, all have been rejected at the polls. By and large, residents of the Northwest Territories continue to view political parties as "alien, southern Canadian political institutions which impede political development along distinctively Northern lines."ⁱⁱ

The structure and operation of the NWT Legislative Assembly has remained fairly constant since the mid-1980s. On a fixed date every four years, a general election is held to return a single Member from each of the Territories' nineteen electoral districts. In the absence of political parties, candidates run as independents. Results are largely decided on the strength of each candidate's character and individual record. Prior to the selection of a Premier and Cabinet, all nineteen Members meet in private over the course of several days to develop a broad strategic vision and set of priorities to guide the Cabinet in governing the Territories. Once a Speaker has been elected, the Members proceed to elect a Cabinet consisting of a Premier and six Ministers. Although premiers assign individual portfolios, they neither choose who is appointed to Cabinet nor have the authority to revoke those appointments. The Premier does not have the authority to seek dissolution of the Legislative Assembly and call an election. Only the Commissioner of the Territories, on the recommendation of the House, may dissolve a Legislative Assembly prior to the conclusion of its fixed term. Absent the structural power typically afforded first ministers

in the Westminster tradition, the Premier of the Northwest Territories is truly a first amongst equals. To lead effectively, he or she must do so through a mix of inspiration, persuasion, hard work and experience.ⁱⁱⁱ

The remaining eleven so-called “Regular Members” are appointed to various standing committees of the House and, to a limited extent, work together to hold the Cabinet to account. They do not, however, present themselves as a “government in waiting.” Their ultimate goal is not to discredit, embarrass or defeat the government. Rather, regular members, both individually and collectively through standing committees, work closely with the government to develop public policy. Unanimous support for its legislative and budgetary proposals is normally sought by Cabinet, and is commonly received. The concept of an “official opposition” is non-existent. This is not to suggest that Cabinet is given free rein to govern in the absence of meaningful accountability and oversight. In fact, as regular members do not oppose the government on principle, their criticisms are viewed as more genuine and meaningful. Ministers are sometimes removed from office and disagreements sometimes boil over into animosity and distrust. This is neither the norm nor the expectation, however. As Graham White of the University of Toronto has observed, “it is the possibility and the frequency of accommodation, cooperation and compromise that defines consensus government.”

Although the look and feel of the NWT Legislative Assembly is distinctly Westminster, from gowned clerks to a near wholesale adoption of British rules of procedure, there are notable and important differences. Most obviously, the design and functioning of the legislative Chamber is steeped in Aboriginal symbolism. The room is circular, representing the base of a tipi or an igloo. This unique shape was intended to avoid the confrontational appearance of most parliaments. Rather than opposing benches distanced two sword lengths apart, MLAs’ desks are arranged in a circle around the Speaker’s chair, symbolizing a unity of purpose. MLAs are encouraged to wear traditional aboriginal attire in the legislative chamber and, in addition to French and English, nine Aboriginal languages have official status. Aboriginal artwork and a polar bear hide rug adorn the centre of the Chamber floor.



For those accustomed to boisterous parliamentary debate, the relative civility of the NWT Legislative Assembly stands out immediately. When a Member is speaking, interruptions, heckling or sidebar conversations are frowned upon. The Speaker is seldom required to intervene to bring order to debate. On those rare occasions when a Member's conduct is deemed unparliamentary, sincere apologies are usually offered and accepted. For the most part, Oral Question Period is used to get answers from Ministers as opposed to attempting to discredit, embarrass or score political points. Seldom is there an exchange between a regular member and a Minister that is not punctuated with the words "please" and "thank you." All Members share a common lounge to the rear of the Chamber where they socialize and dine together during breaks in the sitting day.

Not only is debate civil, it is also relatively thoughtful and genuine. In the absence of party discipline, Members are able to speak freely on behalf of their constituents or present their individual perspectives on matters under debate. Minds are frequently changed and positions modified to reach solutions that a majority can support. The rules of the House allow for extensive debate of issues. There are few time limits imposed on Members' speeches and those that do exist are customarily set aside with unanimous consent. In fact, unanimous consent is routinely obtained to extend Oral Question Period beyond its daily, and generous, one hour. Although any Member may move closure of debate, such procedural guillotines are rarely used. The rules of the House place greater emphasis on free and extensive debate than they do on efficiency or time management. In this sense, the NWT Legislative Assembly is truer to the notion of parliament as a forum for the free and open exchange of ideas.

Consensus government provides all elected Members the opportunity to play a direct and meaningful role in shaping public policy. As mentioned earlier, the strategic vision and

priorities for the government are established by all Members prior to the election of a Cabinet. This helps to ensure that the views of all the Territories' regions and people are reflected in the government's mandate. In the absence of political parties, all Members have an equal opportunity to let their names stand for and serve on Cabinet. Because of Cabinet's perennial minority, the input of all Members is sought and often accommodated. Through standing committees, non-Cabinet MLAs are provided the rare opportunity to scrutinize and influence budgets, legislation and policy proposals well before they are drafted or formally introduced in the House. By the time that legislation and budgets are introduced in the legislature, they have typically been the subject of intense review by regular members and standing committees. The opportunity for every elected Member to play a direct and meaningful role in the crafting of public policy, regardless of ideology or party affiliation, is viewed by many as the very essence of consensus government.

Whereas opposition members in party-based parliaments must often wait for a change of government to effect real change, consensus government as practiced in the Northwest Territories allows for more frequent course corrections from outside the ranks of Cabinet. Private Members' Bills are given the same priority as government-sponsored legislation and are an effective way for the House to impose its will on a reluctant Cabinet. The fact that they are rarely used is likely an indication that Members are generally able to meet their legislative objectives by working closely with Ministers and Cabinet. Because each Minister is appointed by the House as a whole, their accountability and responsiveness to MLAs is quite strong. As with any minority government, Cabinet must have the support of at least a portion of those Members outside its own ranks to govern. It cannot impose its agenda on the Legislative Assembly. Because the Premier does not have the power to dissolve the legislature, Cabinet cannot speak over the heads of regular members in a direct appeal to the electorate. Both "sides" of the House must work together to govern effectively.

The Members who serve in this uniquely northern adaptation of the Westminster model have expressed a high level of support for maintaining its fundamental features and, more precisely, keeping party politics at bay. In a recent survey of Members of the 16th Legislative Assembly, 100 per cent expressed the view that consensus government will continue to serve the needs of the Northwest Territories in the future. The introduction of party politics was opposed by 87 per cent.^{iv} The few attempts to elect candidates on a party banner have failed. It is unclear whether these electoral failures were a rejection of the individual candidates, their parties or party politics in general. It would appear that consensus government in the Northwest Territories is an adaptation of the Westminster system that best reflects the values and

traditions of the people of the Northwest Territories. However, as with any political system, its defining features come with certain tradeoffs and have, at times, been overstated.

The notion of consensus government as a system wherein all Members treat one another with absolute respect and civility is part myth, part reality. Although it is true that debate on the floor of the NWT Legislative Assembly is generally more respectful than in most partisan legislatures, acrimony and angry exchanges do occur. Because such occurrences are not simply part of the landscape in consensus government, they tend to become personal and often carry over outside the Chamber walls. Insults have been uttered, coffee cups have been thrown, and threatening notes and gestures have been brought to the attention of the Chair. The selection of the Premier and Cabinet by all Members in a secret ballot has, on occasion, resulted in lasting feelings of betrayal. Several non-confidence motions have been moved against sitting Premiers and numerous Ministers have been removed from office or forced to resign by their colleagues. Although Oral Question Period is a relatively respectful and genuine exchange, Members often use the preambles to their questions to make political statements, continue debate or influence ministers to admit to things on the public record to which they would not otherwise admit. Ministers, in turn, are as skilled as their partisan counterparts at tailoring answers to oral questions to meet their own political ends.

While the accountability relationship between Ministers and Regular MLAs, and between MLAs and their constituents, is strong under consensus government, the same cannot necessarily be said of the government's accountability relationship with the public at large.^v In the absence of political parties, the public is not given the opportunity at election time to choose between competing visions of the Territories' future. Individual candidates may present a preferred ideology or suite of policy options, but because the strategic vision and priorities for the government are established by all Members after the election, the voter never truly knows what he or she will get if their preferred candidate is elected. In fact, the correlation between how an elector casts his or her vote and who become the Premier and Cabinet is very weak as these decisions are made by the Members themselves after the election. The result is usually a Cabinet made up of seven individuals with very different backgrounds, priorities and ideological predispositions. Similarly, the public is not given the opportunity to pass judgement on the performance of the government as a whole at election time. Members tend to base their re-election campaigns on constituency issues as opposed to the record of the government as a whole. As one observer noted nearly 25 years ago, the people "have no opportunity to make choices as to how they will be governed. One could be forgiven for thinking that they merely select individuals whom they trust to seek a 'fair share of the money.'"vi

Because the government does not have to defend its record at election time, the focus of Cabinet and of individual Ministers tends to be on maintaining the confidence of the Regular MLAs. It has been argued that this preoccupation with keeping at least a portion of regular members on side requires the Cabinet to implement a system of shifting alliances with various regular MLAs. As the policy focus of MLAs is to get a fair share of programming and infrastructure dollars for their respective communities, governance and accountability are preoccupied with the equitable distribution of scarce resources as opposed to the implementation of territory-wide policies and programs. A cynic might argue that consensus government is more about arithmetic – convincing three regular members to vote with the government on any given issue, at any given time - than true consensus building.

As noted above, the ability of Regular MLAs to play a direct and meaningful role in the crafting of legislation, budgets and policies is viewed as one of the defining characteristics of consensus government. It is also a double-edged sword. Draft legislation, budgets and policies are shared with regular members in advance of their formal introduction in the House on the condition of strict confidentiality. While this gives non-Cabinet Members the unique opportunity to influence the final product, it also furnishes them with information that they must keep to themselves for several months, even if it will have negative consequences for their constituents. Furthermore, the substantive debate between Cabinet and regular members on matters of public policy tends to take place behind closed doors as opposed to on the floor of the House. By the time legislation, budgets and policies are made public, regular members are, as a rule, satisfied with the final product or with their ability to effect further change. It has been argued that the subsequent debate on the floor of the House is “the theatrical face of a discussion that has already occurred.”^{vii}

There is little doubt that consensus government in the NWT concentrates less power in the Premier and Cabinet than is the case in other mainstream parliaments. It has also been argued that this diffusion of power discourages strong and visionary leadership. Because the Premier holds relatively little structural power, his or her ability to impose a course of action on Cabinet or the House is significantly weakened. This is most pronounced by the inability of the Premier to select and remove members of Cabinet at his or her discretion and dissolve parliament and trigger an election if he or she is faced with an unworkable legislature. Although Cabinet is frequently able to encourage the requisite number of regular members to support it on most issues, the implementation of universally unpopular policies, regardless of their merit, is a constant challenge. This is most evident when a government is required to implement far-

reaching fiscal austerity measures or policy changes that negatively impact powerful interest groups.

It has been suggested that the tendency for NWT Premiers to not seek a second term of office results in a lack of policy continuity from one government to the next. The opposing view is that the absence of competing political parties results in too much continuity. There has never been a Premier elected who did not serve on the Cabinet of the previous Assembly. Invariably, the Cabinet of each successive government includes Members who served in the Cabinet of the previous government. As these tend to be the more experienced and influential Members of the Legislative Assembly, their opinions and priorities carry added weight. Because there are no parties to present competing views of the Territories' future, the wholesale overhaul of public policy that tends to happen when one governing party is replaced with another seldom occurs. Similarly, in the absence of party platforms and ideology, newly-elected governments have no common political lens through which to view the suite of policy options available to them. Because each Cabinet assumes power without a clear and common mandate from the electorate, the public service is left with the task of coordinating the priority-setting process with Members following each election. This is a difficult task for a professional public service that prides itself on political neutrality. It is certainly not a recipe for bold and innovative public policy.

For many of the reasons noted above, consensus government has been widely criticized by academics, pundits and the public at large. While constitutional development discussions have taken a back seat to other priorities in recent years, it is clear that the Northwest Territories exists in a state of political disequilibrium. The implementation of Aboriginal self-government agreements, the devolution of more province-like powers from the federal government, and increasing resource wealth will all put pressure on the system as it exists today. In the absence of a full and focused dialogue about how the NWT's predominant political institution should evolve in the face of these challenges, some view party politics as the cure to its perceived ills and the only viable response to its shortcomings. No laws prevent political parties from finding their way into the Northwest Territories Legislative Assembly. If more than one candidate were ever to be elected to the NWT Legislative Assembly on the same party ticket, the resulting impact on its processes and traditions would be significant and, in all likelihood, irreversible. For this reason, the people of the Northwest Territories must ensure that such monumental change is of their own making and is implemented with a full understanding of what the trade-offs would be. The same can be said to those who feel that a move towards more consensus-

based structures is the answer to the perceived problems that mainstream parliaments face today.

ⁱ Graham White, "Westminster in the Arctic: The Adaptation of British Parliamentaryism in the Northwest Territories," *Canadian Journal of Political Science*, XXIV:3 (Canada: September 1991), 506.

ⁱⁱ *Ibid.*, 503.

ⁱⁱⁱ Graham White, *Cabinets and First Ministers* (Vancouver: UBC Press 2005), 60.

^{iv} Stephen Dunbar, *Seeking Unanimous Consent: Consensus Government in the Northwest Territories*, Master's Thesis, Carleton University, Department of Political Science (2008), 82.

^v Graham White, "Westminster in the Arctic: The Adaptation of British Parliamentaryism in the Northwest Territories," *Canadian Journal of Political Science*, XXIV:3 (Canada: September 1991), 521.

^{vi} Graham C. Eglinton, "Matters of Confidence in the Legislative Assembly of the Northwest Territories," *Third Report of the Special Committee on Rules, Procedures and Privileges*, October 1986.

^{vii} Jim Bell, "A Time for Candour: Could the NWT's noble experiment in consensus be in trouble?" *Arctic Passages* (September/October 1991), 11.