Submission to the Special Parliamentary Committee on Electoral Reform

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# Strengthening Local Accountability While Also Introducing Proportionality Using a Bicameral Approach

SUMMARY:

This brief recommends:

1. Using an optional preferential (ranked) ballot to elect MPs in the current 338 single-member constituencies using an instant runoff;
2. Removing party affiliation information from the ballot for MP elections;
3. Introducing the election of Senators using the closed party list proportional method, where seats are allocated based on total vote count instead of vote percentage;
4. Allowing 14-17 year old citizens to elect Student Parliamentarians to the House of Commons;
5. Opting for a voter tax credit over a punitive fine-based mandatory voting requirement;
6. Printing "Declined" or "None of the Above" as a selectable option on the ballot; and
7. Maintaining the count of paper ballots by hand, in the presence of candidates' representatives.

Dear Members of the Special Committee on Electoral Reform,

Five guiding principles were announced to steer the national discussion on electoral reform. Committee members and citizens were asked to consider how any proposed changes might:

- Restore the **effectiveness and legitimacy** of voting, such as by reducing distortions and strengthening the link between voter intention and the electoral result;
- Encourage greater **engagement** and participation in the democratic process, including by underrepresented groups;
- Support **accessibility and inclusiveness** of all eligible voters, and avoiding undue complexity in the voting process;
- Safeguard the **integrity** of our voting process; and
- Preserve the accountability of **local representation.**

First Past the Post and Alternative Voting can be criticized for not ensuring a proportional result that reflects voter intention. Single Transferable Voting and List Proportional systems can be criticized for diluting local accountability and making it more difficult for independent candidates to participate if the geographic area of constituencies is enlarged. Mixed Member Proportional systems attempt a compromise between local accountability and a proportional distribution of seats. However, they can be criticized for creating two classes of MPs, a concept that voters often find unsettling.

The truth is, we already have two classes of parliamentarians in Ottawa thanks to our bicameral legislature. *I propose adapting the Mixed Member Proportional to make use of both the House of Commons and the Senate.*

Recommendation 1: Using an optional preferential (ranked) ballot to elect MPs in the current 338 single-member constituencies using an instant runoff

Our current "First Past the Post" single member plurality electoral system is often criticized for skewing results in a race with more than two candidates. This effect is self-evident by the fact that *no major Canadian political party would accept it as a legitimate way to choose their own party leader.* Typically, party members expect their prospective leader to secure majority support in order to demonstrate a mandate. It was once typical to do so over multiple rounds of voting by delegates in runoff elections; however, increasingly, ranked ballots and instant runoffs are being used to obtain this desirable result.

In Canadian general elections, MPs who are elected with less than 50% of votes cast are not granted an opportunity to demonstrate the full extent of their support. They are left vulnerable to innuendo that their position is illegitimate. Using an instant runoff with an optional preferential (ranked) ballot **strengthens the link between voter intention and the electoral result and restores confidence in the successful candidate's mandate to govern.**

Note that making it optional to indicate one's second or third choice does not take anything away from the current system. If a voter wishes to mark one "X" next to one candidate as they have for many years, it should still be counted as a completed ballot indicating a first choice only. Such an approach **avoids undue complexity in the voting process**. By no means should it be necessary for a voter to rank every candidate. In Australia, such a requirement introduces unnecessary complication and can result in an increase in rejected ballots.

<u>Recommendation 2: Removing party affiliation information from the ballot for MP elections</u>

During a general election campaign, it is often mentioned that the national race between party leaders tends to overshadow the one between local candidates in individual ridings. Such an effect may tend to reduce an MP to a mere proxy for their party leader. They may even feel more beholden to their party leader for their election than to their own constituents.

Additionally, it is perfectly legal for an MP to change their party affiliation immediately after an election. When such a move takes place, electors can feel disenchanted and **discouraged from future participation** because many do believe that they are voting for a party instead of a person.

Removing party affiliation information from the ballot for MP elections makes it much clearer to the voter that they are casting their support behind a specific individual. That individual can make their current party affiliation apparent through election signs and campaign literature.

Most importantly, however, especially in the context of an optional preferential ballot where it is possible for a party to have more than one candidate in the same riding, the local MP, who is elected on their own merits to a greater extent than is currently the case, should feel emboldened. In such a dynamic, MPs facing strong opposition from their constituents to a particular position of their party should feel entitled to vote with their conscience more often, **preserving the accountability of local representation**.

Note that party affiliation was only added to the ballot after 1970.

<u>Recommendation 3: Introducing the election of Senators using the closed party list proportional method, where seats are allocated based on total vote count instead of vote percentage</u>

Most voters do want to cast a vote in favour of a party. An optional preferential ballot alone does not guarantee a proportional distribution of seats in the House of Commons. This lack of effectiveness in translating voter intention into decision-making power is not corrected by instant runoffs alone. To ensure that party platforms are given due consideration, the time has come to abolish the life terms (and also the property requirements) of our Senators and remake it into a stronger body for "sober second thought". During a general election, voters can be given two ballots: one to choose their local individual MP as described previously, the second a vote for a single party. The votes for the parties would go towards electing Senators based on a closed party list. **To encourage a high voter turnout**, Senate seats would not be based on vote percentage but on the total number of votes received, divided by a divisor, discarding the remainder. That is, the total number of Senators could increase or decrease depending on how many total votes are cast. The divisor can be set such that if all eligible voters cast a ballot, the current number of 105 seats would be maintained. I am also recommending having one single national constituency for all Senators. Regional diversity can be maintained by the parties themselves, who would manage the order of their list. Of course, constitutional amendments would be required.

If one party obtains a majority in the House of Commons but not in the Senate, there would be an **effective, legitimate check on their power** to ensure that only laws with true, broad support could be enacted.

I propose that Senator and MP elections always be triggered together such that losses of confidence or supply would dissolve both Houses into an election. Voters could then decide if the lack of cooperation was warranted. Remember that a lower voter turnout would result in fewer total Senators.

<u>Recommendation 4: Allowing 14-17 year old citizens to elect Student Parliamentarians to the House of Commons</u>

Several Electoral Reform Town Halls held by MPs in their ridings floated the idea of lowering the voting age from 18 to 16.  Section Three of the Charter of Rights and Freedoms does not actually specify a minimum age for the right to vote.  In legal precedents, however, the minimum voting age of 18 has been upheld under Section One as a "reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society."  Once a citizen turns 18, they are legally considered an adult and are fully responsible for their actions.  They are fully subject to the Criminal Code and they can enroll in the armed forces.  They would no longer be subject to any age-related restrictions on employment (except for serving alcohol in some provinces) and are required to pay taxes on that income.  Their parents are no longer legally required to support them financially.

School boards in Ontario have an innovative approach towards engaging their young high school-aged constituencies.  Whereas board trustees are elected every four years by citizens aged 18 and over during municipal elections, their decisions affect the daily lives of students who have no say in which trustees get elected.  Instead, every year, they elect Student Trustees from among their own who have a place at Board meetings, can speak to items on the agenda, can serve on committees, and can cast their vote on motions, which does get recorded.  However, their vote is not counted towards the passing or not of the motion.  It provides them the opportunity to express their views and have them recognized, while acknowledging the difference in responsibilities and expectations for those under the age of majority.

If Student Parliamentarian elections (with constituencies geographically much larger than the 338 ridings) were held every year, separately from general elections, **they would provide a unique educational opportunity for students to learn the mechanics of voting and the operation of Parliament.  It also provides an effective mechanism to register them on official voters lists well ahead of their eighteenth birthday.**

I propose allotting two Student Parliamentarians per constituency, with staggered two year terms and annual elections so that the students can learn from their senior partner in the first year and mentor their junior partner in the second.  A minimum age of 14 would allow high school students to participate.  Note that this is already the minimum age to become a member of the largest political parties in Canada.

<u>Recommendation 5: Opting for a voter tax credit over a punitive fine-based mandatory voting requirement</u>

A high voter turnout is desirable insofar as it demonstrates positive voter engagement and that the people have confidence in the system that chooses their leaders.  When voting becomes mandatory (ultimately enforced by the coercive power of the state), the high turnout loses its meaningfulness.  Mandatory voting allowed Saddam Hussein and Kim Jong-Un to win elections where turnout exceeded 99%.

Instead of a punitive fine-based measure, it would be more acceptable to encourage voters with a tax credit for fulfilling their civic duty at election time.  The amount should not be excessive but merely enough to acknowledge that there is some cost in dollars and time for the voter to participate in the process.

In Australia, where mandatory voting is enforced, anecdotes of drunk voters and the phenomenon of "donkey voting" (the measurable advantage of being placed at the top left of the ballot paper) **threaten confidence in the integrity of the voting process.**

<u>Recommendation 6: Printing "Declined" or "None of the Above" as a selectable option on the ballot</u>

Electors currently have the opportunity to hand a ballot back to the poll clerk and "decline" to cast it, indicating that they are unsatisfied with all the candidates. These ballots are counted in a separate tally. Doing so is different from casting a blank ballot, which is considered "rejected" due to not following instructions and reported separately. To express dissatisfaction, therefore, one must give up their ballot secrecy. There is no reason why privacy rights need to be surrendered to exercise this one option. Printing "Declined" or "None of the Above" as a selectable option on the ballot would **improve accessibility and inclusion of voters** who wish to express their dissatisfaction but are not taught how to appropriately do so or shy away from doing so in public.

If this option ever actually received the most votes, it would be reasonable to leave the seat vacant for a time until a by-election could be called within the standard 180 day timeframe that is triggered by a death or resignation.

<u>Recommendation 7: Maintaining the count of paper ballots by hand, in the presence of candidates' representatives</u>

The special parliamentary committee is also assessing the merits of online voting. Such an initiative would **threaten the integrity of the voting process** by sacrificing ballot secrecy and verifiability. Currently, an elector cannot show how they voted to anyone else, even if they wanted to. Once it is possible to vote from home, this strong form of ballot secrecy is lost. It becomes possible for someone to offer bribes for votes and watch the ballot being submitted. It also becomes possible for someone to threaten another into voting a certain way. Such threats do not need to be overt. An employer may encourage employees to vote at the workplace. Many wives may feel uncomfortable if their husband insisted on watching them vote in the home. **Although the intention may be for online voting to increase accessibility and inclusion, it may prove to have the opposite effect on society's most vulnerable groups.**

Of course, even the most secure voting system cannot be guaranteed to be safe from hackers. In the context of a federal election, such **hackers may be operating under foreign state sponsorship** with a strong motive and unlimited resources to undermine the Canadian government. They may even collude with the software or hardware contractor that supplies the system. In a 2014 National Post article, Diane Benson, spokeswoman for Elections Canada was quoted as saying "Security is part of the reason we are not moving forward and not presenting a [online voting] pilot to parliament."

**It is often perceived that online voting would increase overall voter turnout; however, such an effect has not been observed in the municipal jurisdictions that have tried it.**

Ultimately, it is the fact that candidates' representatives, also known as scrutineers, watch poll clerks count ballots by hand and record the final tallies that makes our elections transparent. These tallies can be compared against published results to verify that the numbers are accurate.

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The seven recommendations included in this brief are intended to align with the five guiding principles set out for the Committee. Thank you for your consideration.

The work you have undertaken safeguards and strengthens the very foundation on which our nation is built. Its impact will be studied for generations to come.