The Lowering of the Federal Voting Age to 16 in Canada: Normative, Political, and Constitutional Considerations

Félix-Antoine Froment

A Thesis
In the Department
of
Political Science

Presented in Partial Fulfillment of the
Requirements for the Degree of
Master of Art (Political Science)
at Concordia University
Montréal, Québec, Canada

November 2023

CONCORDIA UNIVERSITY
School of Graduate Studies

This is to certify that the thesis prepared

By: Félix-Antoine Froment

Entitled: The Lowering of the Federal Voting Age to 16 in Canada: Normative, Political, and Constitutional Considerations

and submitted in partial fulfillment of the requirements for the degree of

Master of Arts (Political Science)

complies with the regulations of the University and meets the accepted standards with respect to originality and quality.

Signed by the final Examining Committee:

_____ Chair
Dr. Mireille Paquet

_____ Examiner
Dr. Antoine Bilodeau

_____ Thesis Supervisor
Dr. James B. Kelly

Approved by:

_____
Dr. Mireille Paquet, Graduate Program Director

_____ 2023 _____
Dr. Pascale Sicotte, Dean of the Faculty of Arts and Science

ABSTRACT

The Lowering of the Federal Voting Age to 16 in Canada: Normative, Political, and Constitutional Considerations

Félix-Antoine Froment, Concordia University, 2023

I argue that Canada's federal statutory voting age should be reduced from 18 to 16. The argument is developed through three concurrent fields of research: normative political theory, comparative politics, and constitutional theory. The proposed institutional change would be consistent with the evolutionary nature of the federal franchise since late teenagers, through the concurrent processes of mobilizations–concessions, and constitutional litigation, could extend it as other social groups did. A federal voting age of 16 in Canada would not lead to habitual non-voting, as was demonstrated by the outcome of the lowering of the minimum voting age to 16 in Scotland in 2015. The reduction of the minimum voting age to 16 would also resolve the unjustifiable inconsistency between the federal disenfranchisement of 16- and 17-year-olds and their democratic and equality rights, as protected by the *Canadian Charter of Rights and Freedoms* (through section 3 and subsection 15[1]). The analysis of the constitutionality of section 3 of the *Canada Elections Act* is further substantiated by references to New Zealand`s judicial treatment of the disenfranchisement of 16- and 17-year-olds and the transnational discourse concerning the disenfranchisement of persons with intellectual and psychosocial disabilities, who are excluded from suffrage based on political immaturity in the same manner as late teenagers.

Keywords: minimum voting age, right to vote, Canada, Scotland, New Zealand, comparative politics, normative political theory, constitutional theory, *Canadian Charter of Rights and Freedoms*, *Canada Elections Act*.

ACKNOWLEDGEMENTS/REMERCIEMENTS

I want to thank, first and foremost, Dr. Kelly for his patience, his guidance, and his thought-provoking comments on my project. I would also extend my thanks to the other two members of the examining committee, Drs. Bilodeau and Paquet, for agreeing to oversee my thesis project and providing additional support which helped me upgrade its quality. I am grateful to all of the professors and lecturers who contributed to shaping and informing my interest in Canadian politics and human rights throughout my academic journey—both at Concordia University and the Université du Québec à Montréal.

Furthermore, I wish to thank everyone who helped me accomplish this task from beyond the academic realm. *À tous les membres de ma famille et mes amis francophones qui, de proche ou de loin, m'ont prêté leur oreille et leurs encouragements, je vous remercie sincèrement et du plus profond de mon cœur. Je n'aurais jamais pu y arriver sans vous*. To all of my Anglophone friends who listened to my worries and pushed me to be the better version of myself, you have my everlasting gratitude.

On a wider scale, I wish to express my admiration for every citizen who advocates and struggles for the protection and extension of human rights to the vulnerable and the ostracized. Keep on fighting the good—and necessary—fight!

TABLE OF CONTENTS

LIST OF FIGURES

CHAPTER 1 – INTRODUCTION

Young people speaking their minds/Getting so much resistance from behind.

— Buffalo Springfield, "For What It's Worth."

The Royal Commission on Electoral Reform and Party Financing's 1991 report contained a series of recommendations to fulfill its mandate "to inquire into and report on the appropriate principles and process that should govern the election of members of the House of Commons and the financing of political parties and candidates' campaigns" (Lortie 1991, p. 3). One of the Commission's notable proposals was to maintain the voting age at 18, which was lowered from 21 by Trudeau's government in 1970. Nonetheless, the Commission recognized the evolutionary nature of society and the right to vote (which will be interchangeably used along with its synonyms, suffrage and the franchise, throughout the thesis), asserting that the voting age should be reconsidered "periodically" should the lowering of this participatory threshold gain more popular support (Lortie 1991, p. 49).

The movement advocating for reducing the federal voting age to 16 is gaining momentum in Canadian politics. For instance, Members of Parliament (MPs) and Senators from different political affiliations (New Democrats, Greens, Liberals, and non-affiliated) have drafted private Members' bills (see Bill C-261 2004; Bill C-634 2011; Bill C-368 2013; Bill C-213 2016; Bill C-401 2018; Bill C-240 2020) and bills that originated in the Senate (Bill S-219 2020; Bill S-209 2021) to lower the voting age. There is a growth in mobilization around the issue through social campaigns like Vote16 Canada and a challenge to the current voting age in the Ontario Superior Court (Maloney 2021). The sociopolitical interest in the question of the reduction of the Canadian voting age is flourishing. Therefore, the reconsideration of this age limit is warranted. My thesis project aims to contribute to its reassessment.

I. Research Questions, Main Argument, and Scope

I provide a normative argument rooted in political and legal sciences to the following research questions:

1. Why should the federal voting age be reduced from 18 to 16 in Canada?
2. How does the lowering of the voting age compare to other extensions of the federal franchise?
3. Is the disenfranchisement of 16- and 17-year-olds constitutional? On a related note, is the disenfranchisement of citizens under the age of 16 years old constitutional?
4. Did the lowering of the voting age to 16 in similar polities to Canada lead to habitual non-voting, and how can this inform the consequences of a similar Canadian institutional change?

I argue that the federal voting age should be reduced to 16 because it would be consistent with the evolutionary nature of the right to vote, it would resolve the unconstitutionality of the disenfranchisement of 16- and 17-year-olds, and it would not lead to habitual non-voting. I also assert that the minimum voting age should be maintained at 16 since the disenfranchisement of politically incompetent minors is a relevant measure to prevent voter fraud and habitual non-voting.

The act of setting a minimum voting age always excludes some citizens from the franchise that could otherwise be considered politically competent. For instance, in the case of teenagers, the distinction between politically mature and immature citizens is not clear-cut. In other words, in light of the uneven development of different citizens, some may attain competence earlier than others, yet still be barred from the franchise. Notwithstanding this fact, there exists more evidence to support the political competence of late teenagers (which,

depending on the source, generally start at 16 years) than that of their younger counterparts. This evidence will be overviewed in the following chapter.

I maintain that 16, as a minimum voting age, is not an arbitrary limit because two pieces of evidence justify it. On one hand, at 16, most Canadian citizens are not required to attend school anymore, which means that they can work full-time. Indeed, all of the provinces have set the mandatory school age at 16, except New Brunswick, where it is set at 18 (Oreopoulos 2005, p. 11). My goal here is not to delve into the specificities of employment standards in the different Canadian jurisdictions, but to highlight that, even in the divergent case of New Brunswick, 16-year-olds are given more autonomy concerning their employment than younger citizens (see, e.g., *Canada Labour Standards Regulations* subs. 10(1)a)) and, as such, have a "sufficient stake in the community," in addition with their political maturity and their exercise of responsible citizenship, which all warrant their inclusion in the selection of elected representatives, to use Lortie's wording (1991, p. 48). On the other hand, 16 constitutes the lowest minimum voting age on the international scene, as of the time of writing.[1] The proposed institutional change in the Canadian context, by conforming to this flourishing international standard, benefits from the body of evidence stemming from the experience of the different polities that lowered their voting age to 16.

The thesis' main argument stands in opposition to the two main counterarguments used to reject the proposition of setting the voting age to 16. On one hand, the enfranchisement of late teenagers, considering the low electoral participation levels of the Canadian youth, could lead to a form of habitual non-voting, where the newly enfranchised 16- and 17-year-olds, by not engaging in the electoral process when first given the opportunity, would develop a habit of not voting in subsequent elections. The evidence from polities where the voting age was lowered to

16 contradicts this hypothesis, seeing as this institutional change in Austria and Scotland, for instance, led to durable participatory increases in the affected populations (see Grover 2011; Wagner, Johann, and Kritzinger 2012; Zeglovits and Zandonella 2013; Zeglovits and Aiccholzer 2014; Kenealy *et al*. 2017; Eichhorn 2018a; Eichhorn 2018b; Bronner and Ifkovits 2019; Aichholzer and Kritzinger 2020; Huebner 2021).

On the other hand, the political competence (used interchangeably with the notion of political maturity) of 16- and 17-year-olds is challenged by a certain number of authors, who argue that including incompetent citizens in the franchise could threaten the integrity of the electoral process and the quality of electoral outcomes (Schrag 1975, pp. 449–50; Chan and Clayton 2006; Waldron 2006, p. 1378; Fowler 2014, p. 96; López-Guerra 2014). A growing body of literature rightfully rejects this depiction of late teenagers as politically immature, using their political attitudes and cognitive abilities as evidence of their political competence (see, e.g., Hart and Atkins 2011, p. 208; de Castro 2012; Douglas 2017; Peto 2018). Using this second group of authors, I assert that the lowering of the federal voting age to 16 in Canada would not depreciate the systemic quality and integrity of elections because of the citizens' overall political maturity.

The argument I defend is an important contribution to the body of texts intervening in the study of the lowering of the voting age to 16. I respond to the literature's overall lacunary treatment of the disenfranchisement of 16- and 17-year-olds in the context of Canada by using this phenomenon as the main object of study of my thesis. Furthermore, I enhance the insights developed by authors on the status of 16- and 17-year-olds as partial adults and on the political outcomes of enfranchising them by connecting these findings to the important yet overlooked constitutional aspect of their disenfranchisement.

There are two limits to the scope of my thesis project. First, I am focusing on the right to vote in Canadian federal elections. The right to vote in provincial, territorial, and municipal elections falls beyond the ambit of my study for practical and normative reasons. The voting ages in Canadian provinces and territories are adopted in distinct electoral statutes, per the constitutional division of powers (for the provinces) and devolution (for the territories). As such, even though the minimum age for participation in elections is set at 18 in these polities, the objective of this age limit might not be harmonized between them. There are a total of 13 Canadian electoral statute provisions about the voting age, excluding the *Canada Elections Act* (*Election Act* [New Brunswick] 1973, s. 43; *Election Act* [Prince Edward Island] 1988, s. 20; *Loi électorale* [Québec] 1989, s. 1; *Election Act* [Ontario] 1990, s. 15; *Elections Act, 1991* [Newfoundland and Labrador] 1992, s. 23; *Election Act* [British Columbia] 1996, s. 29; *The Election Act, 1996* [Saskatchewan] 1996, s. 16; *Election Act* [Alberta] 2000, s. 16; *Elections Act* [Yukon] 2002, s. 3; *Nunavut Elections Act* 2002, s. 7; *Elections and Plebiscites Act* [Northwest Territories] 2006, s. 37; *The Elections Act* [Manitoba] 2006, s. 5; *Elections Act* [Nova Scotia] 2011 s. 38). From a practical standpoint, it would be time-consuming to survey the legislative debates surrounding the adoption of all these different instruments. Furthermore, the constitutionalized right to vote does not extend to municipal elections, which instead follow the rules dictated by its province (*Haig v. Canada; Haig v. Canada (Chief Electoral Officer)* 1993, p. 1031 [hereafter, *Haig*]). The fact that the constitutional aspect of the study would not extend to these municipal cases, which are otherwise as plentiful as the previous examples of provinces and territories, justifies their exclusion from this thesis project.

Second, the right to vote is the epicentre of my thesis, at the exclusion of the right to hold public office. The latter is an independent right from suffrage, even though both are protected by

the same constitutional provision (section 3 of the *Canadian Charter of Rights and Freedoms* [hereafter, the *Canadian Charter*]). For that reason, it is possible to advocate for the reduction of the voting age without having to argue for the concurrent reduction of the candidacy age. The dissociation of these two minimum ages is coherent with the United Nations Human Rights Committee's 25th General Comment on the *International Covenant for Civil and Political Rights* (1996, par. 4), which states that "it may be reasonable to require a higher age for election or appointment to particular offices than for exercising the right to vote." This observation finds examples in the polities where the voting age was lowered. For instance, both Austria and Scotland have lowered the voting age to 16 but maintained the age of candidacy at 18. The dissociation is justified in the latter as a measure meant to protect 16- and 17-year-olds from public candidacy's negative consequences on their education, its creation of "data protection issues," and its associated long working hours and potential intimidation (Scotland Ministry for Parliamentary Business 2022). Another cause for this dissociation could be found in the counter-productiveness of allowing the accession of 16- and 17-year-olds to public office. As Rehfeld (2011, p. 157) argues, it could lead to passive roles, devoid of substantive "power to influence the legislature," based on the young representatives' lack of adulthood. Furthermore, the right to hold public office, when coupled with the right to vote, could cause a shift in the status of 16- and 17-year-olds, who would lose the protection associated with their childhood by becoming "full" adults (see Silbaugh 2020b).

II. Methodology

2.1 Objectives

The goal of my thesis is to provide a normative argument for the reduction of the Canadian federal voting age to 16, supported by evidence from constitutional rulings and case studies in

jurisdictions that lowered the voting age to 16 (Scotland) and examined the legality of the disenfranchisement of late teenagers (New Zealand). This assertion achieves two concurrent objectives. It supports this legislative proposition by providing evidence that the lowering of the voting age is consistent with the federal franchise's extensive—rather than restrictive—nature, and that the institutional change should not provoke the development of voter apathy in the newly enfranchised citizens. The argument also refutes the position that the Canadian voting age should be maintained at 18 by disproving the negative political outcomes of lowering it and by discrediting the constitutionality of this statutory measure.

The thesis' objectives are not "to make descriptive or explanatory *inferences* based on empirical information about the world," which constitute the goals of political science according to King, Keohane, and Verba (1994, p. 7). Indeed, in this thesis, I aim to make *normative* inferences, to argue "about principles, that is, general statements about right and wrong" (Cohen 2011, p. 227). The project belongs to the tradition of political theory, which "is a valid mode of knowledge different from scientific knowledge yet not contradictory to it" (Leca 2010, p. 527; Kasza 2010). I draw on political science (through case studies of the Canadian institution of the federal franchise and of the consequences of the Scottish policy of lowering the voting age to 16) and legal scholarship (through constitutional rulings from Canadian and New Zealand courts, and international jurisprudence) to find evidence to support my main argument.

2.2 Methodological Approach

I subscribe to the methodological approach of normative comparative political theory (or philosophy, those last two terms being interchangeable: Smits 2016, p. 5). I offer a principled criticism of the disenfranchisement of 16- and 17-year-olds in Canada. The philosophical critique of "political practices and doctrines" is an important "occupation for political theory"

(Smith 1957, p. 744). More precisely, according to Ackerly and Bajpai (2017, p. 276), comparative political theory is interested in building normative claims that reconcile "facts and norms, practical reforms and substantive ideals" (see Laborde 2008, p. 13). This approach is quite similar to Herzog's (2018, p. 25) contextual justification of political theory arguments, where the theorist needs to "draw on our moral and political beliefs to help rank what is better, but [...] will force them to collide with history and society, and so will criticize them." An essential aspect of the comparative political thought method is its insistence on bridging the gap between Western and non-Western schools of political philosophy, a fact that somewhat distances the method from my project. After all, I am only putting Western comparative examples of (dis)enfranchisement to contribution: Scotland, New Zealand, and Canada. I would nevertheless argue that I use normative comparative political theory because I am building a justification for the enfranchisement of Canadian 16- and 17-year-olds (what ought to be achieved *here*) based on the experience of other polities who either enfranchised this age group or recognized the discriminatory status of their disenfranchisement (what was achieved *elsewhere*).

The case study approach is an important methodological feature of my thesis project. The scientific value of this method is contested by the literature because it is difficult to generalize findings from the study of a few cases (see Lijphart 1971, p. 691; Shenton 2004). Nevertheless, the case study approach is relevant to my study. There is a limited number of cases of (1) enfranchisement of 16- and 17-year-olds, (2) judicial recognition of their disenfranchisement as a violation of their democratic and equality rights, and (3) disenfranchisement of persons with intellectual or psychosocial disabilities (PIPD) that present similar characteristics to the Canadian context, which makes the selection of a wide variety of comparative cases practically

impossible. It is, therefore, useful to do "an in-depth exploration from multiple perspectives of the complexity and uniqueness" of these specific cases, a process which constitutes the purpose of case studies, according to Simons (2009, p. 21; see Gerring 2004, p. 341).

a) Case Selection Justification

The lowering of the voting age to 16 in Scotland is the first useful comparative case to Canada, for two reasons. On one hand, the Scottish political system is similar to its Canadian counterpart since they are both Westminster-style parliamentary democracies. There are institutional differences between the two polities: the first is a devolved, unicameral legislature with an additional member electoral system, and the second is a federal state, with a bicameral federal government and unicameral provincial and territorial legislatures elected with the first-past-the-post formula. However, even with these distinctions, Scotland, out of the few international examples of the enfranchisement of 16- and 17-year-olds, is the most similar system to Canada. On the other hand, for more practical reasons, the Scottish case of the lowering of the voting age is useful because it happened in 2015. It is preferred to other instances of enfranchisement, like Wales in 2021, because more data can be extracted from the four elections (two for members of Scottish Parliament, and two for local councillors) that happened since 16- and 17-year-olds were given the right to vote.

The cases of enfranchisement of other minority social groups in Canada is the second instance that is useful for my comparative endeavour. While the subjects of the extensions of the right to vote (women, Indigenous peoples, Asian Canadians, prisoners, judges, expatriates, and PIPD) are different from 16- and 17-year-olds, the inclusion of these social groups happened in a similar political context, which warrants an in-depth analysis of these cases of enfranchisement.

New Zealand's recognition of the discriminatory character of disenfranchising 16- and 17-year-olds is the third important comparative case. This state's legal system is similar to its Canadian equivalent: both countries have adopted the common law system (although the province of Québec has a mixed legal system). There is an important distinction between the two states concerning the protection of human rights. New Zealand courts do not have the power to invalidate legislation that is found to be contrary to the *New Zealand Bill of Rights*, as opposed to Canadian courts, which are empowered by the constitutional nature of the Charter (Mapp 1994; Leane 2004). They can, nevertheless, declare legislation as incompatible with the parliamentary bill of rights, after which the government, being notified by the Attorney-General of this judicial declaration of inconsistency, must produce an answer to it (*Taylor v. Attorney-General* 2015; *New Zealand Bill of Rights [Declarations of Inconsistency] Amendment Act 2022*). This difference does not negate the choice of this state as a comparative case study, because the goal is to look at the legal justification used to base the Supreme Court's declaration of the disenfranchisement's discriminatory character, rather than the outcome of said declaration. Furthermore, New Zealand's bill of rights was heavily influenced by the Canadian Charter, which encourages the proposed comparative analysis (Leane 2004).

2.3 Theoretical Framework

The theoretical framework of institutionalism is useful for my thesis. This theory seeks to understand the interactions "between institutions, behaviour and outcomes," which constitute a central component of my project (Diermeier and Krehbiel 2003, p. 127). I do not wish to intervene in the debate surrounding "new" and "old" institutionalism, opting instead to adopt some key understandings from this general theory as guiding principles for my thesis. This approach is coherent with Immergut's (1998, p. 8) warning that, rather than fixating on the

differences between old and new schools of thought, we should "speak of the institutional tradition," notably through an exploration of its "main points."

Two of institutionalism's fundamental paradigms inform my normative argument about lowering the Canadian voting age to 16: the theoretical understandings of (1) institutions and (2) institutional change. The first pivotal object of institutionalist studies is institutions themselves. Human rights, courts, judicial review, and legislative assemblies are all institutions that intervene in the debate surrounding the selection of a voting age. These entities are understood by institutionalists as constraints to human behaviour that "affect what we can and cannot do politically (and the costs, risks and potential benefits involved)" (Lowndes and Roberts 2013, p. 4; see North 1990, p. 3; Hall 1986, p. 19). Institutions, their behavioural power notwithstanding, are not unchangeable. This points to a second essential institutionalist paradigm: institutional change. My thesis advocates for a transformation of the institution of the federal franchise. There is not a single, uncontested theory of institutional change, but for the ends of my thesis, I reappropriate Acemoglu and Robinson's (2012) notion of path-dependent change, where changes to an institution are informed by its initial design and its history, meaning that there are observable trends in the way they transform over time.

a) Concepts

The first concept my thesis deploys is the right to vote. It is understood as the legal recognition and protection of citizens' capacity to cast a ballot in elections. This definition intentionally does not refer to specific, domestic legal statutory provisions because of the comparative nature of my argument. Furthermore, it excludes barriers to electoral participation that are beyond the formal absence of voting rights, such as issues related to the electoral process (I.D. requirements, the physical location of polling stations…) or to everyday life and health (lack of time, illness…)

(for an overview of reasons for not voting in the previous federal election, see Statistics Canada 2022). This does not mean that I challenge the fact that these barriers exist. It simply entails a focus on the presence or absence of voting rights, a choice that is warranted by the particular situation of 16- and 17-year-olds, who are formally denied the right to vote.

The second concept is political maturity. I use Chan and Clayton's (2006, p. 542) characterization of this phenomenon as the ability to (1) possess "knowledge of the political system [and] issues that are the subject of public and political debate," (2) to have consistent "political convictions," (3) and to show some interest in politics.

The third concept is electoral participation, the actions undertaken by citizens in the formal electoral process, be it voting or registering for elections. Whilst the wider concept of political participation might seem more appropriate for a study of currently disenfranchised 16- and 17-year-olds, the lowering of the voting age to 16 does not effect an increase in the overall political participation of the affected citizens. It only creates a clear effect on their electoral engagement.

III. Thesis Structure

The thesis is divided into five chapters, excluding the current introductory chapter. The second chapter is a traditional literature review that surveys three interlocked bodies of literature: the status of 16- and 17-year-olds as politically (in)competent citizens, the political outcomes of the lowering of the voting age, and the constitutionality of disenfranchisement. It surveys the strengths and limitations of these bodies of texts and situates the thesis project accordingly. The literature's findings about 16- and 17-year-olds' political competence and citizenship and about the positive political outcome of enfranchising them are found to be persuasive. I engage with the justifications for their disenfranchisement and argue that the observation of this age group's

political incompetence, which empowers the worry that its enfranchisement would lessen the quality of the democratic process and electoral outcomes, is overstated, and that the evidence tends to demonstrate an increase in electoral participation rather than political disengagement following the lowering of the voting age. I observe two important weaknesses in the literature that my project addresses: the constitutionality of the disenfranchisement of 16- and 17-year-olds is not studied enough, and the body of writings on the lowering of the voting age to 16 generally does not consider the Canadian setting.

The third chapter studies the evolutionary nature of the franchise in Canada. I observe the historical enfranchisement of social groups before and after the entrenchment of the right to vote in the Canadian Charter to argue that the exclusion of citizens from the institution of suffrage is susceptible to political mobilization and judicial intervention, lending credibility to the outcome of lowering the voting age to 16 through these two processes.

The fourth chapter draws on the comparative cases of (1) the Supreme Court of New Zealand's ruling on the discriminatory character of the disenfranchisement of 16- and 17-year-olds (*Make It 16 Incorporated v. Attorney-General* 2022 [*Make It 16 Incorporated N.Z.S.C.*]) and (2) the transnational discourse surrounding the disenfranchisement of PIDP to determine that the exclusion of 16- and 17-year-olds from suffrage is not a reasonable limit to Canadians' democratic and equality rights. The statutory minimum federal voting age of 18 is demonstrated to fail the last two steps of the *R. v. Oakes* (1986 [*Oakes*]) test, namely, the minimal impairment and the proportionality between the deleterious effects of the measure and the salutary benefits of its legislative purpose. Consequently, I argue that the minimum voting age established in section 3 of the *Canada Elections Act* should be judicially declared as incompatible with section 3 and subsection 15(1) of the *Canadian Charter*.

The fifth chapter uses the comparative case of the lowering of the voting age to 16 in Scotland to provide evidence against the argument that earlier enfranchisement in Canada could lead to habitual non-voting. Indeed, the institutional change in the Scottish polity, which operates under a similar political system to Canada, did not lead to voter apathy in the newly enfranchised group. This observation is used to comparatively support the Canadian policy proposal.

The sixth chapter is the conclusion of the thesis. First, it summarizes the project's argument and its contribution to the literature. Second, it overviews the challenges impeding the realization of the proposed institutional change. Third, it explores the thesis' limitations and future avenues of research on the lowering of the voting age in Canada.

CHAPTER 2 – LITERATURE REVIEW

The right to vote is an essential component of democratic systems. Its exercise legitimizes the representational dynamics at play in a parliamentary democracy. For instance, in Canada, citizens, through their vote, give the mandate to MPs to represent their interests. These members' accession to power is considered legitimate because it rests on said mandate. Suffrage, then, involves the interplay of political participation and representation, and democratic legitimacy. This important dynamic might be compromised should the right to vote not be universal. Disenfranchised individuals would be incapable of formally influencing the outcome of elections, which would reduce the democratic system's responsiveness to their interests (Dahl 1989, p. 129). In turn, their perception of the system's legitimacy would be negatively affected.

In Canada, suffrage has not yet been extended to every citizen because the legal voting age has been set at 18. This decision can be questioned, particularly in light of the successful reduction of the voting age to 16 in Argentina, Austria, Brazil, Cuba, Ecuador, Guernsey, Isle of Man, Jersey, Malta, Nicaragua, Scotland, Wales, and some municipalities in Estonia, Germany, and the United States (Seleman 2018; Eichhorn and Bergh 2020; Eichhorn and Berg 2021). The enfranchisement of 16- and 17-year-olds in the Canadian context remains a controversial subject, which reflects the wider debates found in the studies on the delimitation between childhood and adulthood, the political outcomes of extending the franchise to 16- and 17-year-olds, and the constitutionality of excluding citizens from suffrage.

Two important gaps exist in these three intersecting bodies of literature. First, authors have not produced a clear and justified normative account of the lowering of the voting age to 16 in Canadian elections. There are very few texts on the policy of reducing the voting age in Canadian elections in general. Out of the three authors who study this general phenomenon, the

first advocates for the abolition of the voting age from an educational perspective (Hyde 2001), the second observes the setting of a minimum federal voting age without taking a position on what that age *should* be (Gaspard 2022), and the third provides an empirical account of the lowering of the voting age in the context of Québec (Mahéo and Bélanger 2020). I do not agree with the assertion that there should not be a voting age. The risks associated with including politically incompetent children in the electorate, namely, the potential of electoral fraud and the reduction of the quality of electoral outcomes, are convincing reasons to maintain an electoral age limit. Second, the question of the constitutionality of the federal electoral disqualification of 16- and 17-year-olds is not widely studied by the selected texts; Hyde (2001) is the only author to study the constitutionality of the federal disenfranchisement of all children, but their account does not benefit from the developments in the Canadian body of case law on general disenfranchisement since 2001. By studying the normative, political, and constitutional aspects of the lowering of the federal voting age to 16 in Canada, my thesis is a valuable answer to the surveyed bodies of literature's two shortcomings.

The three bodies of literature are explored in the present chapter. My thesis, by advocating for the lowering of the federal voting age to 16 in Canada, provides and is supported by evidence that 16- and 17-year-olds are politically competent citizens whose enfranchisement would increase their electoral participation and would be coherent with their constitutional democratic and equality rights. I engage with the possible negative political outcomes of this institutional change and find that the worries that their enfranchisement could threaten the quality of electoral outcomes and of the democratic process are not convincing because they rest on the assumption that all children (from birth to the age of majority) are incompetent, a position that is discredited by many authors who studied late teenagers' political competence. The

potential increase of political disengagement after the lowering of the voting age to 16, because of habitual non-voting, remains a persuasive negative political outcome that is, nevertheless, generally contradicted by the evidence from polities where the voting age was lowered to 16.

Before exposing the structure of the second chapter, it is essential to raise a methodological observation. The arguments explored in the three bodies of literature are quite often treated together because of their interconnectedness. For instance, the level of political competence attained by a citizen affects their capacity to participate in the political process, which, in turn, informs their citizenship (see, e.g., Percy-Smith 2016; Roche 1999). Furthermore, the lack of political competence is also used to legitimize the constitutionality of excluding children from the franchise. Nonetheless, these arguments will be treated in distinct sections, for conceptual clarity.

The literature review is organized in three sections. In the first part, I explore the body of texts on the status of 16- and 17-year-olds and find that they can be categorized as partial adults because of their political competence and their lived citizenship. In the second part, I appraise the political outcomes of reducing the voting age to 16: the literature makes a convincing case that the newly enfranchised individuals would have increased political participation and representation. In the third part, I review the constitutionality of disenfranchising children and individuals in the 16–17 age range in light of the larger body of jurisprudence on the constitutional validity of disenfranchisement. The fourth part is a summary of the interaction between the thesis project and the literature review's main findings.

I. Status of 16- and 17-Year-Olds: At the Edge of Childhood and Adulthood

The status of 16- and 17-year-olds is an essential phenomenon to examine when studying the lowering of the voting age to 16. These members of society are at an ambiguous stage of

development, at the limit of the legal distinction between minority and majority. Their characterization as children, based on their supposed lack of political maturity, matters because it is used as a justification to exclude them from suffrage in many polities. I would argue that the literature presents a more convincing account of 16- and 17-year-olds' political competence rather than their incompetence, in addition to their practice of citizenship. Thus, a growing number of studies demonstrate that this age group is composed of politically competent citizens, a fact that directly contradicts the main reason why they are disenfranchised.

Before exploring these two arguments, it is essential to determine the age status of 16- and 17-year-olds. Are they children, adults, or something in between? The distinction between childhood and adulthood is quite ambiguous (Dahl 1989, p. 129). The literature recognizes that both concepts are socially constructed, even though they mobilize "biological" markers of maturity (Archard 2014, p. 31). Although they aim to capture the essence of both stages fully, the extension of these age categories to every human being is practically impossible, considering the diversity of experiences around the world (Alanen 1988; James and James 2001; Blatterer 2007; Archard 2014). The construction of the concept of childhood was criticized by some as a form of adultism, where an adult-produced normative understanding of what children are is exogenously imposed on that age group (Mayall 2000, pp. 244–45; Lam 2012; Bacon and O'Riordan 2023, p. 16).

The literature proposes two competing conceptualizations of childhood and adulthood. On one hand, the modern distinction between the two age groups is as follows: children are positioned as "human becomings," a transitory stage where people are still considered to be incomplete, while adults are conceptualized as fully actualized, mature human beings, which constitutes an achievable, desirable goal (Lee 2001; Archard 2014, pp. 48–49; Ariès 1960;

Schapiro 1999; Rousseau 1995, pp. 34, 80; Locke 1988, §57). The contradistinction between the two, based on maturity, powers the paternalistic protection of children by adults which Archard coins as the “caretaker thesis” (Archard 2014; Mills 1993, p. 78; Cohen 2005; Macleod 2014; Macleod 2016; Munn 2016). In this perspective, children should not be burdened with a “right of self-determination” because that would jeopardize their maturation, which needs to be guided by adult authorities (Purdy 1992; Archard 2014, pp. 71–74). On the other hand, there has been a reconceptualization of children as fully actualized human beings, possessing agency and "worthy of consideration in their own right rather than as an incomplete state of incompetence relative to adulthood" (Lam 2013, pp. 162–63; Qvortrup 2009). The distinction between the two age groups is less pronounced and, by extension, so is the need to maintain children in a protective state until they reach adulthood. The authors who adopt this understanding are a part of the "children's liberation movement" calling for the extension of the full array of rights and freedoms—which was historically reserved for adults—to all children (Archard 2014, pp. 64–70; Holt 1974).

This philosophical debate has practical consequences because it informs the contents of children’s rights. In Canada, for instance, the paradigm under which rights are granted to children is the caretaker approach. This explains why Canadian children, rather than benefiting from the full array of children’s rights, are only afforded protective "legal concepts," like the notion of the best interests of the child and the "need to protect children due to their inherent vulnerability" (Sheppard 1992; Paré 2017). Nevertheless, it is possible to reconcile the caretaker and liberationist approaches to children's rights. This was notably achieved by the *Convention on the Rights of the Child*, through which protective, provisional, and participatory rights were guaranteed for children in its member-states (see, e.g., Cohen and Naimark 1991, p. 60; Reynaert, Bouverne-de Bie, and Vandevelde 2009, pp. 520–21; Holzscheiter 2010, pp. 85–86).

This example demonstrates that it is possible to find a middle ground between the two competing conceptualizations of childhood and adulthood by simultaneously recognizing the vulnerable position of children in society and their agency.

The conceptual conundrum of the distinction between childhood and adulthood is accentuated by the literature's treatment of the status of 16- and 17-year-olds. Most authors agree that they are still in the age category of childhood, yet there is no consensus about their belonging to a specific stage of childhood. Some authors distinguish 16- and 17-year-olds as, respectively, early and middle teenagers, and late teenagers (see e.g., Harter 2012; Archard 2013). Others group them in the wider "young people" category, which generally includes 16- to 25-year-olds (see, e.g., Valentine 2003; Aguilar-Palacio *et al.* 2015; Jacob *et al.* 2017). This age category is identified as a "period of semi-dependence that falls between the full dependency that characterizes childhood and the independence of adulthood" (Furlong 2013, p. 3). This links back to the ambivalent, transitory age status of 16- and 17-year-olds. Two authors highlighted the "betweenness" experienced by early-to-late teenagers, who are in a constant "transitional" flux between childhood and adulthood (Weller 2003, p. 155; Valentine 2003; Weller 2006, pp. 101–02). Their gradual acquisition of political rights would be logically consistent with their status as partial adults, especially when considering their political maturity and their experience of citizenship.

1.1 Political Maturity and Competence

The political maturity of young adults is essential when studying the lowering of the voting age to 16. Indeed, the body of literature on the subject overwhelmingly uses this phenomenon to justify the (dis)enfranchisement of young people and children, even though some authors disagree with its normative weight. Whilst I agree with the importance of ensuring a politically

competent electorate by disqualifying immature children from it, my thesis finds the evidence that 16- and 17-year-olds are politically competent more compelling than the opposite position adopted by certain authors.

Some authors advocate for the lowering of the voting age to include late teenagers (and even younger individuals), who they believe have attained political competence because of their cognitive capacities (Hamilton 2012; Douglas 2017; Icegnole *et al.* 2019; Peto 2020; Oosterhoff, Wray-Lake and Harden 2022; Munn 2022). Accordingly, these authors would still disenfranchise individuals who have not developed their political maturity. Others argue that the youth, from birth to majority, is not competent enough to be given the right to vote, which justifies their exclusion from the right to vote so they could focus on developing their political maturity (Howe 2003; Cowley and Denver 2004; Brewer 2006; Bergh 2013; Chan and Clayton 2006; Henaff 2002; Giesinger 2017; Condon 2015; Dahl 1989, p. 127; Weale 1999, p. 154). The position that 16- and 17-year-olds are not mature enough is discredited by authors from the previous group. They argue that this age group generally possesses political knowledge, stable convictions, and is interested in politics (Peto 2018; Hart and Atkins 2011, p. 208; de Castro 2012; Douglas 2017).

Other authors question the usefulness of this notion of political competency. According to them, the right to vote should be dissociated from voters' maturity, especially since incompetency is used to discriminate against youth (which results in "epistemic injustice" (Baumtrog 2021; Schües 2016; Tremmel and Wilhelm 2015; Grover 2011; Fowler 2014; Lau 2012; Priest 2016; Lecce 2009; Lam 2013; de Castro 2012; Peto 2018; Wall 2014; López-Guerra 2014). This radical way of understanding the extension of suffrage as independent from voters' competence can lead to some practical issues when considering the participation of young children. It might not be in their best interest to be considered as equals to adults because they

might lose their status as children and be given more responsibilities, going against their best interests (Silbaugh 2020a; Henaff 2002; Beckman 2009, p. 115). Additionally, the inclusion of politically incapable citizens in the franchise could lead to negative political outcomes, by affecting the democratic process and the quality of electoral outcomes. These points will be evaluated in the second part of the literature review.

1.2 Citizenship

In the literature on the (dis)enfranchisement of 16- and 17-year-olds, there are generally two competing normative positions about young people's democratic citizenship: some authors posit that young people are aspiring citizens who need to develop their citizenship, while others argue that they are citizens in their own right. These claims will be critically assessed in order.

The first group of authors places *all* young people outside of full citizenship. They advocate for a form of "citizenship learning," both through the educational setting and everyday life, so young people, before attaining the age of majority, could develop the understanding and skills necessary to perform their eventual role of citizens (Biesta, Lawy, and Kelly 2009; Tonge, Mycock, and Jeffery 2012; ten Dam *et al.* 2011; Ribeiro, Malafaia, and Ferreira 2022; Milner 2010). The positive effects of citizenship learning on political engagement have been explored by some authors, particularly in the case of British citizenship education (Tonge, Mycock and Jeffery 2012; ten Dam *et al*. 2011). The importance of learning what it means to be a citizen remains uncontested in the current review.

Instead, I agree with the criticisms levied at the process that is used to reach said outcome. Citizenship learning exclusively through the education system has been depicted by two authors as the top-down imposition by the state of its subjective construction of citizenship to young people (Watts 2006; Warming 2011). They rightfully assert that this process precludes

that age group from building their own discursive, sociocultural understanding of citizenship, a fact that is worsened by their exclusion from the electoral franchise. Furthermore, grouping all children in a second-class citizenship raises questions about how society treats this fundamentally heterogeneous population. Should members of this age group have acquired political competence, their exclusion from "full" citizenship would not be as easily defensible as the restriction of immature infants' citizenship status.

The second group, operating from an autonomist viewpoint, argues that the citizenship of young people should be reconceptualized away from its "half" nature to account for their lived agency (Hart 2009; Abendschön 2017; Percy-Smith 2016; Wall 2012; Wall 2010; Cohen 2005; Roche 1999, Nishiyama 2017; Bhabha 2003; James 2011; Sanghera et al. 2018; Hartley 2010; France 1998; Smith *et al*. 2005). To put it differently, these authors recognize the *de facto* citizenship lived by young people and advocate for its *de jure* recognition, notably through the extension of the full array of rights and obligations to these young citizens. In contrast with the previous group of authors, this set of texts wants to extend the formal institution of citizenship to young people and even children. The inclusion of everyone below the age of majority in this institution, even though they might not have the capacity to understand the various complexities inherent to citizenship, raises similar problems to the previously explored restriction of citizenship. The extension of formal citizenship to politically competent 16- and 17-year-olds would be more logically coherent than to immature infants, all the while being more consistent with the fluctuating relationship minors have with citizenship, as noted by Lister *et al*. (2003).

II. Political Outcomes of Enfranchising 16- and 17-Year-Olds

A considerable body of literature studies the political outcomes of lowering the voting age to 16. The authors who produced works on the subject can be divided into two groups: proponents and detractors of the enfranchisement of 16- and 17-year-olds. The former posit that the inclusion of these citizens in the franchise would increase their political participation and their political representation, therefore resulting in positive political outcomes. The latter argue that granting the right to vote to politically incompetent individuals—which is how they characterize all children, including 16- and 17-year-olds—would be detrimental to democracy since it would pose a threat to the democratic process, the quality of electoral outcomes, and the future electoral engagement of the newly enfranchised citizens through the phenomenon of habitual non-voting. In the next four sections, the two possible positive political outcomes of enfranchising 16- and 17-year-olds are demonstrated to be generally more convincing than its three possible negative consequences.

2.1 Increased Electoral Participation

Political participation is a common argument used to justify the enfranchisement of young people. Some authors have found that the lowering of the voting age is tied to an increase in the electoral participation of the newly enfranchised citizens (Eichhorn 2018a; Eichhorn 2018b Munn 2021; Eichhorn and Bergh 2021; Mahéo and Bélanger 2020; Bronner and Ifkovits 2019; Huebner and Eichhorn 2020; Douglas 2017). Particularly, evidence from polities that enfranchised 16- and 17-year-olds, like Austria, Scotland, and Estonia, demonstrates that the lowering of the voting age to 16 can not only create a "first-time voting boost," but also form a durable habit of participating in elections (see Wagner, Johann, and Kritzinger 2012; Zeglovits and Aichholzer 2014; Bronner and Ifkovits 2019; Toots and Idnurm 2020; Bergh 2013; Zeglovits

2013). This fact verifies Dinas' (2012, p. 432) observation that "turning out to vote can be self-reinforcing." Their persuasive accounts usually focus on electoral participation, which only constitutes one specific iteration of the youth's political participation. Other authors assert that to increase the youth's political participation, efforts should be made to develop participatory niches that do not stop at adult-centred institutions, like suffrage. Certain authors propose interesting forums of participation, like community-based initiatives, children's councils or school-bound activities (Cockburn 2007; Hartas 2011; Matthews, Limb, and Taylor 1999; Checkoway *et al*. 2003; Thomas 2007; Torney-Purta and Amadeo 2011; Andersson 2022). Whilst the other avenues of participatory boosts proposed by the literature are interesting, they go beyond the scope of the project. Since my thesis builds an argument centred around the institution of the Canadian federal franchise, the increase in electoral participation is, in and of itself, a relevant argument to support the lowering of the voting age.

2.2 Increased Political Representation

The political representation of 16- and 17-year-olds is not a phenomenon that is as widely studied as their political participation, their citizenship, or their political maturity. A few authors studying the political representation of young people posit that their acquisition of suffrage acts as a necessary condition for them to be represented by the democratic system (Hart, Atkins, and Allred 2020; Wall and Dar 2011; Wall 2012; Campiglio 2009; Wagner, Johann, and Kritzinger 2012; Cohen 2005). Their enfranchisement, in other words, would be an important tool in bringing their different interests, stemming from their lived experiences to the attention of their representatives.

None of the authors provide an empirical account of the relationship between the lowering of the voting age and the political representation of the newly enfranchised. I posit that

this shortcoming is a necessary consequence of the nebulous nature of political representation. For instance, representation can be conceptualized in a myriad of ways. Pitkin's (1967) view of formalistic representation as the active process through which the represented authorize the representative to act on their behalf while having the capacity to hold them accountable for dereliction from their representation mandate seems to be the most relevant understanding of the phenomenon to the study of the disenfranchisement of minors. Even with this more specific view, representation is hard to observe. Determining whether elected representatives effectively act on behalf of the interests of a specific social group is a daunting task, particularly in light of the heterogeneity of 16- and 17-year-olds and the competing interests of other social groups.

The increased political representation enjoyed by enfranchised 16- and 17-year-olds, thus, can instead be understood philosophically as a form of intergenerational justice. This concept is "concerned with the equitable distribution of benefits and burdens across different generations" (Page 2007, p. 453). It regroups several disparate issues, such as environmental concerns, "public debt management, funding of pension schemes or passing on a language" (Gosseries 2008, p. 62). In this perspective, democracy's representativeness can be qualified as generationally imbalanced in favour of older generations, whose interests are overrepresented because of their higher electoral turnout. The lowering of the voting age, according to certain authors, remediates the unequal distribution of political representation by empowering younger generations to voice their interests through the ballot (Campiglio 1997; Hinrichs 2002; Janky and Gulyás 2018; Osler and Kato 2022; Pantell and Shannon 2009; Lecce 2009; Coram 2022). This characterization of political representation is important in illustrating the issue with the disenfranchisement of 16- and 17-year-olds: it unjustly and discriminately impacts their capacity

to have their concerns heard and acted upon by the political system, in contrast with other age groups in society.

Some authors push this idea further by arguing for the disenfranchisement of politically incapable elders to effectively reduce this age group's electoral overrepresentation, in a similar manner to the current disenfranchisement of children (Lau 2012; van Parijs 1998). This radical proposition, nevertheless, constitutes a striking breach of the ideal of universal suffrage. Although the aim of the current literature review is not to argue for or against the disenfranchisement of elders, it is relevant to summarily note that the logic underlying this instance of disenfranchisement, signalling the gradual decline in relevance of the actors in the electoral process, is not equivalent to the one powering the exclusion of children from the franchise, which is based on the expectation that they will develop their political maturity (Fowler 2014, p. 108; Volacu 2021).

2.3 Systemic Counterarguments

The literature provides a first group of arguments against two negative political outcomes of enfranchising 16- and 17-year-olds: it could have systemic consequences on the electoral process and outcomes. Both considerations rely upon the assumption that the systemic consequences are the result of the enfranchisement of politically incompetent citizens. My main point of contention with the set of proposed counterarguments levied against the lowering of the voting age to 16 is that the evidence supporting the political maturity of 16- and 17-year-olds directly contradicts their foundation. Nonetheless, the first systemic counterargument is shown to be more relevant than the second to justify the electoral disqualification of other minors who are politically incompetent.

Authors provide the first argument against the enfranchisement of children by asserting that it could undermine the integrity of the democratic electoral process. According to López-Guerra (2014, p. 75), for instance, extending the right to vote to politically incompetent individuals could create a problem of "instruction," where these citizens would "be instructed to cast a ballot in a way that mimics true voting" through a process that would increase the effective voting shares of the instructor. This argument against the enfranchisement of children is similar to the opposition to the Demeny voting system (also called proxy voting), where voting rights are granted to all citizens, but exercised by parental authorities until the coming of age of their ward (see, e.g., Demeny 2012, Pantell and Shannon 2009). Bauböck (2018) summarizes the main contention with this system quite well: "giving parents proxy votes that they can cast on behalf of their minor children looks more like a violation of the one-person-one-vote principle in favour of a particular category of adults than a vehicle for children's participation in the polity (p. 45). The worry that the enfranchisement of the politically incapable youth could lead to voter fraud is an important concern that informs my assertion that there should be a minimum voting age.

A second negative political outcome of the lowering of the voting age to 16 developed by the literature is referred to as "input minimalism," where the inclusion of politically incompetent individuals in the franchise would reduce the quality of electoral outcomes (this position was named by López-Guerra 2014). In essence, proponents of this position argue that people below the age of majority cannot cast a vote justified by "a genuinely held opinion for one party rather than another" (Fowler 2014, p. 96; Schrag 1975, pp. 449–50; Waldron 2006, p. 1378; Chan and Clayton 2006). Their enfranchisement, for that reason, would reduce the value of elections' results, which could not be reliably linked back to the political opinion of electors on the platform of political candidates and parties.

Beyond the previously questioned assertion that 16- and 17-year-olds are politically incompetent, the proposed negative political consequence of their enfranchisement can be criticized using López-Guerra's persuasive account of its shortcomings. The author asserts that to be convincing, the argument of input minimalism requires that either one of the following statements be true: "(a) that children and the mentally impaired would regularly make bad choices, and (b) that universal sane adult suffrage is a procedure that almost always selects the best option on the ballot" (López-Guerra 2014, pp. 64–69, see also Wiland 2018). Since there is no empirical evidence that supports that children would necessarily vote against their interests or that adults are competent voters, the overall position that lowering the voting age to 16 would threaten the quality of electoral outcomes is not sufficiently convincing to justify the exclusion of 16- and 17-year-olds, or even children, from the franchise.

2.4 Increased Political Disengagement

The enfranchisement of 16- and 17-year-olds could have the seemingly contradictory effect of increasing their political *dis*engagement. Young people, an age group that includes late teenagers and young adults, are usually depicted by the literature as politically disengaged, particularly considering their low electoral participation both in Canada and elsewhere (see, e.g., Quintelier 2007, p. 165; Fieldhouse *et al*. 2007; O'Neill 2003; Turcotte 2005; Lemyre 2016). The theory of emerging adulthood explains this cohort's lack of formal political engagement. In essence, individuals take more time to "grow out" of adolescence and, thus, remain in a transitory stage of development longer than their older counterparts, which prevents the youth from reaching lifecycle events that could increase its political participation (Arnett 2000; Howe 2020; Weiss 2020, p. 4). Giving 16- and 17-year-olds the right to vote could facilitate their withdrawal from electoral participation. This argument is linked to the notion of habitual non-

voting. Voting is conceptualized by the literature as "habit-forming;" participating in elections increases the probability that citizens will continue their electoral participation in the future and, *a contrario*, not participating in elections increases the probability that citizens will continue not voting in the future (see, e.g., Gerber *et al*. 2003; Denny and Doyle 2009; Dinas 2012). In this perspective, lowering the voting age could create the habit of *non*-voting, should newly enfranchised individuals not exercise their right to vote when they receive it (Howe 2011).

The evidence from different polities where the voting age was reduced to 16 generally contradicts this possible political outcome. The previous section on increased political participation showed that a first-time voting boost occurred in these polities and that it caused a habit of voting in subsequent elections. These findings are mitigated by the fact that habitual voting and voting turnout depend on larger factors than the legal capacity to vote. The education and familial environment of 16- and 17-year-olds, and the salience of electoral issues have an important impact on whether political participation will increase subsequently to legal enfranchisement (Eichhorn 2018a; Eichhorn 2018b; Douglas 2020, pp. 219–20; Hill *et al.* 2017). The worry that the lowering of the voting age to 16 could increase political disengagement, while not readily supported by the current data presented by different polities where the right to vote was granted to 16- and 17-year-olds, could still be materialized should the institutional change not be concurrent to other factors that are conducive to the development of habitual voting. Therefore, this negative political outcome constitutes the most persuasive argument against the enfranchisement of this age group, and, as such, informs the current study of this phenomenon.

III. Constitutionality of Disenfranchisement

An essential object of study that intervenes in the lowering of the voting age to 16 in Canada is the constitutionality of disenfranchising citizens. Despite its importance, particularly in the

Canadian setting where human rights benefit from constitutional protection through the *Canadian Charter*, this aspect of the legislative proposition is not as widely studied as the previous bodies of literature on the age status of 16- and 17-year-olds and the political outcomes of their enfranchisement. This third section explores the body of literature developed on the legality of disenfranchising members of a political community and finds that the disenfranchisement of PIPD is the most similar to the electoral disqualification of minors. My thesis responds to the paucity of legal writings on the constitutionality of excluding 16- and 17-year-olds from the franchise by reuniting the insights developed in the wider disenfranchisement corpus, notably by evaluating this phenomenon's (il)legitimate impact on equality and democratic rights, and by comparing the exclusion of this age group from suffrage to the denial of PIPD's right to vote.

3.1 Disenfranchisement and Charter-Protected Rights

The exclusion of citizens from the franchise is a potential infringement on three interlocking sets of rights protected by the Canadian Charter: freedom of expression and association, democratic rights, and equality rights. The following paragraphs explore the substance of these compound rights and how they interact with the specific disenfranchisement of 16- and 17-year-olds.

Democratic rights are protected by section 3 of the Canadian Charter: "Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein." A purely textual analysis of this provision highlights its protection of voting and electoral candidacy rights. The body of case law on the right to vote, nevertheless, treats the right to vote as an assortment of interrelated democratic rights (Dawood 2013, pp. 259–62, 280–81; Dawood 2021, pp. 115–17). These rights have been characterized by a few scholars as structural. Even though they are held by

individuals, they are contextualized in "the broader institutional framework within which rights are defined, held, and exercised" (Dawood 2012, p. 503; Dawood 2013, 267–69; Pal 2011; Feasby 2005, p. 277).

The right to vote, then, is best understood through intersecting interpretive rights. For instance, the Supreme Court of Canada states that the right to effective representation is "the idea of having a voice in the deliberations of government as well as the idea of the right to bring one's grievances and concerns to the attention of one's government representative" (*Reference Re. Provincial Electoral Boundaries [Saskatchewan]* 1991, p. 183 [*Saskatchewan Reference*]), is an integral function of the right to vote, even though certain authors argue that its vague factors of "geography, community history, community interests and minority representation," make this interpretive right's effect on the "relative parity of voting power" hard to predict and enforce (*Saskatchewan Reference*, pp. 183–85; Carter 1999; Fritz 1992; Johnson 1994; Fritz 1999). Additionally, the Supreme Court interprets the right to vote through its protection of the right to meaningful participation. Section 3, in this perspective, protects "the right to play a meaningful role in the selection of elected representatives who, in turn, will be responsible for making decisions embodied in legislation for which they will be accountable to their electorate" (*Haig*, p. 1031), and it gives Canadians the "opportunity to express an opinion about the formation of social policy and the functioning of public institutions through participation in the electoral process" (*Figueroa v. Canada [Attorney General]* 2003, par. 29 [*Figueroa*]).

Section 3 is unavoidable when observing the disenfranchisement of *any* population. The exclusion of citizens from the franchise directly robs them of their rights to effective representation and meaningful participation since they are denied access to the electoral process and, more generally, to the deliberations of government. Canadian courts adopt a stricter, more

scrutinous approach to examine potential infringements on the right to vote than the deferential treatment they use when ruling on violations of "other aspects of the democratic systems," which are depicted as more political than constitutional, thus deserving to be handled by Parliament and the legislatures rather than the judicial system (Dawood 2017, pp. 731–32; *Sauvé v. Canada (Chief Electoral Officer)* 2002, par. 9 [*Sauvé II*]). Section 3 is also protected from the application of the notwithstanding clause, contained in section 33 of the *Canadian Charter*, which gives Parliament and the legislatures the power to circumvent the judicial review of potential breaches of certain rights and freedoms. The combination of the less deferential approach adopted by the courts to determine the constitutionality of potential infringements on section 3 rights and its exclusion from the ambit of section 33 illustrates the importance of section 3 (*Frank v. Canada (Attorney General)* 2019, par. 25 [*Frank S.C.C.*]; Pal 2023, pp. 10–15).

Equality rights also intervene in the study of disenfranchisement. The first subsection of section 15 guarantees these rights: "[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability." The second subsection is not relevant in the context of the restriction of suffrage since it is not a "law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups." The objective of equality rights is delineated by the Supreme Court of Canada in the *Law v. Canada (Minister of Employment and Immigration)* case (1999, par. 51 [*Law*]), where the majority of justices asserts that said rights are meant to thwart potential discrimination and foster an equal society, echoing Justice McIntyre's understanding of these rights in *Andrews v. Law Society of British Columbia* (1989, p. 171 [*Andrews*]).

The process through which the judicial system recognizes a breach of equality rights has a tumultuous history (see, e.g., Irvine 1999; Moreau 2009). First, in *Andrews*, an "enumerated or analogous grounds" approach to section 15 is developed, where the claimant needs to prove that they suffered a differential treatment based on said grounds and that the treatment was discriminatory in "purpose or effect" (*Andrews*, p. 182). In *Law* (pars. 39, 88), the Supreme Court uses the concept of human dignity to determine if the differential treatment based on enumerated or analogous grounds is discriminatory. The literature criticizes the transformation of this concept as a legal principle because it is too subjective and essentially contested to form a manageable yardstick for courts to ascertain instances of discrimination reliably and predictably (Bateman 2012; Greschner 2001; Fyfe 2007, pp. 11–14; McCrudden 2008).[2] The Supreme Court, starting in the *Kapp* case, returns to the essence of the *Andrews* test by adopting a two-step process through which claimants must prove that the governmental action "create[s] a distinction based on an enumerated or analogous ground" and "a disadvantage by perpetuating prejudice or stereotyping" (*R. v. Kapp* 2008, par. 17 [*Kapp*]; *Withler v. Canada [Attorney General]* 2011, par. 30 [*Withler*]; *Quebec [Attorney General] v. A.* 2013, par. 324 and 418; *Fraser v. Canada [Attorney General]* 2020, par. 27 [*Fraser*]; *R. v. C.P.* 2021, par. 56 [*C.P.*]).

The disenfranchisement of children based on age is criticized as a form of discrimination by many authors (see, e.g., Grover 2011; Brando 2022; Fowler 2014; Giesinger 2017; Lau 2012; Sheppard 1992). My thesis substantiates this claim by ascertaining the discriminatory character of the electoral disqualification of minors in the Canadian setting where equality rights are constitutionally protected. It is important to keep in mind, during this process, that scholars highlight the low success rate of section 15 litigation for claimants and the Supreme Court's

reluctance to adjudicate these cases (Ryder, Lawrence, and Faria 2004; Ryder and Hashmani 2010; Koshan 2013, p. 34).

The body of literature also offers another constitutional means to protect citizens against disenfranchisement: the freedoms of expression and association guaranteed by section 2. For instance, the right to equal participation is guaranteed through spending limits, while the right to a free and informed vote refers to an elector's right "to be adequately informed of all the political positions advanced by the candidates and by the various political parties" (*Libman v. Quebec [Attorney General]* 1997, par. 47; *Harper*, par. 61; *Working Families Coalition [Canada] Inc. v. Ontario [Attorney General]* 2023; Dawood 2021, pp. 117–19). The interpretive democratic rights associated with section 2 fall beyond the scope of purely statutory disenfranchisement. Spending limits and issues of voting information are not engaged in the context of the exclusion of 16- and 17-year-olds from the federal franchise. As such, democratic and equality rights are preferred to the freedoms of association and expression as legal instruments of analysis of the federal disenfranchisement of late teenagers.

3.2 Constitutionality of the Disenfranchisement of 16- and 17-year-olds

The constitutionality of disenfranchising Canadian 16- and 17-year-olds is far from a settled issue in the literature. Indeed, Canadian positive law—meaning, the system of legal rules currently in force (Reid 2015)—has not questioned their exclusion from the right to vote in-depth yet. My thesis offers a deeper constitutionality analysis of the federal disqualification of this age group than the one offered by Canadian tribunals and legal writings on the issue.

A handful of Canadian rulings address the constitutionality of the general exclusion of children from the right to vote. Different courts shared the same conclusion that the disenfranchisement of people below the age of 18 is justified because it ensures "an informed

electorate that is capable of exercising rational and independent choice" by linking the right to vote to a citizen's maturity and capacity (*Frank S.C.C.*, par. 145; *Sauvé II*, par. 37; *Fitzgerald et al. v. Alberta* 2002, par. 53–76 [*Fitzgerald A.B.Q.B.*], confirmed by *Fitzgerald et al. v. Alberta* 2004 [*Fitzgerald A.B.C.A.*]; *Poshteh v. Canada [Minister of Citizenship and Immigration]* 2005, par. 44 [*Poshteh*]). This statement does not constitute the final verdict on the constitutionality of excluding 16- and 17-year-olds from the franchise. Three of the five opinions were emitted by the Federal Court of Appeal, the Court of Appeal of Alberta, and the Court of Queen's Bench of Alberta, whose rulings would not constitute binding precedent, should courts that fall beyond their jurisdiction decide to revisit the question in the future. Furthermore, this last court only studied the question of child disenfranchisement in *obiter dicta*. In other words, the judges' statements were not essential to the outcome of their overall decision and, as such, are not the source of binding, positive law. The Supreme Court of New Zealand highlighted an important factor that explained the issue of the *Fitzgerald* case: the Canadian court only benefitted from evidence that people below 18 years of age are incompetent (*Make It 16 Incorporated N.Z.S.C.*, par. 52). With the growing body of literature on the political maturity of 16- and 17-year-olds as evidence, Canadian courts could produce a different opinion on the statutory electoral disqualification of this age group, as evidenced by my thesis' analysis of the question.

3.3 Comparable Instances of Disenfranchisement

The wider body of literature on the constitutionality of disqualifications from the federal electorate in Canada is extensive, including many different social groups. A few authors found similarities between the disenfranchisement of children (including late teenagers) and the exclusion of different social groups from suffrage. For example, the marginalization of women to the private sphere through the coverture system, which gave men the unilateral power to

represent their daughters and wives, was compared to the fiduciary representation of children by their parents (Campiglio 2005; Cohen 2005, pp. 227–29; Wall 2014; Wall 2021, pp. 24–27). This instance of disenfranchisement, however, was formally ended before the entrenchment of the *Canadian Charter*. The electoral disqualification of mentally disabled citizens based on their political incompetence was linked to the exclusion of children from suffrage on the very same basis (Schriner 2002; López-Guerra 2012; López-Guerra 2014; Mráz 2020; Munn 2018). This comparative case is useful in the study of the lowering of the voting age to 16. Not only is the objective of disenfranchising PIPD similar to the disqualification of 16- and 17-year-olds, but the competence-based electoral disqualification of PIPD also benefits from legal analyses originating both from Canadian and international law.

There exist two other grounds through which polities justify the status-based disenfranchisement of specific social groups to this day: residency and prisoners. The comparison between these groups and 16- and 17-year-olds, nevertheless, suffers from the radically distinct justification for their electoral disqualification. For instance, the reasons why expatriates are disenfranchised—preserving strong ties between electors and the polity—and why prisoners are electorally disqualified—preserving the moral worthiness of the electorate—are too different from the purpose of competence-based disqualifications based on age, reducing the persuasive strength of a comparison between these cases (the distinction between the disqualification of the youth and inmates is notably observed by former Chief Justice McLachlan in *Sauvé II*, par. 37).

IV. Summary

This literature review explored the three intersecting bodies of literature that intervene in the study of the disenfranchisement of 16- and 17-year-olds: the corpus of texts on their status as

partial adults, the political outcomes of enfranchising them, and the constitutionality of disenfranchising them. First, the body of literature on the age status of late teenagers' positive treatment of the political competence and citizenship of 16- and 17-year-olds is more convincing than the account of their political immaturity. Second, considering this finding, the positive political outcomes of enfranchising them (i.e., effecting a durable increase in their electoral participation) are more probable than the negative outcomes of threatening the democratic process and the quality of electoral outcomes, which both rest on the assumption that all children are politically incompetent. The risk of voter fraud is a more convincing consequence of the enfranchisement of politically immature citizens for the democratic system than the quality of voters' choices and, as such, constitutes an effective justification for their electoral disqualification. The worry that the enfranchisement of 16- and 17-year-olds could lead to more political disengagement is the most persuasive counterargument to the proposed institutional change, which my thesis disproves with the evidence from Scotland, which lowered its minimum voting age to 16 in 2015. Third, the literature's coverage of the constitutionality of disenfranchising Canadian 16- and 17-year-olds is not substantiated enough. It could benefit from the larger body of jurisprudence (1) on general disenfranchisement and its constitutionality, in relation to sections 1 and 3, and subsection 15(1) of the *Canadian Charter* and (2) on the disenfranchisement of other social groups, like prisoners, women, and PIPD.

The thesis responds to the shortcomings of the literature by observing the disenfranchisement of 16- and 17-year-olds in Canada, a geographical location that is generally missing from most studies of the subject, and by building a normative argument not only based on evidence on the status of 16- and 17-year-olds and the political consequences of their

enfranchisement but also on the constitutional aspect of their exclusion from suffrage, an aspect that is understudied by the literature.

CHAPTER 3 – INCREMENTAL EXPANSION OF THE FEDERAL FRANCHISE IN CANADA

The scope of the franchise determines who has – and who does *not* have – the power to influence the selection of democratic representatives by participating in the electoral process. It is the prerogative of Parliament to establish the boundaries of the federal franchise. Historically, two distinct yet overlapping procedures have been used to effect changes to this institution: the adoption and reform of electoral statutes and conventions, and the entrenchment of the right to vote in the *Constitution Act, 1982*. These procedures matter because they determine how the disenfranchised should request the extension of the franchise. In a system where the right to vote is only subject to parliamentary sovereignty, those excluded from suffrage can solely effect an institutional change through political struggle that can eventually lead to a legislative concession. Since 1982, the constitutional right to vote under section 3 of the *Canadian Charter* creates an additional pressure tactic for the disenfranchised: the process of judicial review. Indeed, they can submit their situation to the attention of the courts, who can examine the constitutionality of their exclusion from suffrage and, in line with their power to remedy inconsistencies "with the provisions of the Constitution," could declare their disenfranchisement as invalid, should it be inconsistent with sections 1 and 3 of the *Canadian Charter* (*Constitution Act, 1982*, subsec. 52[1]). The activities of litigation and political struggle, which can be done through a host of other connected tactics like "protest, direct action tactics, coalition-building, campaigning, public education, training, media work, service provision, [...] and lobbying," are useful tools to effect institutional change (Dobrowolsky 2014, p. 162; Barnes and Burke 2006, p. 497).

This chapter explores how voting was historically extended to different social groups in Canada and how these inclusions should inform the process and outcome of extending the right to vote to 16- and 17-year-olds. I argue that the extension of the right to vote to citizens

belonging to this age group could be obtained through the concurrent pressure tactics of political mobilization and judicial review litigation and that this institutional change would be coherent with the evolutionary nature of the Canadian franchise, as exemplified by its historical extensions.

The selection of the surveyed periods and historical examples of enfranchisement matters because it can introduce a significant problem. The validity of my findings could be questioned if they overlook some unchosen cases, or if they overvalue the significance of the chosen cases. The selected historical cases are not problematic in themselves since they constitute most of the major available instances of enfranchisement from Confederation to the time of writing. An important question needs to be answered, then: why was this period chosen as the starting point of the analysis? The adoption of the *British North America Act* marks the creation of the Dominion of Canada (*Constitution Act, 1867*, sec. 3). The federal arrangement persists nowadays since the *Constitution Act, 1867* (the modernized name of the *British North America Act*) is an integral part of the Canadian Constitution (*Constitution Act, 1982*, sec. 52(2)). Furthermore, parliamentary sovereignty, which governed the way the right to vote was managed before its entrenchment in the *Canadian Charter*, was formally recognized as a constitutional principle in 1867 (*Constitution Act, 1867*, preamble; Mallory 1944; Lovell 2017).

The argument is developed in two parts. First, the acquisition of the right to vote through political struggle, which characterizes the extension of the franchise before the adoption of the *Canadian Charter*, is explored in four iterations: the enfranchisement of women, Indigenous peoples, Asian Canadians, and 18- to 20-year-olds. Second, the expansion of the right to vote via judicial review and the *Canadian Charter* is investigated through the inclusion of judges, prisoners, mentally incapable citizens, and expatriates in the franchise. The third part

summarizes the main findings of this chapter and applies them to the lowering of the voting age to 16 in Canada.

I. Pre-Charter Extension of the Franchise: Mobilization and Concessions

As a constitutional doctrine, parliamentary sovereignty gives legislative assemblies the prerogative to legislate (that is, to make and repeal statutory texts) at the exclusion of other bodies, like the court system (Dicey 1959, p. 40). It is nevertheless important to note that the notion of parliamentary sovereignty between Confederation and the entrenchment of the *Canadian Charter* was not *absolute*. Indeed, even though the courts were not given the power of judicial review of constitutional rights, they could invalidate legislation based on the federal division of powers. Any text that was enacted "beyond the powers of the government that enacted it" could be declared "to be null, void, or inoperative (for the reason of their being ultra vires)" by justices (Bird 2018, p. 759; Corbett 1998, p. 43).

The guiding principle of parliamentary sovereignty imported from the English legal system affects the way human rights are protected. Instead of giving courts the power to review legislation by human rights standards, the interplay between Parliament, the people, and civil disobedience is presented as an "external" limit to parliamentary sovereignty, which can serve to protect human rights (Bayefsky 1983, p. 241). In other words, the will of the majority constitutes the main restriction to Parliament's power to infringe on rights and freedoms, through "the threat of widespread civil disobedience or political unrest or dissatisfaction" (Bayefsky 1983, p. 241). A considerable consequence of this dynamic is the need for minority social groups to adapt their demands to appeal to the majority. Since they cannot access the courts to validate their claims, these minority groups have to challenge derogations to human rights through political struggle against the legislator and the majority social group.

The expansion of the franchise before the adoption of the *Canadian Charter* followed this logic of minority-majority political dispute. In fact, the evolution of this institution from its initial, restrictive boundaries can be partly attributed to the struggle of disenfranchised peoples against the status quo. At Confederation, suffrage was limited to propertied men above the age of 21 (Courtney 2004). This institutional design was based on provincial, statutory restrictions to the franchise (Perrault 2021, p. 58). Yet, in the period following 1885, when the federal right to vote was first established in a statute by Parliament, this institution would go through multiple changes with the gradual inclusion of different social groups.[3] Women, Indigenous Peoples, Asian Canadians, and 18- to 20-year-olds were all given the right to vote in federal elections, in a process of strategic legislative concessions to their demands.

The goal of this section is to argue that the inclusion of the previous social groups in the federal franchise through the process of legislative responses to political mobilization points to the evolutionary nature of this institution. The following subsections explore the commonalities and differences between the approaches adopted by women, Indigenous peoples, Asian Canadians, and 18- to 20-year-olds to gain the right to vote as a whole, and their legislative outcomes, rather than treating each of these iterations of institutional changes independently.

Before developing this idea further, it is relevant to explain why I chose to study the instances of enfranchisement together. The division between the surveyed social groups is quite artificial since there exist interactions between them. Indeed, an intersectional understanding of social structures considers that the lived status of people originates from multiple interacting axes "of social division, be it race or gender or class" (Collins and Bilge 2016). In the specific context of the Canadian franchise, different justificatory bases could concurrently be used to exclude certain individuals from the electoral process. For instance, Indigenous women, Asian

Canadian women, and women below the age of 21 were not given the right to vote at the same time as White women aged 21 and above by virtue of belonging to two or more disenfranchised groups. In other words, the integration of one axis of social division into the franchise did not mean that the others were *ipso facto* enfranchised. While White women above the age of 21 gained the right to vote in 1918, Asian Canadians only did so in 1948, Indigenous peoples, in 1950 (for the Inuks) and 1960 (for First Nations members), and 18- to 20-year-olds, in 1970. The distinction between social groups, while coherent with the historical waves of enfranchisement at the federal level, is not an absolute practical necessity. As the next paragraphs demonstrate, a direct comparison of these instances of institutional changes serves to highlight the shared methods used by said groups and the similar legislative responses to their demands.

Different moral and normative sources were used to exclude women, Asian Canadians, Indigenous peoples, and 18- to 20-year-olds from the federal franchise. The exclusion of Asian Canadians and Indigenous peoples was explicitly linked to a form of ethnic nationalism, an ideology that "demand[s] that political institutions and borders be made to conform with the best interests of the ethnic group" (Connor 1973, p. 2). These two social groups were depicted as not belonging to the "ethnic representations" of Canadian nationhood (Igartua 2006; Stanley 2016; Kaur Bains and Kaur Sandhra 2019). Before the date of their relatively unconditional enfranchisement, Canadians of Asian origins (including Chinese Canadians, Japanese Canadians, and Canadians "from the Indian subcontinent") were categorically excluded from the franchise because they were "not of Anglo-Saxon origin" and Indigenous peoples were maintained in an effective state of disenfranchisement even when they were gradually given the right to vote because it was a process of assimilation: they were only allowed to participate in elections if they denied their Indigenous status (Stanley 2016; Belshaw 2016, pp. 259–260; Kaur Bains and Kaur

Sandhra 2019; Dubé 2017; Dupuis 2010, p. 173; *The Collector of Voter for the Electoral District of Vancouver City and the Attorney General for the Province of British Columbia v Tomey Homma and the Attorney General for the Dominion of Canada* 1902; Perrault 2021, p. 105; Sanders 1983, p. 318; Hogan 2015).[4] The restriction of women's political rights was attributable to the patriarchal division of powers in Canadian society, where women were subjugated to the authority of their male counterparts in the private sphere and prohibited from participating in the public sphere (see, for instance, Lamoureux and Michaud 1988; Choquette 2020). The disenfranchisement of people below 21 years old was due to Parliament's adoption of this age as the gateway to majority (Lortie 1991; Belshaw 2016, p. 147). Any citizen below that age, then, was excluded from the franchise for not being an adult. These different moral arguments still led to the same outcome: statutory exclusions of these social groups from the federal franchise, either through federal or provincial legislation.[5]

The disenfranchisement of the four groups of Canadians was not a permanent fixture of federal suffrage. It is appropriate to study how this institution was transformed to include them. To this effect, the government's political calculations are of paramount importance, particularly in light of Canadian parliamentary sovereignty, which, it bears repeating, gives the legislative branch the nearly exclusive power to, notably, regulate the franchise (as long as it respects the constitutional division of federal and provincial powers). For instance, the Borden administration, in 1917, enfranchised many citizens (women, Indigenous peoples, and people under 21) based on their, or their male relatives, belonging to the Canadian Forces, with the *Wartime Elections Act* and the *Military Voters Act*. Nevertheless, this decision was generally not motivated by the mobilization of these groups, but by the potential increase in voters that the institutional change would bring: the right to vote was only granted to citizens who were

"potentially favourable to the government in power," and conscientious objectors were expressly disenfranchised (Perrault 2021, pp. 81–82).

Nevertheless, the government's extension of suffrage in the pre-*Charter* era did not operate in a vacuum. The sociopolitical mobilization of the disenfranchised in their acquisition of the right to vote had a variable influence on this institution's changes. Every instance of relatively unconditional enfranchisement surveyed in the present section is marked by the federal government's strategic response to one form or another of mobilization. The extension of the federal franchise in the 1867–1981 period is attributable to the Canadian government first and foremost since it is well within its jurisdiction to determine the contours of that institution. My intention is not to dispute that undeniable fact, but to determine that the government's decision to carry out these institutional changes was a calculated response to, among other elements, the struggle of the concerned disenfranchised populations.

The relationship between sociopolitical mobilization and legislative concessions is more easily noticeable in the enfranchisement of women and Asian Canadians. The two communities' activism to achieve suffrage is more visibly recorded. For instance, both groups organized into advocacy networks and petitioned the government to effect their enfranchisement. Canadian women created pressure groups, such as the National Council of Women and the Dominion Women Enfranchisement Association, influenced by the experience of foreign and international suffragette movements, notably from the United States and the United Kingdom, and they worked within the liberal framework of the Canadian state to achieve their inclusion in the institution—and, more broadly, in citizenship (see, e.g., MacDonald 2017; Choquette 2020, p. 20; Courtney 2004, pp. 30–33). The Asian Canadian communities operated similarly, organizing into pressure groups, gaining the support of political parties and international actors, and directly

petitioning the government to acquire the right to vote (Lee 1976; Kaur Bains and Kaur Sandhra 2019; Yu 2013; Bangarth 2008). The two social groups managed to influence the government's decision to include them in the franchise, even though their contribution is only one of many strategic considerations. To name a few, the shifting public opinion over the merits of disenfranchising women and Asian Canadians, and the potential electors' support or opposition to the reigning political party also impacted the legislative outcome of extending the right to vote to these two groups.

The enfranchisement of Indigenous peoples and 18- to 20-year-olds presents a blurrier connection between mobilization and concession. First, Dubé (2021) argues that the extension of suffrage to Indigenous peoples is attributable in large part to the government's attempt to make its electoral system in line with its international commitment to human rights. In this perspective, Indigenous actors only had a negligible contribution to the government's decision to enfranchise them. That being said, Dubé agrees with Gorman's (2007) assertion that even though the "fight" was not necessarily led by Indigenous peoples, there still was a political struggle between proponents and critics of the extension of the right to vote to Indigenous populations in Canada. There also were Indigenous communities who supported their enfranchisement (Little 2018; Kirkby 2019). In other words, there still was a form of sociopolitical mobilization, although it was not entirely led by the disenfranchised. Second, the enfranchisement of 18- to 20-year-olds is generally attributable to the federal government's initiative; the statute reducing the voting age to 18 was passed "although there had been no strong public demand for such a change" (Lortie 1991, p. 47). Nevertheless, the introduction of the debate surrounding the lowering of the voting age was influenced by "precedents set by the provinces," which were themselves affected in some measure by the mobilization of youth movements (Hyde 2001, p. 75; for the influence of

youth movements on the Québec discourse surrounding the lowering of the voting age to 18, see LeBrun and Bienvenue 2017).

Before examining the post-Charter extensions of the federal franchise, it is useful to survey the arguments used by the government to enfranchise 18- to 20-year-olds, seeing as this is the most similar case of expansion of the franchise to the proposed institutional change. The Trudeau government justified its decision to lower the voting age from 21 to 18 in 1970 using three arguments, that were summarized by the Royal Commission on Electoral Reform and Party Financing: 18- to 20-year-olds were deemed to (1) be endowed with enough "'adult' responsibilities" to "have a sufficient stake in the community," (2) have "the ability to exercise a mature and informed vote," and (2) demonstrate "responsible citizenship," meaning that they "generally act[ed] responsibly when they participate[d] in public affairs" (Lortie 1991, pp. 47–49).

II. Post-Charter Extension of the Franchise: Right to Vote and Constitutional Litigation

The *Canadian Charter* introduced a new avenue for disenfranchised populations to pressure the federal government into extending the franchise to them: constitutional litigation. The affected citizens can contest their statutory exclusion from the federal franchise based on its contravention of their right to vote, contained in section 3 of the *Canadian Charter*. The federal government could justify this institutional design through the use of section 1, by qualifying it as a "reasonable limit[...] prescribed by law as can be demonstrably justified in a free and democratic society." Should the competent courts find that their statutory disenfranchisement is not a reasonable limit to the right to vote, then they are empowered, through the application of section 52 of the *Constitution Act, 1982*, to strike down legislation that is incompatible with constitutional provisions.[6] To do so, the magistrates can use different techniques: they "may

simply strike down [the impugned legislation], strike [it] down and temporarily suspend the declaration of invalidity, or [...] resort to the techniques of reading down or reading in" (*Schachter v. Canada* 1992, pp. 695–96 [*Schachter*]). The Courts' goal, when determining which of these techniques to use, is to respect the dual commitment to the Constitution and the objectives underlying the observed legislation (Rogerson 1987, p. 288; *Schachter*, p. 700).

These two objectives are tied to the process of Charter dialogue between the judicial and legislative branches of government, where Parliament and the legislatures, after a judicial declaration of invalidity, have "a range of choices as to the design of the corrective legislation—legislation that would accomplish the same objective, or nearly the same objective, as the law that was struck down by the courts" (Hogg, Bushell, and Wright 2007, p. 3; see also Hogg and Bushell 1997; Roach 2013, pp. 534–36). Even in the instances where the courts applied the doctrines of severance (where only the unconstitutional parts of the legislation are declared to be of no force or effect) and reading in (where something that was erroneously missing from the legislative provision is added to it), amounting to a form of lawmaking that is usually reserved to the legislative branch, the government still needed to choose to comply with the judicial decision and modify its invalid legislation since "courts have no physical or economic means to enforce their judgments" (*Doucet-Boudreau v. Nova Scotia (Minister of Education)* 2003, par. 31; Roach 2013, pp. 534–35; Duclos and Roach 1991, p. 13).

In this second section of the chapter, I review the major instances of judicial extension of the federal franchise by examining their commonalities and differences, and the limits of the judicial process as a pressure tactic. Through this review, I develop the argument that the constitutionalization of the right to vote has strengthened the evolutionary nature of this right by protecting the notion of universal suffrage. The link between the entrenched right to vote and

universal suffrage has notably been reiterated by the Supreme Court in different decisions (*Opitz v. Wrzesnewskyj* 2012, par. 10; *Sauvé v. Canada (Attorney General)* 1993, p. 487 [*Sauvé I*]; *Sauvé II*, par. 33).

The instances of judicial enfranchisement of Canadian judges, prisoners, mentally incapable citizens, and expatriates are explored in the next paragraphs. First, I notice that the *rationes decidendi* (the reasoning used by judges to justify their decision) are quite similar. Second, I investigate the analogous legislative responses to the judgments. Third, I summarily review the limitations of constitutional litigation as a means to effect institutional changes to the federal franchise.

2.1 Similar Judicial Reasoning

Through Charter litigation, the government can justify the statutory exclusions of certain populations from the federal franchise, even though they constitute an infringement on rights and freedoms guaranteed by the constitutional document, as long as they are "reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society," as per section 1 of the *Canadian Charter*. The Supreme Court of Canada, in its *Oakes* ruling, provides a test to verify the reasonableness of violations to constitutional rights and freedoms. In short, statutory disenfranchisement, to be constitutionally valid, needs to (1) serve a pressing and substantive objective, (2) be rationally connected to said legislative purpose, (3) constitute a minimal impairment to rights and freedoms, and (4) present proportionality between its deleterious effects on rights and freedoms and the salutary benefits of its objective.

The *Charter*-based challenges to the exclusion of different populations from the federal franchise were eventually successful, either at the trial court or through appeals. The judicial reasoning the justices used to ground their decision to declare the disenfranchisement provisions

as unconstitutional is quite similar. Indeed, while they all agreed that the objectives powering these statutory schemes were pressing and substantial, federal judges argued that the disenfranchisement of prisoners and expatriates was not rationally connected to its legislative purpose and that its negative effects outweighed the benefits gained from achieving said purpose. They also asserted that the overbreadth of the disenfranchisement of PIPD, expatriates, and prisoners meant that these statutory measures did not meet the minimal impairment element of the *Oakes* test.

First, the lack of a rational connection between the objective and the exclusion measures is an argument that delegitimizes their compatibility with the Constitution. The statutory disenfranchisement of prisoners was depicted as incoherent with the objectives of (1) educating citizens about respecting the law because prisoners are not given the means to learn about "democratic values and social responsibility," (2) protecting the value of the electoral process from "unworthy" voters because it runs counter to the respect of citizens' inherent dignity in a democratic system, and (3) punishing offenders because disenfranchisement constitutes an arbitrary denial of the offender's right to vote that is not necessarily connected to their criminal offence and, more generally, it does not "deter crime or rehabilitate[...] criminals" (*Sauvé II; Belczowski v. Canada* 1991 [*Belczowski F.C.*]). Justice Penny of the Ontario Superior Court of Justice also deemed the exclusion of citizens who had left Canada for five years or more from the federal franchise to not be rationally connected to the objective of ensuring electoral fairness since the time limit of five years does not correspond to a necessary reduction in the expatriates' commitment to Canada (*Frank et al. v. Canada [Attorney General]* 2014; see *Frank S.C.C.*, par. 59–65).

Second, the disproportionality between the salutary effects of the legislative objective of disenfranchising some populations and its impacts on their right to vote is a common cause of the provisions' invalidity. The benefits of barring a few non-resident citizens from voting, through the preservation of electoral fairness for the majority of voters in particular ridings, were negligible, while the denial of expatriates' fundamental right to vote directly robbed them of their capacity to participate in policymaking (*Frank S.C.C.*). In a similar fashion, the disenfranchisement of prisoners did not provide substantive benefits to Canadian society, while it created a significant breach in the prisoners' right to vote, and capacity to "experienc[e] any form of rehabilitative influence which could otherwise be felt through the participation in the democratic electoral process (*Sauvé v. Canada [Chief Electoral Officer]* 1995, pp. 915–16; *Sauvé II*, par. 57–61).

Third, the overbreadth of the disenfranchisement provisions is another justification for their unconstitutionality because it affects citizens who should not be targeted by the exclusion, leading to a failure at the minimal impairment element of the *Oakes* test. The exclusion of all citizens affected with a "mental disease" from the franchise also had an effect on citizens who, even though they were affected by a mental handicap, were still capable of voting (*Canadian Disability Rights Council v. Canada* 1988 [*Canadian Disability Rights Council*]). The same can be said about the disenfranchisement of all expatriates who left Canada for five years or longer; a lot of non-residents' right to vote was affected, notwithstanding the fact that they could still be committed to the state and affected by its laws (*Frank S.C.C.*). The blanket ban of inmates from the federal franchise also suffered from this overbreadth, targeting all offenders without "distinguish[ing] the type of offender whose indecency is so profound as to threaten the principles of our free and democratic society" (*Sauvé v. Canada [Chief Electoral Officer]* 1996,

p. 899 [*Sauvé I F.C.*]; *Sauvé I*; *Sauvé v. Canada [Attorney General]* 1992; *Sauvé II*; *Belczowski F.C.*; *Belczowski v. Canada* 1992).

It should be mentioned that the rejection of the disenfranchisement provisions was not a position shared by the entirety of the magistrates who examined them. The justices who argued for maintaining the statutory disenfranchisement of certain populations, either in dissenting opinions or in rulings that were overturned by subsequent appeals, justified their position with an appeal to judicial deference to Parliament, among other considerations (see Justice Gonthier's dissenting opinion in *Sauvé II*; Justices Côté and Brown's dissenting opinion in *Frank S.C.C.*, par. 159; Chief Justice Monnin's reasoning in *Badger v. Canada [Attorney-General]* 1988; the majority opinion in *Sauvé v. Canada [Chief Electoral Officer]* 1999; the majority opinion in *Frank O.N.C.A.*, par. 54; Manfredi 2007). Nonetheless, with respect, their position is not as convincing as the previous group of judges' opinion. The right to vote occupies a particular position in the *Canadian Charter* because it is protected from the application of the notwithstanding clause, and it warrants a more scrutinous judicial approach to its potential infringements.[7] Accordingly, the importance that is constitutionally devoted to the right to vote prevents Canadian courts from deferring to Parliament when they find that it did not convincingly demonstrate that the disenfranchisement provisions are coherent with the *Canadian Charter* (see Pal 2023, pp. 11–12).

2.2 Similar Legislative Results

The declaratory judgments that were petitioned by different disenfranchised groups were instrumental in effecting legislative responses from Parliament that increased their access to the franchise. It is important to note that the legislative changes to the federal franchise were the result of more than the rulings that preceded them. Particularly, the disenfranchisement of federal

judges and Canadians with a mental handicap were already being reassessed by Parliament when they were submitted to the scrutiny of the Federal Court (Davidson and Lapp 2004; *Muldoon v. Canada* 1988 [*Muldoon*]; Perrault 2021, pp. 128–29). Nevertheless, even in these two instances, judicial intervention caused a form of Charter dialogue, where the legislator chose to amend the disenfranchisement provisions targeted by declarations of invalidity. In particular, the disenfranchisement of judges, people with mental disabilities, and inmates "serving less than two years in correctional institutions" was amended by Bill C-114 in 1993, following *Muldoon*, *Canadian Disability Rights Council*, *Belczowski*, and the first *Sauvé* case. Bill C-76, which amended the disenfranchisement provisions that targeted the remaining inmate populations and expatriates in 2018, has a more strenuous link with the corresponding judicial decisions. The statutory enfranchisement of prisoners happened 16 years after the second *Sauvé* case, while the *Frank* judgment was delivered *after* the adoption of Bill C-76 (Duncan 2020, p. 170). The fact remains, however, that the intervention of Canadian courts, while not the only driver for the enfranchisement of different populations, still played a role in this process.

2.3 Limits to Constitutional Litigation as an Instrument of Enfranchisement

Constitutional litigation as a means to pressure the government into extending the federal franchise presents some notable limits that hinder the effective realization of the ideal of universal suffrage. Some of the limits can be understood as problems of access to justice because they either contravene "the procedural dimension (the availability of means to resolve or prevent conflicts) [or] the substantive dimension (the just and equitable character of the result)" of justice (Lafond 2012, p. 15; Buckley 2008, p. 567).[8] The costs of constitutional litigation are sizable, and they disproportionately affect claimants who generally are not as wealthy as the government (Sharpe 2016, p. 6; Berger 2002). Concerning the disproportionate resources of both parties, the

provision of "adequate and complete evidence" by claimants is more difficult than it is for their adversary. This imbalance matters because the quality and the persuasiveness of the body of evidence presented by both parties determine the issue of the case in a contradictory judicial system; parties who do not have the means to ensure these evidentiary qualities are less likely to win their case (Power, Larocque, and Bossé 2012).

Other limits can be attributed to the specific situation of 16- and 17-year-old claimants. An important problem with constitutional litigation for this age group is the length of the overall process. As the *Fitzgerald* case demonstrates, the timing of litigation needs to correspond to the age of the litigants. If they were to reach the age of 18 before the issue of the case (including possible appeals to higher courts), then the Court would not be able to offer an appropriate remedy to their disenfranchisement, since "no present live controversy exists which affects the rights of the part[y]" (*Borowski v. Canada [Attorney General]* 1989, p. 353). Another limit to litigation as a way to increase the federal franchise is the sociocultural makeup of the legal system. Since the system is "designed with the average, middle-class, middle-aged, white male primarily in view," citizens deviating from this norm, like young people, are not reflected in the composition of the courts and the legal profession, which are, therefore, less likely to grasp their lived reality (Macdonald 1990, p. 299; Lafond 2012, p. 89).

III. Historical Extensions of the Franchise and the Lowering of the Voting Age

The mobilization-concession process and constitutional litigation need to inform the debate about lowering the voting age to 16 in Canada. These two phenomena have historically effected lasting changes to the federal franchise. Thus, they are both relevant to any proposition of enfranchisement. The entrenchment of the right to vote in the *Canadian Charter*, although it empowered the courts to strike down unconstitutional disenfranchisement provisions, did not

dismiss the importance of the mobilization-concession process. Indeed, the regulation of the federal franchise remains within the jurisdiction of Parliament. Even if the judicial system were to declare the invalidity of certain legislative restrictions to suffrage, it is still the prerogative of the legislator to comply with the judgment and amend the legislative scheme that is incoherent with constitutional requirements. Therefore, disenfranchised groups must pressure this entity not only through constitutional litigation but also through sociopolitical mobilization.

The proponents of the reduction of the federal voting age to 16 make use of concurrent pressure tactics to achieve their goal, which itself is consistent with the ideal of universal suffrage that underlies the constitutionalized right to vote. On one hand, there is a growing movement demanding the reduction of the federal voting age to 16. For example, the Vote16 Canada campaign regroups different collaborators that work towards this goal, including Children First Canada, the Canadian Coalition for the Rights of Children, and Unicef Canada. The demand reached the formal political sphere. As the introductory chapter exposed, MPs and Senators from different political affiliations have proposed private members' public bills to introduce this institutional change. Nonetheless, the concession stage has yet to be reached since the bills have not become law. On the other hand, there is currently a court challenge to the federal voting age, filed in December 2021 at the Ontario Superior Court of Justice (*Penney-Crocker* et al. *v. Canada* 2021).[9] The constitutionality of the federal voting age has yet to be scrutinized by a court. The issue of this constitutional litigation process could differ from the conclusion reached by the Alberta Court of Queen's Bench in the *Fitzgerald* case, where the provincial Albertan voting age was argued by Justice Lefsrud to be a justified limit to the parties' right to vote.

The universal franchise, which is "the modern precept that all citizens are entitled to vote as members of a self-governing citizenry," should mandate the inclusion of 16- and 17-year-olds in this institution (*Sauvé II*, par. 33). The arguments used to enfranchise 18- to 20-year-olds in 1970 could very well be used to justify the lowering of the voting age to 16. 16- and 17-year-olds are involved in the Canadian community, are politically mature, and present responsible political attitudes. These three facts were observed by the Royal Commission on Electoral Reform and Party Financing as early as 1991, yet it asserted that they were insufficient to warrant the late teenagers' enfranchisement because of they are not adults, they still require their parents' consent "for many important decisions," and most democracies maintained the voting age at 18 (p. 49). The developments in the international lowering of national and subnational voting ages to 16, and the legislator's inclination towards extending rather than restricting the federal franchise (exemplified through the enfranchisement of all the surveyed social groups) make the continuous disenfranchisement of 16- and 17-year-olds difficult to defend rationally.

IV. Summary

In this third chapter, I explored the historical extensions of the federal franchise in Canada to determine that the lowering of the voting age to 16, as a change to this institution, would be consistent with the processes and outcomes of the evolution of the right to vote in federal elections since Confederation. In light of Charter dialogue and the persistence of parliamentary sovereignty, the process of mobilization-concession remains a relevant means to effect federal enfranchisement in the same capacity as constitutional litigation, even after the entrenchment of the *Canadian Charter*. The two procedures of enfranchisement, in light of their positive effect on the extension of the federal franchise to women, Indigenous peoples, Asian Canadians, 18- to 20-year-olds, judges, PIPD, prisoners and expatriates point to the evolutionary nature of the federal

franchise. Advocates of the lowering of the voting age to 16 are making use of both processes. These insights provide positive contextual evidence to support the argument that the proposed change to the franchise is consistent with the progressive nature of this institution.

CHAPTER 4 – UNCONSTITUTIONALITY OF THE FEDERAL DISENFRANCHISEMENT OF 16- AND 17-YEAR-OLDS IN CANADA

The Canadian approach to the protection of the right to vote differs from the ones adopted in other Commonwealth jurisdictions. In lieu of legislative bodies constituting the ultimate safeguard of rights and freedoms, the entrenchment of the *Canadian Charter of Rights and Freedoms* (hereafter, the *Canadian Charter*) shifted this protective role to the judicial system. These approaches lead to different results when the claimants engage with courts to contest legislative infringements on their democratic rights. For instance, New Zealand magistrates can only use declaratory relief to establish the existence of a legislative incompatibility with the right to vote, while Canadian judges are empowered to strike down the impugned legislation. In line with the adoption of a parliamentary, rather than constitutional, bill of rights in New Zealand, legislative processes are a more relevant practice than judicial review to guarantee legislative compliance with the right to vote—and, more widely, human rights (on this point, see Hiebert and Kelly 2015). For example, the New Zealand Attorney General reports potential legislative incompatibilities with human rights protected by the *New Zealand Bill of Rights Act 1990* to parliamentarians.

The current chapter does not aim to contribute to the debate as to which process is normatively better.[12] Furthermore, I do not wish to repeat the points developed in the third chapter, where constitutional litigation was depicted as one of the processes of enfranchisement. Instead, my goal is to demonstrate that the exclusion of 16- and 17-year-olds from the federal franchise in Canada is not a reasonable limit to their Charter-protected democratic and equality rights. To reach this conclusion, I analyze the relationship between their statutory disenfranchisement and their two rights through the constitutionality test set out in the *Oakes* ruling, using comparative insights developed in domestic, foreign and international bodies of

case law on the disenfranchisement of persons with intellectual or psychosocial disabilities (PIPD) and the exclusion of 16- and 17-year-olds from the New Zealand franchise.

This chapter is divided into four parts. First, I briefly overview the relevant domestic provisions that apply to said analysis. Second, I determine that the *Oakes* test can be applied to the federal disenfranchisement of 16- and 17-year-olds because it is a *prima facie* (at first view) infringement on their section 3 and subsection 15(1) rights that is prescribed by law. Third, I explore the four steps of the test: is the objective pressing and substantial? Is there a rational connection between the objective and the infringement on the two sets of rights? Are the rights minimally impaired? Do the salutary benefits of disenfranchisement outweigh its deleterious effects on protected rights? I argue that this statutory measure fails the *Oakes* test at the minimal impairment and balancing elements of the proportionality branch and, as such, constitutes an unreasonable limit to rights guaranteed by section 3 and subsection 15(1) of the *Canadian Charter*. Fourth, in summary, I assert that the provision of the *Canada Elections Act* that prohibits 16- and 17-year-olds from qualifying as electors unjustifiably violates two of their constitutional rights and, in consequence, should be of no force or effect.

I. Relevant Legal Provisions

It is useful to reproduce the legal provisions that are referenced in the following analysis here. The main impugned section, which is the central focus of the chapter, is contained in the *Canada Elections Act* (2000):

> **3.** Every person who is a Canadian citizen and **who on polling day is 18 years of age or older** is qualified as an elector. (Emphasis added.)

The *Canadian Charter* is the instrument through which the rights and freedoms of Canadian citizens are protected against unreasonable legislative interference:

> **1.** The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.
>
> **3.** Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.
>
> **15.** (1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, **age** or mental or physical disability. (Emphasis added.)

The *Constitution Act, 1982* provides the supremacy clause through which magistrates can find remedies should inconsistencies be discovered between provisions of the *Canadian Charter* and other statutes:

> **52.** (1) The Constitution of Canada is the supreme law of Canada and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

II. Disenfranchisement as a Statutory Violation of Section 3 and Subsection 15(1) of the Canadian Charter

Two conditions need to be met to ascertain the reasonable character of a violation of sections of the *Canadian Charter* through the *Oakes* test. First, there needs to be a limitation to a right or freedom. Second, the limitation must be "prescribed by law." In the current part, I assert that these two conditions are met by the federal disenfranchisement of 16- and 17-year-olds: it is a violation of the rights contained in section 3 and subsection 15(1) of the *Canadian Charter*, and it is provided by a statute. These statements are visited in the three next sections.

2.1 Disenfranchisement as a Violation of Section 3 of the *Canadian Charter*

Canadian courts, when faced with issues of statutory voting disqualifications, have consistently treated them as violations of the right to vote protected by section 3 of the *Canadian Charter* (see, e.g., *Sauvé I*; *Canadian Disability Rights Council*; *Muldoon*; *Frank S.C.C.*, 2019). Indeed, these disqualifications directly affect the "right of each citizen to participate in the electoral

process," which is the main goal of this constitutional provision, according to the majority in the *Figueroa* case (par. 26). As such, any restriction on the capacity of every Canadian citizen to vote violates section 3 (*Belczowski F.C.*, p. 159; *Fitzgerald A.B.Q.B.*, par. 14).

The disenfranchisement of 16- and 17-year-olds from federal elections is the direct effect of section 3 of the *Canada Elections Act*, which prohibits any person who is below the age of 18 on polling day from qualifying as an elector. As such, this legal provision violates these citizens' right to vote since they are prevented from participating in the electoral process, by virtue of not meeting the required age threshold.

2.2 Disenfranchisement as a Violation of Subsection 15(1) of the *Canadian Charter*

Statutory violations of constitutionally protected equality rights are more difficult to establish than contraventions of democratic rights. As a reminder, the purpose of equality rights is to prevent "governments from making distinctions based on the enumerated or analogous grounds that: have the effect of perpetuating group disadvantage and prejudice; or impose disadvantage on the basis of stereotyping" (*Kapp*, par. 25). Consequently, to determine an infringement to subsection 15(1) of the *Canadian Charter*, the claimant needs to prove that the contested legal provision "(1) on its face or in its impact, creates a distinction based on enumerated or analogous grounds, and (2) imposes burdens or denies a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage" (*Fraser*, par. 27; *Kapp*, par. 17; *Withler*, par. 30; *Quebec [Attorney General] v. A.* 2013, pars. 324 and 418; *C.P.*, par. 56). The federal disenfranchisement of 16- and 17-year-olds is a *prima facie* violation of equality rights because it creates a distinction based on age, which is a prohibited basis of discrimination, and it denies a benefit—that is, the right to participate in federal elections—to these citizens, perpetuating the stereotype that they are politically incompetent.

a) Distinction Based on an Enumerated Ground

16- and 17-year-olds are treated differently from the rest of the citizenry that qualifies as federal electors based on age. This distinction, thus, relies on an enumerated prohibited ground of discrimination. It amounts to a form of juvenile ageism, where young persons are confronted with prejudice and discrimination because of their age status (Westman 2019).

Even though age constitutes an enumerated ground of discrimination, it is understood as a less damaging form of discrimination than the other enumerated grounds, resulting in claims of "the right to age equality [being] often trumped by broader economic and social considerations" (Alon-Shenker 2013 p. 34; Alon-Shenker 2012, pp. 243–45). For instance, former Chief Justice McLachlin, writing for the majority in the *Gosselin* case, argued that,

> unlike race, religion, or gender, age is not strongly associated with discrimination and arbitrary denial of privilege. This does not mean that examples of age discrimination do not exist. But age-based distinctions are a common and necessary way of ordering our society. They do not automatically evoke a context of pre-existing disadvantage suggesting discrimination and marginalization under this first contextual factor, in the way that other enumerated or analogous grounds might (*Gosselin v. Québec [Attorney General]* 2002, par. 31).

With this understanding of age-based differential treatment, the majority of judges concluded that excluding young adults from a welfare program did not violate their equality rights, considering this exclusion to be "an affirmation of their potential," rather than a harmful distinction based on stereotypes (par. 19). Consequently, it is still essential to explain how the marginalization of 16- and 17-year-olds in the Canadian socio-political landscape justifies their characterization as a social group that deserves the protection of the enumerated, prohibited ground of age provided by subsection 15(1) of the *Canadian Charter*.

This age group is confronted with institutional juvenile ageism, seeing as they are "ignored as inherent members of society with developmental needs that are as important as the

needs and desires of adults," and they "are segregated from public places and public media" (on the wider definition of juvenile ageism when it refers to children, see Westman 1991, p. 240). They are not awarded the full array of civil and political rights and freedoms by sole virtue of not having reached the age of majority. Furthermore, younger people, according to de la Fuente-Núñez *et al*. (2021), are more exposed than other age cohorts to discrimination based on age, are negatively perceived by the rest of the population, and occupy more precarious economic positions than the rest of the citizenry. Because these institutional hurdles are the consequence of their age status, going further than "a common and necessary way of ordering our society," to use former Chief Justice McLachlin's wording, the depiction of 16- and 17-year-olds as a group that deserves the protection of subsection 15(1) of the *Canadian Charter* is coherent with its inclusion of age as an enumerated, prohibited ground of discrimination.

b) Denial of a Benefit Perpetuating a Stereotype

To be a violation of subsection 15(1) of the *Canadian Charter*, the disenfranchisement of 16- and 17-year-olds needs to either "reinforce, perpetuate or exacerbate their disadvantage." At this point of the analysis, I argue that the denial of their right to participate in federal elections also perpetuates this age group's socio-political disadvantage.

The Supreme Court of Canada interprets the right to vote, as guaranteed by section 3 of the *Canadian Charter*, as a right to meaningful and effective participation, where every citizen has the right to participate in the formal "selection of elected representatives," which gives them the "opportunity to express an opinion about the formation of social policy and the functioning of public institutions" (*Figueroa*, par. 29; *Haig*, p. 1031; *Saskatchewan Reference*, p. 183). Furthermore, former Chief Justice McLachlin, in the *Sauvé* case ties this participatory right "to the inherent worth and dignity of every individual" (*Sauvé II*, par. 35).

The federal disenfranchisement of 16- and 17-year-olds is based on—and perpetuates—the stereotype that these citizens are incapable of participating in the electoral process. Denying them their democratic rights perpetuates their ostracization from public life by limiting their capacity to influence political responsiveness to their opinions, wants, and needs through the selection of representatives. In the same perspective, this voter disqualification, as the applicants argued in the *Fitzgerald* case for their provincial disenfranchisement in Alberta, "has the effect of promoting the view that minors are less capable or worthy of recognition as members of Canadian society" (*Fitzgerald A.B.Q.B.*, par. 39). The statutory disenfranchisement of 16- and 17-year-olds, by denying them the benefit of qualifying as electors in federal elections, maintains the generalized and harmful belief that this age group is politically incapable and, thus, constitutes an infringement on their equality rights.

2.3 Disenfranchisement as a Statutory Limitation

The second condition required to examine the reasonable nature of a limitation to a right or freedom protected by the *Canadian Charter* is that said infringement must be "prescribed by law." Puisne Justice Le Dain, in *Therens* (1985, p. 645), delineates the meaning of this expression as a limit that "is expressly provided for by statute or regulation, or results by necessary implication from the terms of a statute or regulation or its operating requirements." The federal disenfranchisement of 16- and 17-year-olds meets this second requirement. Indeed, they are unable to qualify as electors in federal elections because of the statutory age limit provided by section 3 of the *Canada Elections Act*.

In sum, the limitation on 16- and 17-year-olds' democratic and equality rights through the minimum statutory voter qualification age constitutes a *prima facie* violation of said rights. The

next part of the chapter examines the reasonable character of the late teenagers' federal disenfranchisement.

III. Section 1 Analysis

The crux of the chapter resides in the current part. Whilst the depiction of the statutory disqualification of 16- and 17-year-olds as infringements on democratic and equality rights was necessary, it is the analysis of their reasonable character under section 1 of the *Canadian Charter* that determines their overall conformity with the provisions of the Canadian Constitution. Indeed, the rights and freedoms protected by this text are not unlimited; *prima facie* violations of different sections of the *Canadian Charter* could still be justified through the reasonable limits clause by "demonstrating that the loss to the constitutional right is offset by a proportional gain to a competing constitutional principle" (Weinrib 2021, p. 86). In the following paragraphs, I assert that section 3 of the *Canada Elections Act* is an unjustifiable violation of section 3 and subsection 15(1) rights because it fails the rational connection, minimal impairment and proportionality elements of the second branch of the section 1 test and, thus, should be declared as unconstitutional. The ultimate scope of the analysis of the disenfranchisement of 16- and 17-year-olds in Canadian federal elections is domestic, insofar as I do not wish to make prescriptions about the legality of disenfranchising late teenagers in other polities.

Despite this geographical limitation, I engage in legal comparativism by referring to rulings made in foreign and international jurisdictions on disenfranchisement. More specifically, I look into (1) the transnational jurisprudence on the disenfranchisement of PIPD and (2) the Supreme Court of New Zealand's *Make It 16 Incorporated* case to refute the argument that excluding 16- and 17-year-olds from the franchise protects the integrity of this institution.

This undertaking is necessary in the face of the paucity of rulings by Canadian courts concerning the exclusion of 16- and 17-year-olds from the franchise.[13] Additionally, foreign and international jurisprudence has often constituted an integral part of human rights adjudication in Canada, especially in the years following the entrenchment of the *Canadian Charter* (Manfredi 1990; Ostberg, Wetstein, and Ducat 2001). The practice is not as prevalent nowadays as it once was (McCormick 2010; Rado 2020). Notwithstanding this decrease in judicial foreign citation, foreign and international legal materials have a persuasive force when interpreting human rights protected by the *Canadian Charter*. Indeed, former puisne Justice Bastarache (2009, p. 196) argues that the decisions of foreign courts "provide guidance to Canadian courts rather than precedents to be followed" and, "ultimately[,] influence Canadian law based on persuasive, rather than binding, authority." This observation can also be applied to the rulings of international courts (see, e.g., Oliphant 2014; *Quebec [Attorney General] v. 9147-0732 Québec inc.* 2020, par. 43; *Re. Public Service Employee Relations Act* 1987, p. 348).

The textual division of the current part reflects the two branches of the *Oakes* test. First, I examine the legislative objective powering the statutory disqualification of 16- and 17-year-olds through the *Canada Elections Act*, and I find it pressing and substantial. Second, I find that there is a rational connection between the limitation of 16- and 17-year-olds' democratic and equality rights and the purpose of ensuring a rational and informed electorate. Third, I assert that the violation does not constitute a minimal impairment to the two rights because of its overbreadth. Fourth, I find that the deleterious effects of the electoral qualification rule outweigh its benefits.

3.1 Pressing and Substantial Objective

At the first branch of the *Oakes* test, the objective of the measure that infringes upon Charter-protected rights and freedoms will be considered to be sufficiently important to justify this

infringement if it "relate[s] to concerns which are pressing and substantial in a free and democratic society" (*R. v. Big M. Drug Mart Ltd.* 1985, p. 352; *Oakes*, par. 69). It is important to observe the objective of the impugned measure, rather than that of the piece of legislation as a whole, because, as then puisne Justice McLachlin states, too broad of an objective statement could exaggerate its importance and compromise the overall analysis (*RJR-MacDonald Inc. v. Canada [Attorney General]* 1995, p. 335; see Trakman, Cole-Hamilton and Gatien 1998 p. 97). That being said, even with a precise objective statement, as former puisne Justice Rothstein asserts, legislation is rarely "antithetical to the objective of a free and democratic society," explaining the high success rate of governments in demonstrating the pressing and substantial concerns underlying their infringing measures (Rothstein 2000, p. 174).

The demonstration of the importance of the objective of section 3 of the *Canada Elections Act* does not depart from this trend. Canadian courts have already observed the purpose of disqualifying minors from being electors, either in provincial settings or in passing remarks in federal disenfranchisement cases concerning other populations than 16- and 17-year-olds and qualified it as pressing and substantial. Generally, Canadian magistrates consider the legislative objective of preserving "the integrity of the electoral process" by "ensur[ing], as much as possible, that those eligible to vote are mature enough to make rational and informed decisions about who should represent them in government" as important enough to warrant disqualifying citizens below the minimum age of 18 (*Frank S.C.C.*, par. 145; *Sauvé II*, par. 37; *Fitzgerald A.B.Q.B.*, par. 56, confirmed by *Fitzgerald A.B.C.A.*; *Poshteh*, par. 44). The legislative objective of a minimum voting age finds echoes in New Zealand. Magistrates who observed the disenfranchisement of 16- and 17-year-olds in this foreign jurisdiction's general elections, local body elections and referenda also argue that it is "valid for the Court to say that the objective [of

the disqualification measure] is to ensure an electorate of sufficient maturity, or competency," with the Supreme Court making a direct reference to the Albertan *Fitzgerald* case (*Make It 16 Incorporated N.Z.S.C.*, pars. 46–47; *Make It 16 Inc. v. Attorney-General* 2021, par. 51).

Despite my agreement with this analysis, it is still necessary to explain why the requirement of a basic level of maturity and capacity by disqualifying politically incapable minors from the federal electorate preserves the integrity of the electoral process. These levels are important, insofar as they protect the political community against a practical and a conceptual threat, according to Karlan (2006, pp. 924–25) and Doraisamy (2020, p. 141). On one hand, conceptually, incapable participants in the electoral process cannot rationally select an electoral candidate over another, which undermines the goal of votes as the expression of meaningful electoral preferences. On the other hand, practically, the participation of incapable citizens in the electoral process poses a risk of voter fraud because it creates "a pool of potential votes that might be cast by anyone with the ability to gain access to those individuals' ballots." These concerns are of particular interest for a free and democratic society and, thus, so is the purpose of section 3 of the *Canada Elections Act*.

3.2 Rational Connection

At this first element of the proportionality test, there must be a rational connection between the impugned measure and the legislative purpose. Indeed, as Former Chief Justice Dickson described in *Oakes* (par. 70), "the measures adopted must be carefully designed to achieve the objective in question. They must not be arbitrary, unfair or based on irrational considerations." The Supreme Court of Canada has reworded this stage of the section 1 analysis in *RJR-MacDonald Inc.* (1995, par. 153), where the majority of justices argued that the government needs to “show a causal connection between the infringement and the benefit sought based on

reason or logic." The rational connection element is "not particularly onerous," insofar as the government is only required to prove that its measure "may further the goal, not that it will do so" (*Little Sisters Book and Art Emporium v. Canada [Minister of Justice]* 2000, par. 228; *Alberta v. Hutterian Brethren of Wilson Colony* 2009, par. 48 [*Hutterian Brethren*]). The government will succeed in its task as long as it can show that "at least in some of their applications, the means employed in [the impugned statutory provision] are rationally connected to the objective" (*R. v. Appulonappa* 2015, par. 80; *R. v. Heywood* 1994, p. 803).

The disqualification of all minors from the federal franchise, by way of section 3 of the *Canada Elections Act*, is designed to generally preserve a basic level of maturity and capacity in the electorate and, as such, is rationally connected to its legislative purpose. The statutory measure meets its objective anytime it disqualifies children who are politically immature from becoming federal electors. Its overbreadth does not affect this link and is not relevant at this step of the analysis. Indeed, the Supreme Court reiterated in a few rulings that the excessively broad ambit of measures should be studied under the minimal impairment element of the *Oakes* test (*R. v. Morales* 1992; *R. v. Nova Scotia Pharmaceutical Society* 1992).

3.3 Minimal Impairment

In this element of the proportionality analysis, for the constitutionality of the provision to be maintained, the government must demonstrate that there are no less damaging means of reaching the legislative objective "in a real and substantive manner" (*Hutterian Brethren*, par. 55). Excessively broad legislative provisions have been treated as going against the principle of minimal impairment by Canadian courts (see, e.g., *R. v. Heywood* 1994, p. 803; *R. v. Morales* 1992; *R. v. Nova Scotia Pharmaceutical Society* 1992). I argue that the disenfranchisement of

16- and 17-year-olds does not pass the minimal impairment stage of the *Oakes* test by virtue of its overbreadth.

The electoral disqualification of persons with intellectual or psychosocial disabilities is similar to the disenfranchisement of 16- and 17-year-olds. The comparison between the two groups of citizens is relevant to the analysis. Indeed, as will be apparent in the next paragraph, their exclusion from the franchise rests on the same legislative purpose: to require a basic level of competency and maturity in the electorate. The comparison is not unusual; López-Guerra (2014), for instance, treats both instances of disenfranchisement side by side to build his argument against the blanket exclusion of the two social groups from suffrage.

Justice Reed, in the *Canadian Disability Rights Council* case (pp. 624–25), asserted that the blanket disqualification of all citizens with intellectual or psychosocial disabilities from the federal franchise through paragraph 14(4)(f) of the *Canada Elections Act* was "at the same time both too narrow and too wide" to constitute an effective "test of mental competency." In other words, this legislative measure was both under- and over-inclusive, which affected its goal of requiring a certain level "of mental competence or judgmental capacity" in the federal electorate. By only focusing on two groups of PIPD, that is, "those whose liberty of movement has been restrained or whose property is under the control of a committee of estate," the legislator targeted citizens who, even with their disability, could still meet the required level of mental competency and, at the opposite, did not target other citizens who did not fall into the two groups, yet did not meet said level. In light of this lack of minimal impairment, the disqualification provision was declared as an invalid infringement on section 3 of the *Canadian Charter*.

This result is coherent with the international discourse on the political rights of persons with disabilities. The adoption of the *Convention on the Rights of Persons with Disabilities*

(2007, hereafter, the CRPD) increased the guarantee of political rights for PIPD through Article 29, which further protects their equality and democratic rights. Thus, as the Committee on Rights of Persons with Disabilities (2014, par. 48) asserted in its General Comment on the obligation of ensuring the equal recognition of persons with disabilities before the law, "a person's decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising their political rights." In other words, the committee assesses *any* statutory mental capacity threshold test as an untenably discriminatory obstacle to PIPD's political rights.[14] Canada ratified the CRPD in 2010 and, with its elimination of any formal restrictions on citizens' right to vote in federal elections based on intellectual or psychosocial disability (through the adoption of Bill C-114 in 1993, which amended the impugned *Canada Elections Act* provision), respects the jurisprudential development of the international political rights of PIPD.

The legitimacy of the national disenfranchisement of PIPD differs from that of minors when considered from the point of view of international law. Both benefit from the protection of Article 25 of the *International Covenant on Civil and Political Rights* (1966, hereafter, the ICCPR), which guarantees concurrently the right to vote and the principle of non-discrimination.

Nonetheless, the disenfranchisement of minors is not forbidden by the relevant conventional provisions. For instance, according to the United Nations Human Rights Committee (1996, par. 10), the right to vote contained in the ICCPR can be "subject to reasonable restrictions, such as setting a minimum age limit." Furthermore, whilst Article 12 of the *Convention on the Rights of the Child* (1989, hereafter, the CRC) recognizes children's right to be heard "in all matters affecting [them]," it limits that right according to their level of maturity: "the views of the child [are] given due weight in accordance with the age and maturity of the child." In its General Comment on the right of the child to be heard (2009, pars. 12, 29–

30), the Committee on the Rights of the Child also recognizes that this participatory right, which exceeds the legal arena and "should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation," is still subject to "children's levels of understanding" and "the[ir] capacity [...] to express [their] views on issues in a reasonable and independent manner." Thus, the Canadian practice of setting a minimum voting age is consistent with their international commitments, having ratified the ICCPR in 1976 and the CRC in 1991.

This does not mean, nevertheless, that the minimum electoral qualification age of 18 for federal elections constitutes the least impairing measure to achieve the legislative goal of ensuring the electorate's maturity and competence. In the same vein as the disenfranchisement of PIPD, the current disqualification measure based on age is overbroad. The inclusion of 16- and 17-year-olds in the same category as politically immature children inordinately impairs their democratic and equality rights, particularly taking the measure's objective of preserving the integrity of the electoral process into consideration.

The New Zealand Court of Appeals (2021, par. 56) and the Supreme Court (2022, pars. 52–53) have both determined that 16- and 17-year-olds are politically competent using a report from the New Zealand Children's Commissioner. According to its report to the court, these citizens can make decisions "in situations where there is time for deliberation"—an ability called "cold cognition"—showing "competence levels similar to older people, indicating cognitive maturity." The foreign magistrates' legal finding is consistent with the growing transnational body of evidence proving the political maturity and competence of this age group. As was exposed in the second chapter, many authors studied this phenomenon and found that 16- and 17-year-olds demonstrate sufficient levels of cognitive capacities, political knowledge, stable

convictions and interest in politics to be considered as competent and mature enough to participate in politics (Hamilton 2012; Munn 2022; Peto 2020; Douglas 2017; Oosterhoff, Wray-Lake and Harden 2022; Icegnole *et al.* 2019; Peto 2018; Hart and Atkins 2011, p. 208; de Castro 2012; Douglas 2017). The combination of these two sources, along with the examples of the successful enfranchisement of 16- and 17-year-olds in other polities around the world, provides convincing evidence to cast doubt on the blanket disenfranchisement of this age group.

This finding is in contrast with Justice Lefsrud's assertion, in *Fitzgerald A.B.Q.B.* (pars 64–72), that the minimum voting age of 18 coincides with the changing point of completing high school and taking "on greater responsibility for the direction of their own lives." This divergence can be attributed to the fact that the magistrate was not presented with substantive evidence of 16- and 17-year-olds' political competence and the developments on the policy of lowering the voting age to 16 in other jurisdictions. Their conclusion that "setting the restriction at age 18 does not go further than necessary to achieve the legislative objective," if not fundamentally altered, would have at least been nuanced by this body of information (par. 70).

Denying 16- and 17-year-olds the opportunity to participate in the federal electoral process is not cogent with the goal of protecting its integrity in light of the evidence supporting their competence and maturity. Their disenfranchisement is not the least impairing measure to reach the objective in a real and substantive manner. The reduction of the minimum voting age to 16 would protect the federal democratic process from potential electoral fraud and meaningless votes because it would still disqualify politically immature or incapable children, while not infringing on the rights of otherwise capable and mature citizens.

Traditionally, the *Canadian Charter*-based litigation process ends after the magistrate has found that the infringement does not meet one of the standards established by the section 1

analysis—in this case, the minimal impairment element of the proportionality branch of the *Oakes* test. Considering the facts that (1) my goal is to explore the unconstitutionality of the disenfranchisement of 16- and 17-year-olds to develop arguments against its perpetuation, and that (2) I do not hold the same conflict-resolving power as Canadian judges do, it is relevant to move on to the last element of the proportionality branch.

3.4 Deleterious Effects and Salutary Benefits

The last element of the *Oakes* test is the proportionality between the deleterious effects of the impugned measure and the salutary benefits of the legislative objective. As former Chief Justice Dickson asserted in the corresponding ruling (1986, par. 71), a measure that serves a sufficiently important legislative purpose and respects the other steps of the section 1 analysis could nonetheless be unjustifiable should its repercussions on rights and freedoms be too severe. Former Chief Justice McLachlin, in *Canada (Attorney General) v. JTI-Macdonald Corp.* (2007, par. 45), specified that, at this step, "[t]his inquiry focuses on the practical impact of the law." She continues by asking the three questions that guide the current proportionality analysis: "What benefits will the measure yield in terms of the collective good sought to be achieved? How important is the limitation on the right? When one is weighed against the other, is the limitation justified?"

I posit that the disqualification of 16- and 17-year-olds by way of section 3 of the *Canada Elections Act* does not yield a sufficiently important collective good to account for the severity of its deleterious effects on their democratic and equality rights.

The previous sections of the chapter indicate that a minimum statutory voting age is a useful measure to ensure a certain level of political maturity and competence in the electorate, which preserves the integrity of the electoral process by circumventing instances of meaningless

votes and electoral fraud that could happen should incapable children be allowed to participate in it. The issue with section 3 of the *Canada Elections Act* is the fact that it targets citizens who, based on a growing transnational body of evidence, are not politically incompetent. In this perspective, by including 16- and 17-year-olds in its ambit, the age-based electoral disqualification rule goes against its justificatory purpose. The exclusion of this age group from the federal franchise does not lead to a more protected electoral process. The impugned measure, when considered from this point of view, does not serve a legislative objective that is important enough to account for its negative impacts on 16- and 17-year-olds' section 3 and subsection 15(1) rights.

The measure's deleterious effect on 16- and 17-year-olds' right to vote is serious. Some could argue that the short length of the impairment on their right to vote affects its overall importance since the affected citizens will acquire full democratic rights in a maximum of two years (see, e.g., former Chief Justice of Ontario Strathy's reasoning in *Frank O.N.C.A.*, where he presented that observation concerning the disenfranchisement of non-residents: par. 157). In response to this argument, Chief Justice McLachlin's warning in *Sauvé II* (par. 60) that "[t]he silent messages cannot be retrieved, and the prospect of someday participating in the political system is cold comfort to those whose rights are denied in the present." Statutory disenfranchisement is treated by the Supreme Court as, "*in and of itself*, inflict[ing] harm on affected citizens" (see *Frank S.C.C.* 2019, par. 82; *Sauvé II*, par. 35), by robbing them of their democratic voice. There is no reason to understand the denial of 16- and 17-year-olds' right to vote differently.

The electoral disqualification measure also has substantial negative effects on the affected citizens' equality rights. Canadian jurisprudence treats an infringement on the right to

vote as an intersecting impairment on "the inherent worth and dignity of every individual" (see, e.g., *Sauvé II*, par. 35). With respect, the characterization of youth voting restrictions by former Chief Justice McLachlin in *Sauvé II* (par. 37) as "a modality of the universal franchise" rather than the expression by Parliament of "the excluded class[' unworthiness] to vote" is irrelevant when interpreted through its effects. The electoral disqualification of late teenagers, even though it might only be a modality of the universal franchise, still generates adverse effects on this age group's worth and dignity. 16- and 17-year-olds are disenfranchised based on the stereotype that they are politically immature and incompetent. This situation perpetuates their segregation from the public sphere and further impedes on their worth and dignity as formally equal participants in Canadian society.

3.5 Unconstitutionality of the Disqualification Measure

Section 3 of the *Canada Elections Act*, as a result of its inconsistencies with section 3 and subsection 15(1) of the *Canadian Charter*, neither of which are saved under a section 1 analysis because of its failure at the minimal impairment and proportionality stages, should be declared as being of no force or effect following subsection 52(1) of the *Constitution Act, 1982*.

IV. Summary

In this chapter, I presented a legal analysis of the constitutionality of the electoral disqualification of 16- and 17-year-olds through section 3 of the *Canada Elections Act*. After briefly reviewing the relevant constitutional and statutory provisions, I found that their disenfranchisement is a statutory violation of section 3 and subsection 15(1) of the *Canadian Charter* and, as such, that it can be examined through the section 1 test. The disqualification serves a pressing and substantial objective in preserving the integrity of the federal electoral process, and the disenfranchisement of minors is rationally connected to this legislative purpose.

The statutory measure failed the minimal impairment test because of its overbreadth in including 16- and 17-year-olds. It also failed the last proportionality element because its deleterious effects on this age group's democratic and equality rights outweigh the objective which is otherwise not furthered by their exclusion from the federal franchise. Because of these two failures, I have argued that section 3 of the *Canada Elections Act* should be of no force or effect since it is unjustifiably inconsistent with two provisions of the *Canadian Charter*. The unconstitutionality of the legislative measure serves as a convincing argument against the preservation of the current minimum voting age of 18.

CHAPTER 5 – CANADA AND THE LOWERING OF THE VOTING AGE TO 16 IN SCOTLAND

In 2015, Scotland adopted a lower statutory voting age of 16 years old for local council elections, as well as Scottish parliamentary elections. (*Scottish Elections [Reduction of Voting Age] Act 2015*, s. 1). This institutional change followed the enfranchisement of 16- and 17-year-olds in the previous year's independence referendum, which saw a significant level of turnout for this age group (see, e.g., Pickard 2019; Huebner 2021). Four elections have been held since 2015, in 2016 and 2021 for the Scottish Parliament, and in 2017 and 2022 for local councils, offering an interesting opportunity to observe whether Howe's (2011) assertion that the lowering of the voting age could lead to habitual non-voting in the newly enfranchised is realized in an actual instance of said institutional change.

I discover that the successful lowering of the voting age to 16 in Scotland did not effect voter apathy in the citizens affected by this policy. The observation is supported by two concurrent streams of evidence from the 2014 independence referendum, the two parliamentary elections of 2016 and 2021, and the two local elections of 2017 and 2022. These elections reveal that the citizens affected by the institutional change engage with the electoral process, both by registering to vote and by casting a ballot. Using the preceding finding, I argue that the worry that the adoption of a similar policy in Canada could create an issue of habitual non-voting in 16- and 17-year-olds does not constitute a strong justification for their disenfranchisement since it is invalidated by the evidence provided by the effect of the reduced Scottish voting age on this age population's actual electoral participation.

This chapter is divided into four parts. First, I contextualize the adoption of a reduced statutory voting age in Scotland by exploring the process of devolution and I justify the selection of this comparative case in relation to Canada. Second, I explore the electoral records before and

after the lowering of the voting age to 16 in the 2014 independence referendum, Scottish parliamentary elections, and local council elections. I argue that this important institutional change did not lead to habitual non-voting in the citizens it affected. Third, I use the discovery made in the second part to argue that the lowering of the voting age to 16 in Canada is desirable since it would not lead to voter apathy. Fourth, I summarize the main findings of the chapter.

I. Context of the Comparison: Devolution, Statutory Lowering of the Voting Age to 16 in Scotland

As a constituent country of the United Kingdom, Scotland operates under a process of devolution. Semi-autonomous authority over certain legislative matters is lent to the devolved Scottish Parliament by the Parliament of the United Kingdom. One of these matters is control over local and parliamentary elections (*Scotland Act 1998*; *Scotland Act 2016*). The subnational entity used this power to determine the limits of the franchise, setting the minimum voting age to 16, first in the 2014 independence referendum, then in local and parliamentary elections in 2015 (*Scottish Independence Referendum [Franchise] Act 2013*; *Scottish Elections [Franchise and Representation] Act 2020*; Pickard 2019, pp. 4–5; Douglas 2020b, pp. 1451–61).

The political arrangement of devolution is similar to Canadian federalism, which legitimizes the comparison between the two polities. This is not to say that the two modes of distribution of power are identical. In principle, the devolutionary process is more hierarchical than the Canadian federal contract. The two orders of government in Canada are sovereign within their constitutionally entrenched legislative powers (*Constitution Act, 1867*, ss. 91, 92). In contrast, devolution operates within a unitary state, with the central government lending powers asymmetrically and bilaterally to the devolved governments, which entails that Westminster still retains the capacity to legislate in matters politically reserved to the parliaments of Wales,

Scotland, and Northern Ireland (Tierney 2007; Keating and Laforest 2018; Wright 2004, p. 3; Tierney 2009). Furthermore, the principle of federalism, as Tierney (2019, p. 65; 2009) and Keating and Laforest (2018, pp. 1–2) recognize, has not gathered much support in "the British political psyche."

In practice, nevertheless, federalism and devolution operate similarly. Many authors, including Gamble (2006), Picker (2002), and Rawlings (2015, p. 218) qualify devolution in Scotland as an instance of quasi-federalism, since the Scottish Parliament, even though it operates in a unitary state, still has been given powers that are politically protected from encroachment by the central government through the Sewel Convention. In short, this legislative consent convention is a political arrangement—i.e., not a justiciable nor enforceable convention—between the central and devolved administrations, under which Westminster does not "normally legislate" on matters that were devolved to the legislatures without the consent of the affected level of government (see, e.g., Liske 2019; Evans 2020; Keating and Laforest 2018, pp. 8–9). Notwithstanding the fact the Parliament of the United Kingdom retains the capacity to legislate on devolved matters since their conventional protection is not constitutionally entrenched, the interplay between the central and the Scottish administrations' authority over legislative matters resembles the federal distribution of powers in Canada.

The federal government and the provinces' powers are circumscribed by the *Constitution Act, 1867*, with sections 91 and 92 granting exclusive control over specific matters to either order of government. These limits do not create an absolute separation of powers. Beyond the constitutionally shared jurisdiction over old age pensions, agriculture, and immigration, overlap between the federal and provincial administrations' areas of legislative authority can be allowed under certain constitutional doctrines (*Constitution Act, 1867*, ss. 94A, 95). For instance, the

doctrine of pith and substance authorizes legislation by an order of government on matters reserved to its counterpart as long as this impediment is accessory to the core of the other order's jurisdictional matter (see *Canadian Western Bank v. Alberta* 2007, par. 25–32; *Rogers Communication Inc. v. Châteauguay (City)* 2016, par. 36–38). Additionally, the doctrine of federal paramountcy prefers valid federal legislation to valid provincial legislation when they overlap (Alhéritière 1971; *Alberta (Attorney General) v. Moloney* 2015, par. 14–29).
The polities of Scotland and Canada, then, are comparable based on their political and legal organization. Both conform to a Westminster-style parliamentary structure and present dynamics of central–regional administrations.

That being said, notable differences remain between Scotland and the Canadian federal government.

- their legislatures are respectively unicameral (with the Scottish Parliament) and bicameral (with the Canadian Parliament, which houses both the House of Commons and the Senate);
- the electoral formulas they use to determine members of parliament are different: Additional Members System was chosen for the Scottish Parliament and Single Transferable Vote for the local councils, in contrast with First-Past-the Post for the Canadian House of Commons;
- the extent of their jurisdiction is not the same since the Scottish sphere of authority is regional, while the Canadian government enjoys a state-wide jurisdiction, as long as it respects the constitutional division of powers between the federal and provincial administrations;

- their respective party systems are markedly different, notwithstanding the fact that multiple parties compete in elections in both polities. The same political parties in Scotland are present in general, parliamentary, and local elections. The situation in Canada is quite different since there is not as much unity between the parties competing on different electoral levels. Municipal elections are not contested by national parties, like the Liberal Party of Canada or the Conservative Party of Canada. Furthermore, some provincial parties have no corresponding parties at the federal level and, even when provincial parties share a name with a national counterpart, they are not necessarily vertically integrated (see, e.g., Thorlakson 2018; Uslaner 1990; Blake 1982; Blake 1985). I will explore the effect of this difference on the lowering of the voting age in the third part of the current chapter;
- the legal systems they have adopted are also distinct: Scotland has a hybrid system that combines civil and common law, while the federal Canadian state operates under a common law system. Nevertheless, there exists a tradition of legal pluralism in Canada with the coexistence of civil law and common law in the province of Québec, and Aboriginal and Indigenous law concerning First Nations, Inuit, and Métis peoples.

Even with these differences, Scotland remains the most similar setting to Canada when observing the lowering of the voting age to 16. Out of all the polities that enfranchised 16- and 17-year-olds around the world, the Scottish case offers the most amount of data about the effects of said enfranchisement on these citizens in addition to its similarity with Canada. In contrast with the 2021 lowering of the statutory voting age to 16 in Wales, the Scottish institutional

change was made in 2015, which means that more data can be extracted from four elections and a referendum than the two Welsh elections.

II. Lowering of the Voting Age to 16 in Scotland and Habitual (Non-)Voting

Earlier enfranchisement has been demonstrated by the literature to "have positive civic effects for young people," particularly in the case of Austria, where the voting age was reduced to 16 in 2007 (Kenealy *et al.* 2017, p. 59; Zeglovits 2013; Zeglovits and Zandonella 2013; Zeglovits and Aichholzer 2014). An important effect of the lowering of the statutory Austrian voting age to 16 was a durable increase in the enfranchised citizens' electoral participation. They were socialized into the habit of voting earlier since they were more likely to vote for their first election, due to a first-time voting boost, and to benefit from the positive relationship between staying in the familial household and voting, as opposed to 18-year-olds (Bhatti and Hansen 2012; Franklin 2004).[10]

In the case of the lowering of the voting age to 16 in Scotland, it is too early to determine conclusively whether the institutional change effected a durable increase in 16- and 17-year-olds' electoral participation. Nevertheless, it is possible to argue that the relationship between habitual voting habits and the enfranchisement of 16- and 17-year-olds in Scotland is positive, meaning that the institutional changes in 2014 and 2015 to the Scottish franchise did not lead to chronic electoral disengagement. This statement is observed through two concurrent acts: the registration to vote and the vote itself. Three distinct sets of elections are used to observe these two variables: the 2014 independence referendum, Scottish parliamentary elections, and local council elections. Their combination is essential when determining the effect of the lowering of the Scottish voting age to 16 on the affected citizens' electoral engagement.

On one hand, it reduces the possible distortions from varying participation rates in a referendum that was uniquely mobilizing, as opposed to the less popular regional and local Scottish elections. If I were to focus my study on the 2014 referendum, I would run the risk of conflating the effects of the referendum itself with those of the lowered voting age. Authors such as Eichhorn (2018a; 2018b), Huebner (2021), Huebner and Eichhorn (2019), and Breeze, Gorringe, Jamieson and Rosie (2017) rightfully argue that the 2014 referendum is a "uniquely mobilising life event" because of the sociopolitical weight of its object, which distorts the relationship between the lowering of the voting age and political participation. This event "engaged a far higher proportion of possible voters than any 'normal' ballot," according to Henderson, Johns, Larner, and Carman (2022, p. 20). The proposition of Scottish independence found strong support among the youth. The proportion of Scots aged between 16 and 19 who voted for independence is 62.5%, which is higher than any other age group (Henderson and Mitchell 2015, p. 7; Pickard 2019). The turnout rate of 16- and 17-year-olds, therefore, is in no small part due to their interest in the referendum itself. This makes it difficult to determine how influential these citizens' acquisition of the right to vote was on their political behaviour (Mahéo and Bélanger 2020, p. 599).

On the other hand, the combination of the three sets of elections highlights the commonalities found in the newly enfranchised citizens' participation by showing its evolution over time in different electoral contexts. I focus on electoral participation because it is the only variable that is positively affected by the lowering of the voting age in the three sets of elections. Some authors found that this institutional change increased the newly enfranchised citizens' political participation overall, who participated in political discussions, became members of political parties, and committed to grassroots advocacy groups (Huebner and Eichhorn 2020;

Eichhorn 2018a; Eichhorn 2018b; Breeze, Gorringe, Jamieson and Rosie 2017; McLaverty *et al*. 2015). These extra-electoral activities, however, were clearly tied to the referendum and failed to carry through to other elections, which explains why they are not observed in the current chapter (Eichhorn and Hübner 2021, pp. 10–12).

This second part of the chapter is divided into two sections. First, I observe that the statistics about voter registration in Scotland demonstrate that 16- and 17-year-olds, subsequently to their enfranchisement, have engaged with this step in the electoral process, thus showing some interest in elections. Second, I find that decreasing the voting age to 16 in Scotland did not lead to habitual non-voting. Third, I address the two downsides of this policy: it could operate a drastic reconfiguration of 16- and 17-year-olds' role in society, and its effects are limited to electoral participation rather than larger political participation.

2.1 Voter Registration as Evidence for Preliminary Engagement with the Electoral Process

Voter registration constitutes a concurrent statistic that illustrates the newly enfranchised citizens' intention to engage with the electoral process. It fills in the lack of availability of data about voter turnout in every Scottish election since the registration rates of 16- and 17-year-olds, in contrast with data about turnout, are available for every election following their enfranchisement. I use the term "concurrent" purposefully. Voter registration constitutes an integral part of the electoral process in Scotland since it is a preliminary step that citizens must take to vote, a requirement that was introduced in 1832 and persists to this day. On their own, nevertheless, data about electoral registration are not significantly representative of citizens' voting behaviour. Indeed, there is always a greater number of registered electors than electors who have exercised their vote. Furthermore, citizens only have to go through the electoral

registration process once, after which they are put on a permanent voter list. They do not have to register for every election, a fact that reduces the significance of this process.

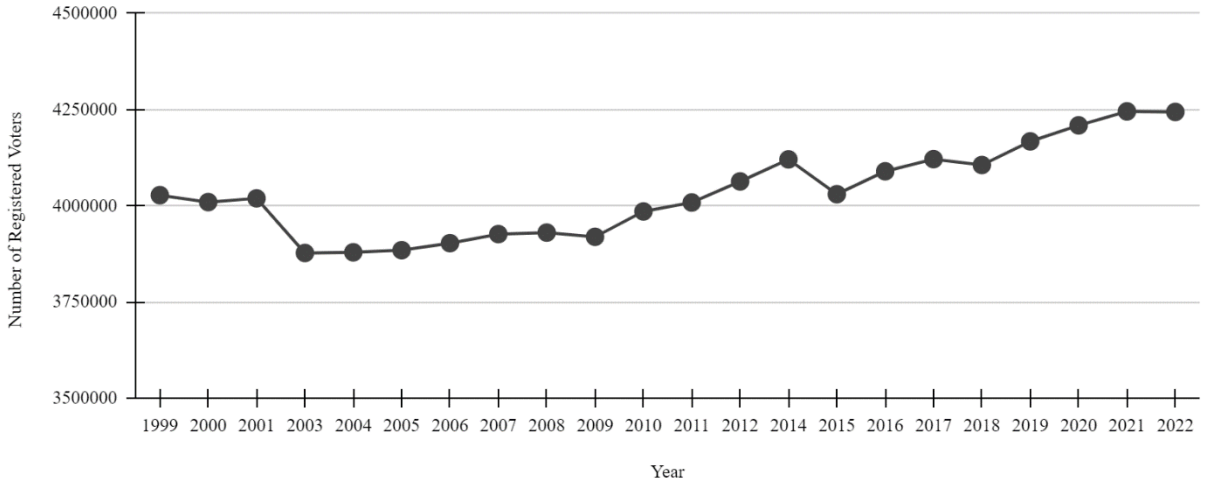
Even with these limitations, the evolution of the registration rate of 16- and 17-year-olds reveals this age group's relatively stable engagement with the first step of the Scottish electoral process since their enfranchisement. This evolution is explored within each set of Scottish elections, starting with the 2014 referendum, and then with the parliamentary and local elections.

a) 2014 Referendum on Independence

The registration rate of 16- to 17-year-olds in the 2014 referendum highlights their marked interest in participating in this singular event. The newly enfranchised citizens' electoral registration follows similar trends to their actual participation in the referendum, as the next section demonstrates. "89% of all 16- to 17-year-olds resident in Scotland" registered to vote in time for the referendum (McInnes, Ayres, and Hawkins 2014, p. 2). This registration rate is 13 % higher than the one for the 18–24 age group (76 %) and 8 % lower than the average rate of 97% (Pickard 2019; Electoral Commission 2014; Johnston and Uberoi 2020, pp. 18–19; Hill, Lockyer, Head, and MacDonald 2017, p. 14).

b) Scottish Parliament and Local Council Elections

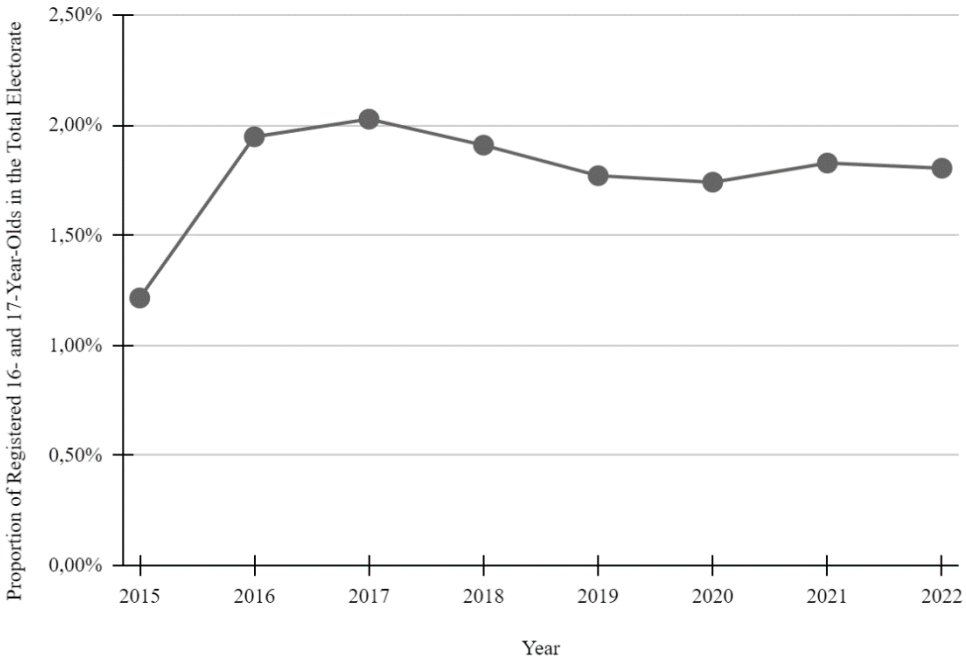
Figure 1: Total Number of People Registered to Vote in Scottish Parliament and Local Council Elections, 1999–2022



Notes: 2002 is excluded from the graph since the counts of electors for local council elections and Scottish Parliament elections are separate. 2013 is excluded from the graph since the count of electors is missing for that year.
Sources: Data from Electoral Commission, National Records of Scotland.

The registration rate of Scottish citizens in parliamentary and local elections has been on a somewhat steady incline since the 2015 lowering of the voting age to 16, as shown in Figure 1. The significant drop in registration between 2014 and 2015 is due to the adoption of a system of individual electoral registration that prohibits "block registration[, which] was [previously] permitted particularly for students in halls of residence" and, therefore, reduced the impact of the statutory enfranchisement (National Records of Scotland 2015). The fluctuation in 2018 can be attributed to the fact that no election was held during that year. The decrease in 2022, even though it happened during an electoral year, only constituted a drop of 0,03 % from the previous year. Beyond these two declines, the registration rate has been rising since the reduction of the voting age to 16. This increase is ascribable to the same factors that positively influenced the turnout in local and parliamentary elections and, by itself, is not solely the result of the institutional change.

Figure 2: Proportion of Registered 16- and 17-Year-Olds in the Total Electorate for Scottish Parliament and Local Council elections, 2015–2022



Sources: Data from Electoral Commission, National Records of Scotland.

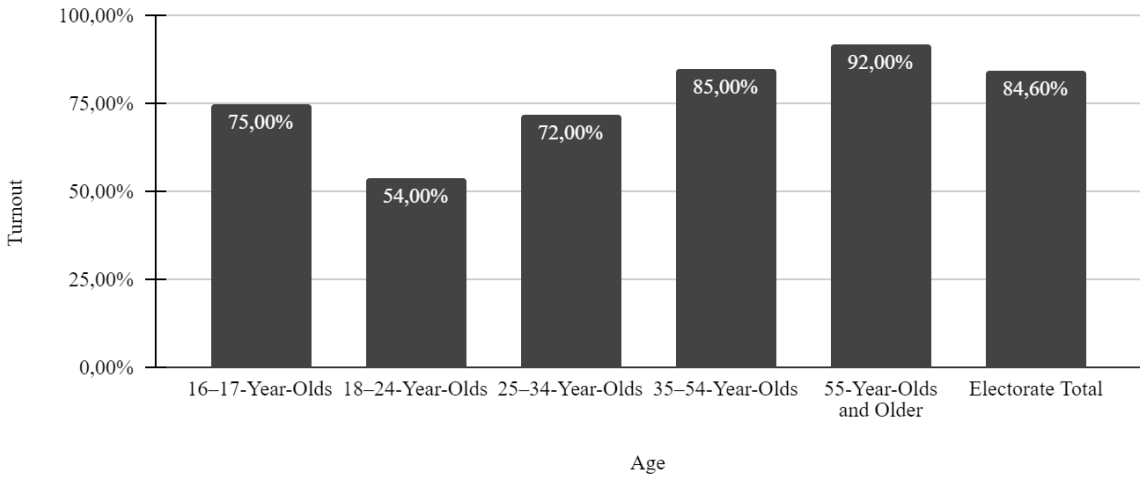
A clearer impact of the lowering of the voting age can be seen on the electoral registration of 16- and 17-year-olds after 2015, illustrated in Figure 2. Citizens in this age range represented a somewhat steady proportion of the total registered voters in local council and Scottish parliamentary elections that were held from 2016 to 2022, varying between 1,7 % in 2020, which was not an electoral year, and 2,0 % in 2017, which constituted the highest proportion of registered 16- and 17-year-olds in the Scottish electorate since their enfranchisement. This age group's intention to interact with the electoral process, which was made possible because of the reduction of the voting age to 16, is made manifest by the relatively stable ratio of its registered members over multiple years. To put it differently, earlier enfranchisement has allowed younger Scots to engage with the electoral registration process and they have demonstrably done so in a consistent manner since 2016.

2.2 Turnout as Evidence Against Habitual Non-Voting

The turnout rates in the 2014 referendum, in parliamentary elections, and in local elections highlight the fact that the lowering of the voting age to 16 in Scotland did not introduce a phenomenon of habitual non-voting in the newly enfranchised. This observation is accomplished by surveying these rates in order.

a) 2014 Referendum on Independence

Figure 3: Turnout as a Function of Age in the 2014 Referendum on Independence



Sources: Data from Hill, Lockyer, Head, and MacDonald (2017, p. 14); Huebner and Eichhorn (2020, p. 125); Curtice (2014); Pickard (2019).

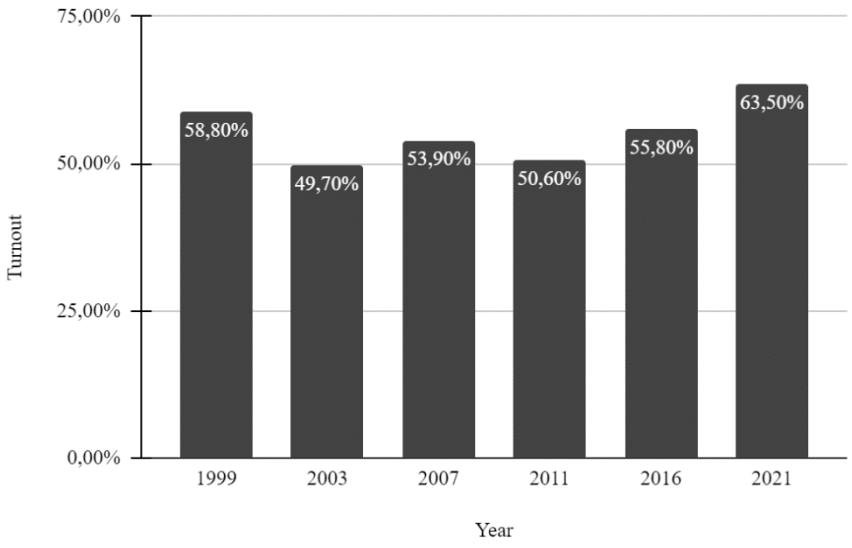
An interesting characteristic of the 2014 referendum is the availability of data about different age groups' electoral participation, which is not as accessible for the other surveyed elections. Voter turnout, in light of the highly mobilizing nature of this particular referendum, is high. 16- and 17-year-olds gained the right to vote in their first election in time for the referendum. Their participation rate is elevated, which constitutes a first-time voting boost, particularly when compared to the rest of the Scottish youth. As Figure 3 illustrates, three-fourths of the registered voters aged between 16 and 17 voted. Only a little over half of 18- to 24-year-olds did so, while

a little under three-fourths of 25- to 34-year-olds voted. 16- and 17-year-olds' participation is lower than the older age groups. It is 10 % behind 35–54-year-olds' turnout, 17 % behind the 55-and-up's participation, and 9.6 % behind the average turnout. This finding is coherent with the "curvilinear relationship" between age and turnout, where the 'very youngest citizens [...] have a decidedly higher turnout than their slightly older peers," yet still have a lower one than adults older than 35 years old (Bhatti and Hansen 2012; Bhatti, Hansen, and Wass 2012).

b) Scottish Parliamentary Elections

There is an overall paucity of statistics about turnout in relation to age for Scottish parliamentary elections. That being said, some of the available data point to trends concerning the lowered voting age's effects on electoral participation.

Figure 4: Voter Turnout in Scottish Parliament Elections, 1999-2021

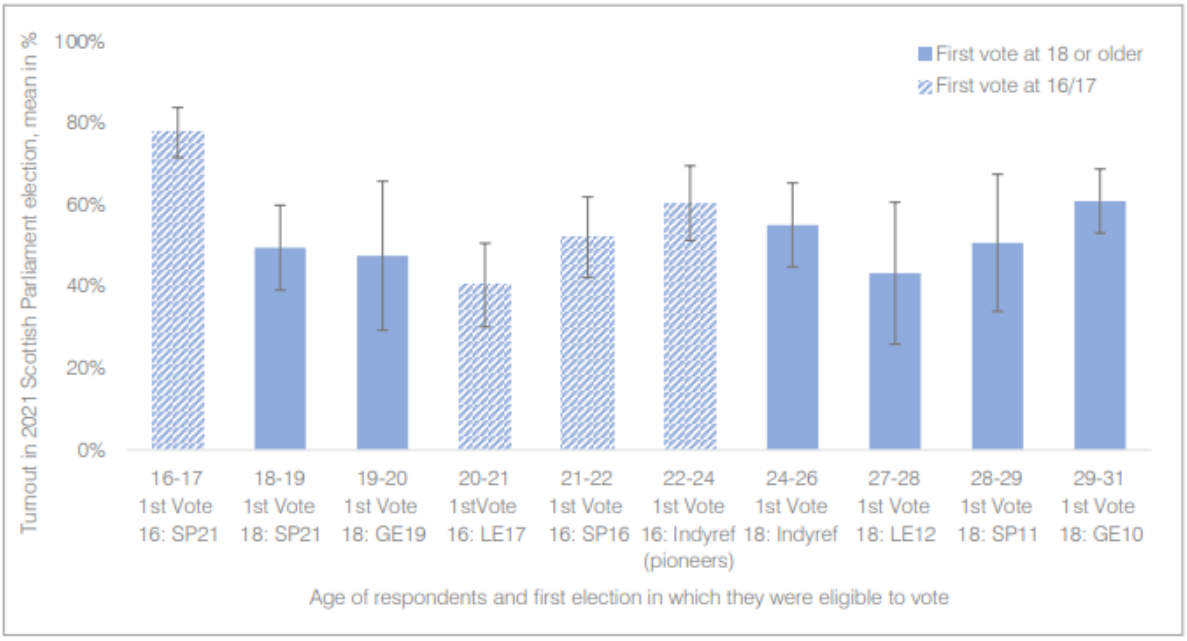


Source: Data from National Records of Scotland and Electoral Commission.

First, as Figure 4 shows, there was a notable increase in the general population's turnout following the reduction of the voting age in 2015. Participation rates for the 2016 election were 5,2 % higher than in 2011, and this difference grew by 7,7 % between 2016 and 2021. Turnout in

the 2021 election surpassed the record spike of the first Scottish Parliament election in 1999 by 4,7 %. The lowering of the statutory voting age to 16 is not solely responsible for this participation boost. For instance, the 2016 election was marked by the issues of the 2014 independence referendum and the 2016 United Kingdom European Union membership referendum, and the recent victories of the Scottish National Party (SNP) in the 2015 general election (Anderson 2016). Additionally, the "constitutional deadlock" between supporters and detractors of Scottish independence and the issue of Brexit were also drivers of electoral behaviour in the 2021 Scottish parliamentary election (Johns 2021). Notwithstanding this observation, the heightened turnout rate is necessarily affected by the inclusion of 16- and 17-year-olds, as Aiton *et al*. (2016, p. 22) assert in the context of the 2016 election.

Figure 5: Voter Turnout in the 2021 Scottish Parliament Election, 20 per Cohort, Self-Reported (Mean in %, with 95%-Confidence Interval): 16- to 31-Year-Olds, N=904 (Weighted)

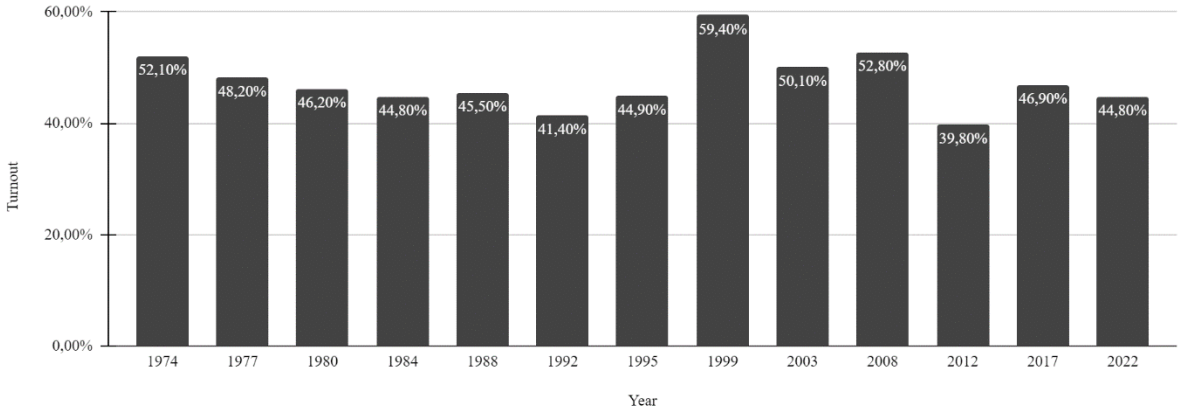


Source: Eichhorn and Hübner (2021, p. 8).

The link between earlier enfranchisement and turnout in the context of the 2021 Scottish parliamentary election is made clearer thanks to Eichhorn and Hübner (2021), who observed that the citizens who benefited from electoral participation at an earlier age not only had a higher turnout rate at their first election but that this first-time voting boost had a "significant follow-through effect" on their subsequent participation in the 2021 election. The lowering of the voting age reduces the usual electoral participation decline during the first years of adulthood in those who first voted when they were 16 or 17. As Figure 5 illustrates, citizens who were enfranchised at a younger age had a higher turnout during the 2021 election than those who first voted at 18 years old. Furthermore, the turnout rates in this election follow a "W-shape," with higher levels of electoral participation at 16–17, 21–26, and 29–31, which means that a lowered voting age disrupted the usual two participation spikes at early and late adulthood—referred to as the "U-shape"—by adding a third one (Eichhorn and Hübner 2021, pp. 8–9).

c) Local Council Elections

Figure 6: Voter Turnout in Scottish Local Council Elections, 1974-2022

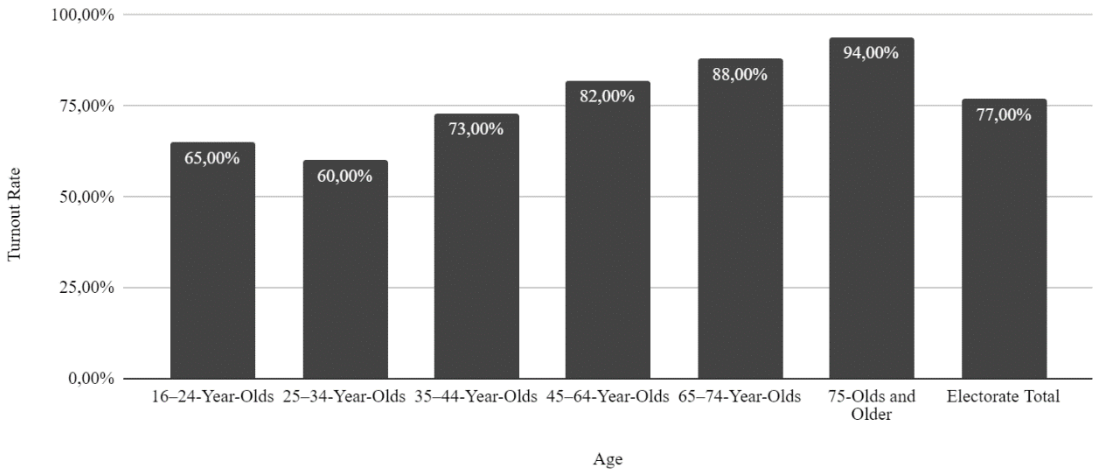


Sources: Data from Scottish Parliament Information Centre, Electoral Commission, National Records of Scotland.

It is not possible to measure the evolution of the post-2015 enfranchised Scots' electoral participation in local council elections because of the lack of data on the age distribution of

voters in the 2017 elections (Bochel and Denver 2017, p. 2). Moreover, unlike the Scottish parliamentary elections, the overall participation rates in the local elections do not indicate a marked or sustained boost. As Figure 6 illustrates, there was a soft increase following the lowering of the voting age to 16, with turnout rising by 7,1 % between 2012 and 2017. However, it fell by 2,1 % in the following election, far from the higher participation rates of 1974, and 1999 to 2008. Thus, while an increase in 2017 coincides with the institutional change, it does not reach the participation spikes in the four most popular local council elections, and it slightly dropped in the 2022 election. Nevertheless, there is a sustained boost since it remains at 5 % above the pre-enfranchisement turnout level in the 2012 election. This boost, just like its counterpart in the Scottish parliamentary elections, cannot be solely attributed to the reduction of the voting age. For example, Bochel and Denver (2017, p. 8) assert that the participation increase in the 2017 election can be attributed to "the fact that the elections were held during a UK general election campaign" and "that political interest among Scottish electors has been at a heightened level since the independence referendum in 2014." Thus, in and of itself, the raised turnout in local elections is not sufficient to have an indication on the electoral engagement of citizens affected by the institutional change.

Figure 7: Self-Reported Turnout as a Function of Age in the 2022 Scottish Local Council Elections



Source: Data from YouGov and Electoral Commission (2022).

The United Kingdom Electoral Commission, in the May 2022 Post Poll Public Opinion survey, collected some important information about self-reported turnout in the 2022 local council elections. Its findings are shown in Figure 7. The Commission found that 65 % of the 118 respondents in the 16 to 24 age group "managed to vote" in the elections, which constitutes a higher self-reported turnout than the following age group's 60 % of the 150 respondents (aged between 25 and 34 years old). The younger citizens' participation rate, however, is lower than every other age group above 35, standing at 12 % below the average turnout. This finding echoes the other sets of elections, where earlier enfranchisement lessened the early adulthood drop in electoral participation by introducing a voting boost that remains lower than the older population's turnout. It is hard to characterize this effect in the 2022 local council election as an instance of first-time voting boost or of habitual voting because citizens who gained the right to vote in 2015 as a result of the lowering of the statutory voting age were still a part of the age group of 16- to 24-year-olds in 2022, shoulder to shoulder with newly enfranchised 16- or 17-year-olds.

2.3 Downsides of the Lowering of the Scottish Voting Age

There are two downsides to the statutory lowering of the voting age to 16 in Scotland that need to be surveyed when studying the effects of this policy. In the next paragraphs, I argue that, (1) while the participatory boost is limited to engagement with the electoral system, it still provides evidentiary support to the assertion that the institutional change does not lead to habitual non-voting, and (2) the frustrations associated with uneven voting ages in the United Kingdom, set at 16 in Scotland and 18 elsewhere in the Kingdom, are a result of the multilevel nature of the British political landscape.

As the introduction to this second part of the chapter exposed, the lowering of the Scottish voting age to 16 has only effected an *electoral* participatory boost, instead of an increase in overall political participation. According to Eichhorn and Hübner (2023, pp. 10–11), a boost in the newly enfranchised citizens' "non-electoral political engagement" was only apparent in the 2014 referendum and its immediate aftermath, failing to sustain itself after this highly mobilizing event. This is an important limit to the outcome of the voting policy because electoral engagement only constitutes a small portion of the available modes of political participation. The fact remains, nevertheless, that even in its restricted state, the voting boost constitutes evidence against the assertion that a lowered voting age would lead to further youth electoral disengagement, which is itself a "long-term generational trend away from electoral politics" where "[y]ounger cohorts have turned away from political parties and elections" (Sloam and Henn 2019, p. 2).

The lopsided voting ages in the United Kingdom have a negative consequence in frustrating underaged citizens who can vote in parliamentary and local Scottish elections, but not in general elections. Indeed, Huebner (2021), Breeze, Gorringe, Jamieson and Rosie (2017), Hill,

Lockyer, Head and MacDonald (2017), and Huebner and Eichhorn (2020), through their qualitative work with Scots who benefited from this institutional change, found that the imbalance they faced by being simultaneously enfranchised in the subnational polity and disenfranchised in the wider, national polity, could be equated to partial citizenship. This negative outcome is a result of the disharmony between the national and devolved policies. Because of their relatively autonomous spheres of influence, the two levels of government are not bound by each other's choice to either maintain or modify the minimum voting age, leading to this contradictory result of partial (dis)enfranchisement.

III. Lowering of the Scottish Voting Age to 16 and Canada: Comparative Insights

The previous part of this chapter demonstrated that the reduction of the statutory voting age to 16 in Scotland, by allowing younger Scots to engage with the electoral process, did not lead to habitual non-voting. This finding is useful in assuaging the most persuasive argument used against the lowering of the voting age in Canada. As was exposed in the second chapter, Howe (2011) posited that this institutional reform, because of the low levels of electoral participation observed in early adulthood, could lead to a form of habitual non-voting. This phenomenon is the obverse of habitual voting, where citizens develop the habit of participating in elections by voting. The author asserts that should the newly enfranchised young Canadians not cast their first vote, then they would not form the habit of voting in subsequent elections.

The chapter's main contention lends support to the argument that the reduction of the minimum voting age to 16 does not have the negative effect of fostering chronic electoral disengagement in the newly enfranchised. Since Canada shares common attributes with the Scottish legal and political systems, the proposed institutional reform in the context of federal elections should also not lead to habitual non-voting in the citizens affected by it.

The second part of the chapter introduced the notable difference between the Scottish and Canadian party systems, with the former being much more vertically integrated than the latter. This divergence affects the transposability of the insights developed through the Scottish case study of the lowering of the voting age to its Canadian counterpart. Indeed, the decentralized structure of the Canadian party system has an important effect in creating a form of "inconsistent partisanship" where party identification differs from one level of elections to the other (on this observation, see, e.g., Stewart and Clarke 1998; Uslaner 1990; Blake 1982). In contrast, the integration of parties at different Scottish electoral levels leads to more stable party affiliation because citizens can develop consistent support for a political party through the process of immunization, where electors "with a longer partisan history have been immunized by their repeated experience of party politics" against "the contagion of political change" (Butler and Stokes 1972, p. 81). This finding is important because, as the literature demonstrates, stable partisanship is a mobilizing factor for voters (Rau 2021; McAllister 2020). In other words, the voting boost as an outcome of the Scottish experience of the reduction of the voting age to 16 could be partially attributed to this process.

Its influence should not be overstated, however. Immunization is developed through a longer partisan history, which is not available to newly enfranchised citizens, who otherwise remain disenfranchised from general elections until they reach the age of majority. Thus, while stable partisanship mobilizes voters, it does not fully explain the fact that the citizens affected by the institutional change in Scotland did not develop a habit of electoral disengagement. As such, stable partisan affiliation does not constitute a factor that is sufficiently influential to prohibit the use of the Scottish case study as a reference for a federal voting age policy reform in Canada.

The uneven voting ages, should the institutional change be adopted only at the federal level in Canada, could lead to the same frustration felt by 16- and 17-year-old Scots, who are both enfranchised at the Scottish level and disenfranchised at general British elections. The Canadian state also is divided into levels of government that have control over elections that concern their sphere of jurisdiction, with the federal government competent over federal elections and the provincial governments, over provincial and municipal elections.[11] This situation could lead to disharmony between the different electoral regulations, should Ottawa choose to lower the federal voting age while the other governments maintain theirs. The consequence of this disparity would be the same as the one observed in Scotland, with a partial (dis)enfranchisement of 16- and 17-year-olds in the three orders of election.

Nonetheless, should 16- and 17-year-olds gain access to the federal franchise through the judicial system, the Ontario Superior Court would decide that the exclusion of this population from the vote is unconstitutional. Its ruling would constitute a precedent that could act as a basis to harmonize the provincial and federal voting ages, especially if the case were to reach appellate courts.

IV. Summary

In this chapter, I asserted that the lowering of the statutory voting age in Scotland to 16, which is a relevant comparative case to Canada because of their similar political and legal organization, did not have the negative effect of introducing electoral apathy in the newly enfranchised citizens. I arrived at this argument by observing the registration and the turnout rates in the 2014 referendum, Scottish Parliament elections, and local council elections, which demonstrated the electoral engagement (rather than disengagement) of the citizens affected by the statutory change

to the franchise. Then, I used this fact to posit that, should the same policy be adopted for Canadian federal elections, it would most likely lead to a positive political repercussion—habitual voting—, rather than reducing the already depressed voter turnout of young Canadians. These two concurrent observations constitute sources of evidence that the proposed institutional change should happen in the Canadian setting and that the preservation of the minimum voting age of 18 in federal elections cannot be convincingly justified through the phenomenon of habitual non-voting.

CHAPTER 6 – CONCLUSION

In this thesis, I presented the argument that the federal voting age should be lowered from 18 to 16 in Canada. This normative position was supported by evidence from (1) the historical extensions of the federal franchise to other social groups, (2) a constitutionality analysis of the electoral disqualification of 16- and 17-year-olds provided by section 3 of the *Canada Elections Act*, and (3) Scotland, where the minimum voting age was reduced to 16 in 2015. In this chapter, I critically assess the substance of my argument. In the first part, I summarize the key findings from the four preceding chapters through their interaction with the research questions and goals set out in the introductory chapter. In the second part, I ascertain the challenges and constraints to the realization of the proposed institutional change. In the third part, I overview the main limitations of my thesis about its overall scope and its methodological choices and use them to propose avenues for future research.

I. Key Findings

My thesis hinges on the main argument that the voting age in Canadian federal elections should be lowered to 16. This institutional change would (1) be consistent with the evolutionary nature of the federal franchise, as exemplified by its extension to different social groups through the concurrent processes of mobilization–concessions and constitutional litigation, (2) be a relevant solution to the current unconstitutionality of the disenfranchisement of late teenagers, and (3) would not lead to habitual disengagement from the electoral process in the affected population. It is also necessary to maintain a minimum voting age to prevent habitual non-voting and voter fraud. The following sections highlight how the thesis chapters provide answers to the research questions and evidence to support the proposed institutional change and discredit the contrasting normative position that the voting age should be maintained at 18.

1.1 Lowering of the Voting Age and Other Extensions of the Federal Franchise

In the third chapter of the thesis, I explored the processes through which the federal franchise was extended to different social groups in Canadian society, both before and after the entrenchment of the *Canadian Charter*. I found that the enfranchisement of 16- and 17-year-olds is consistent with the evolutionary nature of the federal right to vote and that these citizens are making use of the dual processes of mobilization–concessions and constitutional litigation to reach this goal. In other words, the lowering of the federal voting age is procedurally similar to the enfranchisement of social groups between Confederation and 1982 (women, Indigenous Peoples, Asian Canadians, and 18- to 20-year-olds), and after the adoption of the *Constitution Act, 1982* (PIPD, judges, prisoners, and expatriates). The comparison between these cases highlighted the evolutionary, rather than restrictive, nature of this institution.

1.2 Constitutionality of the Disenfranchisement of 16- and 17-Year-Olds and Citizens Under the Age of 16 Years Old

In the fourth chapter, I examined the constitutionality of the federal disenfranchisement of 16- and 17-year-olds through the intersection between sections 1 and 3, and subsection 15(1) of the *Canadian Charter*. I found that section 3 of the *Canada Elections Act*, which provides the federal disqualification of all minors from belonging to the electorate, is not a reasonable limit to 16- and 17-year-olds' democratic and equality rights and, consequently, should be of no force or effect. I argued that, while the measure's objective of safeguarding the integrity of the electoral process is pressing and substantial and the disenfranchisement of minors is rationally connected to this purpose—thus, justifying the exclusion of politically incompetent minors from the federal franchise—, the disenfranchisement of 16- and 17-year-olds fails the minimal impairment element because of its overbreadth, and the proportionality element seeing as the deleterious

effects on these citizens' section 3 and subsection 15(1) rights outweigh the measure's objective, which is otherwise not met by disqualifying politically mature late teenagers.

1.3 Lowering of the Voting Age in Scotland, Habitual Non-Voting, and Comparative Insights for Canada

In the fifth chapter, I used the lowering of the voting age in Scotland to 16 as a comparative case to argue that the adoption of the same policy by the federal government would not lead to habitual non-voting in the affected populations. I looked at the increased turnout and registration rates following the institutional change in Scotland during the 2014 Referendum on Independence and its extension to all Scottish elections in 2015. I found that the participatory rates of the citizens affected by the institutional change are not indicative of their development of habits of electoral disengagement, particularly when compared to young populations who did not benefit from earlier enfranchisement. This observation was transposed in the Canadian setting to offer evidence against the proposition that a lowered voting age would lead to further electoral disengagement.

II. Practical Challenges to the Federal Enfranchisement of 16- and 17-Year-Olds

The thesis provided political and constitutional evidence to support the normative position that the Canadian federal voting age should be lowered from 18 to 16. An aspect of the study of this proposed institutional change that still needs to be explored is the challenges and constraints to its implementation. In other words, what are the practical obstacles to the federal enfranchisement of 16- and 17-year-olds in Canada and how should they inform the proposed policy? The third chapter of the thesis exposed the political and constitutional arenas through which disenfranchised citizens can operate to engender an expansion of the federal franchise. I argue that, even though constitutional litigation is the most likely avenue through which this age

group could give rise to the proposed institutional change, the main obstruction to 16- and 17-year-olds' enfranchisement is time.

Whilst there is social mobilization around the question of the lowering of the voting age to 16 in Canada, the implementation of a federal legislative policy to precipitate that institutional change necessitates a political entrepreneur. This reiterates Hogan and Feeney's (2012, p. 1) thesis that "[t]he political entrepreneur acts as a bridge between those developing/advocating new policy ideas […] and the institutions implementing them." This figure is defined by Meydani (2012, pp. 71–72) as "someone from within [or without] the political system […] who has an idea that could effect a change in the political status quo and recruits support for it" and "acts to promote the change, not only for ideological reasons but also because of the belief that such action will bring him political support or maximize his public prestige." After summarily reviewing the political entrepreneurship of political parties and Canadian courts about the lowering of the federal voting age to 16, I determine that the constitutional arena is more propitious to achieve an extension of the right to vote in federal elections than the political arena.

The positioning of parties sitting in Parliament on the lowering of the voting age to 16 and the way the policy is proposed hinder the usefulness of relying on the legislative branch as an agent of change to the federal franchise. Indeed, this issue was only included in the 2021 political platforms of two federal parties: the New Democratic Party (2021, p. 105) and the Green Party of Canada (2021, p. 89). The propositions of institutional change at the federal level, as detailed in the introductory chapter, have, thus far, only been introduced through private members' legislation (referred to as private members' bills—PMB). While I recognize the usefulness of PMBs as channels through which individual MPs can try to influence "the government's policy agenda" (Koop and Loewen 2010, p. 11; Blidook 2010; Blidook 2012),

these bills seldom become statutes (see, e.g., Keyes 1997). They tend to fail to reach the second reading stage, which can otherwise only "receive no more than two hours of consideration, with at least ten sitting days elapsing between the first and second hour of debate" (MacKay 2018, p. 23). The issue of a voting age of 16, then, has yet to benefit from widespread, multi-party support and, in light of its relegation to PMBs, from lengthier parliamentary debates.

Constitutional litigation seems to be a more promising instrument for advocates of the proposed institutional change than relying on political parties in power. In the third chapter, I observed that the evolutionary characteristic of the right to vote in federal elections was supported by Canadian magistrates' general commitment to universal suffrage. Thus, the Canadian body of case law on federal disenfranchisement demonstrates that, when confronted with instances of disenfranchisement, courts usually declare them as unreasonable limits to section 3 of the *Canadian Charter*. Nonetheless, this does not mean that the judicial declaration of the unconstitutional character of the disenfranchisement of late teenagers is assured. For instance, age remains an acceptable justification of electoral disqualification in the body of case law on disenfranchisement, meaning that justices, particularly those in favour of judicial deference to Parliament, could rely on this precedent to maintain 16- and 17-year-olds' exclusion from the federal franchise.

Advocates of the lowering of the voting age to 16, when navigating either of the surveyed arenas, are confronted with one significant challenge: the length of the enfranchisement process. On one hand, beyond the limitations the third chapter exposed, the length of sustained litigation remains an important constraint to the concurrent use of courts and the *Charter* as agents of institutional change. This matters because of the limited time frame through which 16- and 17-year-olds can act before they reach the age of electoral majority, and, more generally, because of

its overall temporal costs. There were 5 to 7 years between the judgments from the lowest to the highest courts in the three sagas of cases concerning section 3 rights relative to the disenfranchisement of prisoners and expatriates (*Sauvé I*, *Sauvé II*, and *Frank*).

On the other hand, the translation of the commitment of political parties to lowering the voting age to 16 into an adopted legislative policy is a lengthy process. An example of this long process can be found in Scotland. The SNP pledged to lower the voting age to 16 as early as 1997, yet only did so in 2014 (for the referendum, or 2015 for all Scottish elections), even though it formed a minority government in 2007 and a majority government in 2011 (Pickard 2019). Many steps were taken to reach this legislative outcome. The party published a White Paper on the question in 2009, launched "a national consultation on a possible independence referendum, which addressed the issue of votes at 16" in 2010, worked on the *Edinburgh Agreement* in 2012 with the central government, giving Scotland control over the voting age, then introduced the *Scottish Independence Referendum (Franchise) Bill, 2013*, garnering support from the other parties sitting in Scottish Parliament to the exception of the Scottish Conservative Party (Pickard 2019). Canadian political parties, should they want to materialize a lower voting age, need (1) enough support from the electorate to be a part of the House of Commons, (2) the required number of MPs to pass a bill, and (3) enough incentives to go through the legislative process to ratify the proposed policy.

III. Limitations and Future Research

3.1 Scope of the Research

My thesis has a limited scope, both in the selection of the object of study and its overall setting. On one hand, the normative argument is interested in the right to vote at the exclusion of the right to hold public office, which otherwise benefits from the same constitutional protection as

the previous right (section 3 of the *Canadian Charter*). At the federal level, the disqualification of voters directly robs them of their eligibility to be an electoral candidate (*Canada Elections Act*, subs. 65[a]). In this perspective, 16- and 17-year-olds' right to hold public office is limited on the very same basis of political immaturity as their right to vote, affecting Canadian democracy's representation of their interests. An analysis of the constitutionality of their ineligibility to become electoral candidates considering its impact on the affected citizens' equality and democratic rights could cast doubt on my assertion that the lowering of the voting age to 16 does not need to be concurrent with a similar change to the candidacy age.

On the other hand, my argument focuses on the voting age in Canadian elections at the federal level. There is a plurality of polities within the Canadian state, each with a distinct electoral process to determine the composition of their government. Participation in elections in provinces, municipalities, and First Nations is limited by rules, including a minimum voting age. The exclusion of these elections from the project is not indicative of an opinion on the substance of arguments for or against the lowering of the voting age in these polities. The bodies of literature that permeate my thesis would benefit from analyses of the question in these settings, taking into consideration the specificities of their electoral systems and the federal nature of the Canadian political and legal landscape.

3.2 Methodological Choices

The following two limitations of my thesis concern my methodological choices. First, normative political theory is highly dependent on the persuasiveness of arguments that are chosen to support a position. If my political and legal findings about the lowering of the voting age to 16 were invalidated by developments in the literature, then my main argument would not be as convincing.

Second, my selection of a single comparative case of the lowering of the statutory voting age to 16 in Scotland, while justified insofar as it is consistent with the adoption of a highly contextualized case study approach, could be criticized because of its impossible generalizability to all instances of this institutional change. Political scientists (like Lijphart 1971 and Shenton 2004) rightfully argue that a low number of comparative cases as population samples in a study affects the possibility of extending its findings to the overall population. The goal of my thesis was not to provide insights that could be applied to many different instances of the electoral disqualification of 16- and 17-year-olds but to examine an institutional change proposal in the specific context of Canada. A scientific observation of the political outcomes of the lowering of the voting age to 16 in multiple comparative cases could, nonetheless, nuance my findings about the increased electoral participation of citizens affected by this institutional change.

Notwithstanding its shortcomings, my normative argument constitutes a starting point for the reassessment of the democratic role and place of late teenagers in the Canadian sociopolitical landscape by focusing on the specific issue of the minimum voting age in federal elections. My findings could motivate future research on the integration of 16- and 17-year-olds in the democratic processes of the various political communities that compose the plurinational Canadian state.

NOTES

[1] The polities around the world that lowered the minimum voting age to 16 are Argentina, Austria, Brazil, Cuba, Ecuador, Guernsey, Isle of Man, Jersey, Malta, Nicaragua, Scotland and Wales, and some municipalities in the United States, Estonia, and Germany.

[2] This is without considering the polysemic nature of equality itself—meaning, its capacity to have multiple possible meanings (McCarthy and Radbord 1999; Boivin 2004; Bredt and Dodek 2003).

[3] The first statute establishing the federal franchise, the *Electoral Franchise Act, 1885*, was repealed in 1898 by the Laurier government. The statute used provincial qualifications to build the federal voting lists. The passage of the *Dominion Elections Act* in 1920 marks the enduring independence of the federal franchise from provincial electoral statutes.

[4] I am referring to *relatively* unconditional enfranchisement because there were still some characteristics that justified the exclusion of otherwise enfranchised individuals. A non-exhaustive list includes age (being younger than 21 before 1970, and 18 afterwards), mental incapacity, the status of a prisoner, the exercise of certain professions (judges and certain government employees, for instance, were not allowed to participate in the electoral process), and residency.

[5] The *Electoral Franchise, 1885* used provincial restrictions to the right to vote to build its voter lists, which meant that citizens disenfranchised by provincial law would also be excluded from the federal franchise. For good measure, however, the federal statute directly disenfranchised individuals not legally considered as "people:" women, "Indians," and individuals "of Mongolian or Chinese race" (Preece 1984, p. 485).

[6] I am purposefully not referring to the remedies provided by section 24 of the *Canadian Charter*, for the simple reason that the federal disenfranchisement of different populations is statutory. The former Chief Justice Lamer, in *Schachter* (pp. 717, 720), argued that "section 52 is engaged when a law is itself held to be unconstitutional, as opposed to simply a particular action taken under it," and that the granting of reparations under section 24 in conjunction with the legislative correction of section 52 would "only duplicate the relief flowing from the action that court has already taken" (see Roach 2013, p. 490).

[7] This point is developed more substantively in section 3.1 of the second chapter.

[8] My translation of the following French text: "le concept d'accès à la justice comprendrait donc une composante procédurale (la disponibilité des moyens pour résoudre et prévenir les conflits) et une composante substantielle (le caractère juste et équitable du résultat)."

[9] The constitutional arguments used to justify the lowering of the voting age to 16 in Canada are developed in the fourth chapter.

[10] For a deeper analysis of the phenomena of the first-time voting boost and habitual voting, see the second chapter.

[11] On the legal framework surrounding the right to vote in Canadian municipal elections, see Garnett and Keir 2022, p. 341.

[12] For an overview of the debate in the literature, see the conversation between Webber *et al.* (2018) and other authors such as Kelly (2020), Roznai (2020), and Garlicki (2020).

[13] For an overview of said rulings, see section 3.2 of the second chapter.

[14] The General Comments developed by human rights treaty bodies, including the Committee on Rights of Persons with Disabilities and the Committee on the Rights of the Child, provide "authoritative interpretations" of the enabling treaties' provisions (Reiners 2022, pp. 24–

25). Even though they do not hold the same binding legal power as conventional obligations, the comments still "shape the interpretation, application, and development of international human rights law" (Lesch and Reiners 2023, p. 383).

REFERENCES

Abendschön, Simone. 2017. “Children and Politics.” *American Behavioral Scientist* 61, no. 2: 163–66. https://doi.org/10.1177/0002764216689119.

Acemoglu, Daron, and James A. Robinson. 2012. *Why Nations Fail: The Origins of Prosperity, and Poverty*. New York City: Crown Publishers.

Ackerly, Brooke, and Rochana Bajpai. 2017. "Comparative Political Thought." In *Methods in Analytical Political Theory*, edited by Adrian Blau, 270–96. Cambridge: Cambridge University Press. https://doi.org/10.1017/9781316162576.

Aguilar-Palacio, Isabel, Patricia Carrera-Lasfuentes, and M. José Rabanaque. 2015. “Youth Unemployment and Economic Recession in Spain: Influence on Health and Lifestyles in Young People (16–27-year-old).” *International Journal of Public Health* 60: 427–35. https://doi.org./10.1007/s00038-015-0668-9.

Aichholzer, Julian, and Sylvia Kritzinger. 2020. “Voting at 16 in Practice: A Review of the Austrian Case.” In *Lowering the Voting Age to 16: Learning from Real Experiences Worldwide*, edited by Jan Eichhorn and Johannes Bergh, 81–101. London: Palgrave Macmillan.

Aiton, Andrew *et al.* 2016. “SPICe Briefing: Election 2016.” *Scottish Parliament Information Centre*. http://www.parlamaid.scot/ResearchBriefingsAndFactsheets/S5/SB_16-34_Election_2016.pdf.

Alanen, Leena. 1988. “Rethinking Childhood.” *Acta Sociologica* 31, no. 1: 53–67.

Alberta v. Hutterian Brethren of Wilson Colony, 2009 S.C.C. 37, [2009] 2 S.C.R. 567.

Alberta (Attorney General) v. Moloney, 2015 S.C.C. 51, [2015] 3 S.C.R. 327.

Alhéritière, Dominique. 1971. “De la prépondérance fédérale en droit constitutionnel canadien.” *Les Cahiers de droit* 12, no. 4: 545–611. https://doi.org/10.7202/1004987ar.

Alon-Shenker, Pnina. 2012. “The Unequal Right to Age Equality: Towards a Dignified Lives Approach to Age Discrimination.” *Canadian Journal of Law and Jurisprudence* 25, no. 2: 243–82.

———. 2013. “’Age Is Different:’ Revisiting the Contemporary Understanding of Age Discrimination in the Employment Setting.” *Canadian Labour and Employment Law Journal* 17: 31–63.

Anderson, Paul. 2016. “The 2016 Scottish Parliament Election: A Nationalist Minority, a Conservative Comeback and a Labour Collapse.” *Regional & Federal Studies* 26, no. 4: 555–68. https://doi.org/10.1080/13597566.2016.1193488.

Andersson, Erik. 2022. “Three Major Challenges in Young People’s Political Participation and a Pragmatic Way Forward.” In *Youth Participation and Learning: Critical Perspectives on Citizenship Practices in Europe*, edited by Zulmir Bečević and Björn Andersson, 17–35. Young People and Learning Processes in School and Everyday Life. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-030-92514-7_2.

Andrews v. Law Society of British Columbia, 1989 S.C.C. 2, [1989] 1 S.C.R. 143.

Archard, David. 2014. *Children: Rights and Childhood*. London: Routledge. https://doi.org/10.4324/9781315740676.

Ariès, Philippe. 1960. *L’enfant et la vie familiale sous l’Ancien Régime*. Paris: Plon.

Arnett, Jeffrey Jensen. 2000. “Emerging Adulthood: A Theory of Development from the Late Teens Through the Twenties.” *American Psychologist* 55, no. 5: 469–80. https://doi.org/10.1037//0003-066X.55.5.469.

Bacon, Kate, and Zoe O’Riordan. 2023. “Who do You Think You Are? Children’s Definitions of Being a ‘Child’.” *Children & Society* 0: 1–20. https://doi.org/10.1111/chso.12705.

Badger v. Canada (Attorney-General), 1988 M.B.C.A. 145, [1989] 1 W.W.R. 216.

Bangarth, Stephanie Danielle. 2008. *Voices Raised in Protest: Defending Citizens of Japanese Ancestry in North America, 1942–49*. Vancouver: UBC Press.

Barnes, Jeb, and Thomas F. Burke. 2006. “The Diffusion of Rights: From Law on the Books to Organizational Rights Practices.” *Law & Society Review* 40, no. 3: 493–524.

Bastarache, Michel. 2009. “How Internationalization of the Law Has Materialized in Canada.” *University of New Brunswick Law Journal* 59: 190–204.

Bateman, Thomas M.J. 2012. "Human Dignity's False Start in the Supreme Court of Canada: Equality Rights and the Canadian Charter of Rights and Freedoms." *The International Journal of Human Rights* 16, no. 4: 577–97. https://doi.org/10.1080/13642987.2011.621695.

Bauböck, Rainer. 2018. “Introduction.” In *Democratic Inclusion: Rainer Bauböck in Dialogue*, edited by Rainer Bauböck and Joseph H. Carens (pp. 3–102). Manchester: Manchester University Press.

Baumtrog, Michael. 2021. “Youth Voting, Rational Competency, and Epistemic Injustice.” *Informal Logic* 41, no. 1: 41–55. https://doi.org/10.22329/il.v41i1.6691.

Bayefsky, Anne F. 1983. "Parliamentary Sovereignty and Human Rights in Canada: The Promise of the Canadian Charter of Rights and Freedoms." *Political Studies* 31: 239–63.

Beckman, Ludvig. 2009. *The Frontiers of Democracy: The Right to Vote and its Limits*. London: Palgrave Macmillan UK. https://doi.org/10.1057/9780230244962.

Belczowski v. Canada, 1991 F.C. 13518, [1991] 3 F.C. 151.

Belczowski v. Canada, 1992 F.C.A. 8580, [1992] 2 F.C. 440.

Belshaw, John Douglas. 2016. *Canadian History: Post-Confederation*. Victoria: BCampus.

Bergh, Johannes. 2013. "Does Voting Rights Affect the Political Maturity of 16- and 17-Year-Olds? Findings from the 2011 Norwegian Voting-Age Trial." *Electoral Studies* 32, no. 1: 90–100.

Bhabha, Jacqueline. 2003. "The Citizenship Deficit: On Being a Citizen Child." *Development* 46, no. 3: 53–59. https://doi.org/10.1177/10116370030463008.

Bhatti, Yosef, and Kasper M. Hansen. 2012. "Leaving the Nest and the Social Act of Voting: Turnout among First-Time Voters." *Journal of Elections, Public Opinion and Parties* 22, no. 4: 380–406. https://doi.org/10.1080/17457289.2012.721375.

———, and Hanna Wass. 2012. "The Relationship Between Age and Turnout: A Roller-Coaster Ride." *Electoral Studies* 31, no. 3: 588–93. https://doi.org/10.1016/j.electstud.2012.05.007.

Biesta, Gert, Robert Lawy, and Narcie Kelly. 2009. "Understanding Young People's Citizenship Learning in Everyday Life: The Role of Contexts, Relationships and Dispositions." *Education, Citizenship and Social Justice* 4, no. 1: 5–24. https://doi.org/10.1177/1746197908099374.

Bill C-213. *An Act to amend the Canada Elections Act (voting age)*, 1st Sess., 42nd Parl., 2016.

Bill C-240. *An Act to amend the Canada Elections Act (voting age)*, 2nd Sess., 43rd Parl., 2020.

Bill C-261, *An Act to amend the Canada Elections Act (voter and candidate age)*, 1st Sess., 38th Parl., 2004.

Bill C-368. *An Act to amend the Canada Elections Act (voting age)*, 2nd Sess., 41st Parl., 2013.

Bill C-401. *An Act to amend the Canada Elections Act (voting age)*, 1st Sess., 42nd Parl., 2018.

Bill C-634. *An Act to amend the Canada Elections Act (voting age)*, 3rd Sess., 40th Parl., 2011.

Bills S-209. *An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age)*, 2nd Sess., 43rd Parl., 2021.

Bill S-219. *An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age)*, 1st Sess., 43rd Parl., 2020.

Bird, Brian. 2018. "The Unbroken Supremacy of the Canadian Constitution." *Alberta Law Review* 55, no. 3: 755–76.

Blake, Donald E. 1982. "The Consistency of Inconsistency: Party Identification in Federal and Provincial Politics." *Canadian Journal of Political Science* 15, no. 4: 691–710. https://www.jstor.org/stable/3229820.

———. 1985. *Two Political Worlds: Parties and Voting in British Columbia*. Vancouver: University of British Columbia Press.

Blatterer, Harry. 2007. "Contemporary Adulthood: Reconceptualizing an Uncontested Category." *Current Sociology* 55, no. 6: 771–92. https://doi.org/10.1177/0011392107081985.

Blidook, Kelly. 2010. "Exploring the Role of 'Legislators' in Canada: Do Members of Parliament Influence Policy?" *The Journal of Legislative Studies* 16, no. 1: 35–56. https://doi.org/10.1080/13572330903541979.

———. 2012. *Constituency Influence in Parliament: Countering the Centre*. Vancouver: University of British Columbia Press.

Bochel, Hugh, and David Denver. 2017. *Report on Scottish Council Elections 2017*. Electoral Commission. https://www.electoralcommission.org.uk/sites/default/files/pdf_file/2017-Scottish-Council-elections-Report.pdf.

Boivin, Michelle. 2004. "Le besoin urgent d'un nouveau cadre conceptuel en matière de droits à l'égalité." *Les Cahiers de droit* 45, no. 2: 327–49.

Borowski v. Canada (Attorney General), 1989 S.C.C. 123, [1989] 1 S.C.R. 342.

Brando, Nico. 2022. "Is Child Disenfranchisement Justified?" *Critical Review of International Social and Political Philosophy*: 1–23. https://doi.org/10.1080/13698230.2022.2062211.

Bredt, Christopher D., and Adam M. Dodek. 2003. "Breaking the Law's Grip on Equality: A New Paradigm for Section 15." *The Supreme Court Law Review* 20: 33–61.

Breeze, Maddie, Hugo Gorringe, Lynn Jamieson, and Michael Rosie. 2017. "Becoming Independent: Political Participation and Youth Transitions in the Scottish Referendum." *British Journal of Sociology* 68, no. 4: 754–74. https://doi.org/10.1111/1468-4446.12288.

Brewer, Holly. 2006. "The Historical Links between Children, Justice, and Democracy." *Hamline Journal of Public Law & Policy* 28, no. 1: 339–56.

Bronner, Laura, and David Ifkovits. 2019. “Voting at 16: Intended and Unintended Consequences of Austria’s Electoral Reform.” *Electoral Studies* 61. https://doi.org/10.1016/j.electstud.2019.102064.

Buckley, Melina. 2008. "Searching for the Constitutional Core of Access to Justice." *Supreme Court Law Review* 42: 567–93.

Butler, David, and Donald Stokes. 1972. *Political Change in Britain: Forces Shaping Electoral Choice*. London: Palgrave Macmillan.

Campiglio, Luigi. 1997. “Political Participation, Voting, and Economic Policy: Three Problems of Modern Democracy.” In *Understanding Democracy: Economic and Political Perspectives*, edited by Albert Breton, Gianluigi Galeotti, Pierre Salmon, and Ronald Wintrobe. Cambridge: Cambridge University Press.

———. 2005. “Prima le donne e i bambini: Chi rappresenta i minorenni?” Bologna: Il Mulino.

———. 2009. “Children’s Right to Vote: The Missing Link in Modern Democracies.” *Sociological Studies of Children and Youth* 12: 221–47. https://doi.org/10.1108/S1537-4661(2009)0000012014.

Campos, Andre Santos. 2022. “Infant Political Agency: Redrawing the Epistemic Boundaries of Democratic Inclusion.” *European Journal of Political Theory* 21, no. 2: 368–89. https://doi.org/10.1177/1474885119874341.

Canada Elections Act, S.C. 2000, c. 9.

Canada (Attorney General) v. JTI-Macdonald Corp. 2007 S.C.C. 30, [2007] 2 S.C.R. 610.

Canada Labour Standards Regulations, C.R.C., c. 986.

Canadian Charter of Rights and Freedoms, part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

Canadian Disability Rights Council v. Canada, 1988 F.C. 9443, [1988] 3 F.C. 622.

Canadian Western Bank v. Alberta, 2007 S.C.C. 22, [2007] 2 S.C.R. 3.

Carter, Mark. 1999. “Reconsidering the *Charter* and Electoral Boundaries.” *Dalhousie Law Journal* 22, no. 1: 53–92.

Chan, Tak Wing, and Matthew Clayton. 2006. “Should the Voting Age be Lowered to Sixteen? Normative and Empirical Considerations.” *Political Studies* 54, no. 3: 533–58. https://doi.org/10.1111/j.1467-9248.2006.00620.x.

Checkoway, Barry, Katie Richards-Schuster, Shakira Abdullah, Margarita Aragon, Evelyn Facio, Lisa Figueroa, Ellen Reddy, Mary Welsh, and Al White. 2003. “Young People as Competent Citizens.” *Community Development Journal* 38, no. 4: 298–309. https://doi.org/10.1093/cdj/38.4.298.

Choquette, Éléna. 2020. "Canadian Liberalism and Gender Equality: Between Oppression and Emancipation." In *The Palgrave Handbook of Gender, Sexuality, and Canadian Politics*, edited by Manon Tremblay, and Joanna Everitt, 15–33. London: Palgrave Macmillan. https://doi.org/10.1007/978-3-030-49240-3.

Cockburn, Tom. 2007. “Partners in Power: A Radically Pluralistic Form of Participative Democracy for Children and Young People.” *Children & Society* 21, no. 6: 446–57. https://doi.org/10.1111/j.1099-0860.2006.00078.x.

Cohen, Cynthia Price, and Hedwin Naimark. 1991. “United Nations Convention on the Rights of the Child: Individual Rights Concepts and Their Significance for Social Scientists.” *American Psychologist* 46, no. 1: 60–65. https://doi.org/10.1037/0003-066X.46.1.60.

Cohen, Elizabeth F. 2005. “Neither Seen Nor Heard: Children’s Citizenship in Contemporary Democracies.” *Citizenship Studies* 9, no. 2: 221–40. https://doi.org/10.1080/13621020500069687.

Cohen, G. A. 2011. "How to Do Political Philosophy." In *On the Currency of Egalitarian Justice, and Other Essays in Political Philosophy*, edited by Michael Otsuka, 225–35. Princeton: Princeton University Press.

Collins, Patricia Hill, and Sirma Bilge. 2016. *Intersectionality*. Cambridge: Polity Press.

Committee on the Rights of Persons with Disabilities. 2014. *General Comment No. 1: Article 12 (Equal Recognition before the Law)*. 11th session, U.N. Doc. CRPD/C/GC/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement.

Committee on the Rights of the Child. 2009. *General Comment No. 12: Article 12 (The Right of the Child to be Heard)*. 51st session, U.N. Doc. CRC/C/GC/12.

Condon, Meghan. 2015. “Voice Lessons: Rethinking the Relationship Between Education and Political Participation.” *Political Behavior* 37, no. 4: 819–43. https://www.jstor.org/stable/43653263.

Connor, Walker. 1973. "The Politics of Ethnonationalism." *Journal of International Affairs* 27, no. 1: 1–21. https://www.jstor.org/stable/24356606.

Constitution Act, 1867 (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, Appendix II, no. 5.

Constitution Act, 1982, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

Coram, Veronica. 2022. “Perceptions of Intergenerational Inequality in Policymaking and Possible Responses: The Case of Australia.” *Youth* 2: 515–25. https://doi.org/10.3390/youth2040037.

Corbett, Stan M. 1998. "Reading the Preamble to the *British North America Act, 1867*." *Constitutional Forum* 9, no. 2: 42–47.

Courtney, John C. 2004. *Elections*. Vancouver: UBC Press.

Cowley, Philip, and David Denver. 2004. “Votes at 16? The Case Against.” *Representation* 41, no. 1: 57–62. https://doi.org/10.1080/00344890408523289.

Curtice, John. 2014. “So How Many 16 and 17 Year Olds Voted?” *What Scotland Thinks*. https://www.whatscotlandthinks.org/2014/12/many-16-17-year-olds-voted/.

Dahl, Robert A. 1989. *Democracy and its Critics*. New Haven: Yale University Press.

Dam, Geert ten, Femke Geijsel, Rene Reumerman, and Guuske Ledoux. 2011. “Measuring Young People’s Citizenship Competences.” *European Journal of Education* 46, no. 3: 354–72. https://doi.org/10.1111/j.1465-3435.2011.01485.x.

Dawood, Yasmin. 2012. “Electoral Fairness and the Law of Democracy: A Structural Rights Approach to Judicial Review.” *University of Toronto Law Journal* 62, no. 4: 499–561. https://doi.org/10.3138/utlj.62.4.499.

———. 2013. “Democracy and the Right to Vote: Rethinking Democratic Rights under the Charter.” *Osgoode Hall Law Journal* 51, no. 1: 251–96.

———. 2017. “Democratic Rights.” In *The Oxford Handbook of the Canadian Constitution*, edited by Peter Oliver, Patrick Macklem, and Nathalie Des Rosiers, 717–36. New York: Oxford University Press. https://doi.org/10.1093/law/9780190664817.003.0034.

———. 2021. “The Right to Vote and Freedom of Expression in Political Process Cases Under the Charter.” *Supreme Court Law Review* 100: 105–41.

de Castro, Lucia Rabello. 2012. “Children— Democracy and Emancipation.” *Alternatives* 37, no. 2: 165–77. https://doi.org/10.1177/0304375412447933.

Demeny, Paul. 2012. “Geopolitical Aspects of Population in the Twenty-First Century.” *Population and Development Review* 38, no. 4: 685–705. http://www.jstor.org/stable/41811934.

Denny, Kevin, and Orla Doyle. 2009. “Does Voting History Matter? Analysing Persistence in Turnout.” *American Journal of Political Science* 53, no. 1: 17–35. https://www.jstor.org/stable/25193865.

Dicey, Albert Venn. 1959. *Introduction to the Study of Law of the Constitution*, 10th ed. London: MacMillan.

Diermeier, Daniel, and Keith Krehbiel. 2003. "Institutionalism as a Methodology." *Journal of Theoretical Politics* 15, no. 2: 123–232. https://doi.org/10.1177/0951629803015002645.

Dinas, Elias. 2012. "The Formation of Voting Habits." *Journal of Elections, Public Opinion and Parties* 22, no. 4: 431–56. https://doi.org./10.1080/17457289.2012.718280.

Dobrowolsky, Alexandra. 2014. "The Women's Movement in Flux: Feminism and Framing, Passion, and Politics." In *Group Politics and Social Movements in Canada*, edited by Miriam Catherine Smith. York: University of Toronto Press.

Doraisamy, Naomi. 2020. "Out of Mind, Out of Sight: Voting Restrictions Based on Mental Competency." *Idaho Law Review* 56, no. 2: 135–53.

Doucet-Boudreau v. Nova Scotia (Minister of Education), 2003 S.C.C. 62, [2003] 3 S.C.R. 3.

Douglas, Joshua A. 2017. "In Defense of Lowering the Voting Age." *University of Pennsylvania Law Review* 165: 63–72.

———. 2020a. "Lowering the Voting Age from the Ground Up: The United States' Experience in Allowing 16-Year Olds to Vote." In *Lowering the Voting Age to 16: Learning from Real Experiences Worldwide*, edited by Jan Eichhorn and Johannes Bergh. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-030-32541-1_11.

———. 2020b. "The Loch Ness Monster, Haggis, and a Lower Voting Age: What America Can Learn from Scotland." *American University Law Review* 69: 1433–83.

Dubé, Justin Richard. 2021. "L'octroi du droit de vote universel autochtone aux élections fédérales." *Journal of the Canadian Historical Association* 31, no. 2: 25. https://doi.org/10.7202/1084734ar.

Duclos, Nitya, and Kent Roach. 1991. "Constitutional Remedies as 'Constitutional Hints:' A Comment on *R. v. Schachter*." *McGill Law Journal* 36, no. 1: 1–38.

Duncan, Fraser. 2020. "Residency and the Right to Vote under Section 3 of the Charter." *Saskatchewan Law Review* 83, no. 2: 169–202.

———. 2008. "Constructing Citizenship: Making Room for Prisoners' Rights." *Journal of Social Welfare and Family Law* 30, no. 2: 127–46. https://doi.org/10.1080/09649060802469827.

Dupuis, Renée. 2010. "Les Premières nations au Canada: des non-sujets hors de la cité." *Le Sujet dans la Cité* 1, no. 1: 163–75. https://doi.org/0.3917/lsdlc.001.0163.

Eichhorn, Jan. 2018a. "Mobilisation Through Early Activation and School Engagement – The Story from Scotland." *Journal of Youth Studies* 21, no. 8: 1095–1110. https://doi.org/10.1080/13676261.2018.1450968.

———. 2018b. "Votes At 16: New Insights from Scotland on Enfranchisement." *Parliamentary Affairs* 71, no. 2: 365–91. https://doi.org/10.1093/pa/gsx037.

———, and Christine Hübner. 2021. "Votes-at-16 in Scotland, 2014 – 2021." *University of Edinburgh School of Social and Political Science*. https://www.sps.ed.ac.uk/sites/default/files/assets/doc/Votes%20at%2016%20in%20Scotland.pdf.

———, and Johannes Bergh. 2020. "Introduction." In *Lowering the Voting Age to 16: Learning from Real Experiences Worldwide*, edited by Jan Eichhorn and Johannes Bergh, 1–12. Cham: Palgrave Macmillan.

———. 2021. "Lowering the Voting Age to 16 in Practice: Processes and Outcomes Compared." *Parliamentary Affairs* 74, no. 3: 507–21.

Election Act, Revised Statutes of Alberta, 2000, c. E-1.

Election Act, Revised Statutes of British Columbia, 1996, c. 106.

Election Act, Revised Statutes of Ontario, 1990, c. E.6.

Election Act, Revised Statutes of Prince Edward Island, 1988, c. E-1.1.

Elections Act, Revised Statutes of New Brunswick, 1973, c. E-3.

Elections Act, 1991, Consolidated Newfoundland and Labrador Regulation, 1992, c. E-3.1.

Elections Act, Revised Statutes of Nova Scotia, 2011, c. 5.

Elections Act, Revised Statutes of Yukon, 2002, c. 63.

Elections and Plebiscites Act, Consolidated Statutes of the Northwest Territories, 2006, c. 15.

Evans, Adam. 2020. "A Tale as Old as (Devolved) Time? Sewel, Stormont and the Legislative Consent Convention." *The Political Quarterly* 91, no. 1: 165–72.

Feasby, Colin. 2005. "Freedom of Expression and the Law of the Democratic Process." *The Supreme Court Law Review* 29: 237–89.

Fieldhouse, Edward, Mark Tranmer, and Andrew Russell. 2007. "Something about Young People or Something about Elections? Electoral Participation of Young People in Europe: Evidence from a Multilevel Analysis of the European Social Survey." *European Journal*

of Political Research 46, no. 6: 797–822. https://doi.org/10.1111/j.1475-6765.2007.00713.x.

Figueroa v. Canada (Attorney General), 2003 S.C.C. 37, [2003] 1 S.C.R. 912.

Fitzgerald et al. v. Alberta, 2002 A.B.Q.B. 1086, [2003] 3 W.W.R. 752.

Fitzgerald et al. v. Alberta, 2004 A.B.C.A. 184, [2004] 6 W.W.R. 416.

Flinders, Matthew. 2010. "Constitutional Anomie." *Government and Opposition* 44: 383–409.

Fowler, Timothy. 2014. "The Status of Child Citizens." *Politics, Philosophy & Economics* 13, no. 1: 93–113. https://doi.org/10.1177/1470594X13483482.

France, Alan. 1998. "'Why Should We Care?': Young People, Citizenship and Questions of Social Responsibility." *Journal of Youth Studies* 1, no. 1: 97–111. https://doi.org/10.1080/13676261.1998.10592997.

Frank et al. v. AG Canada, 2014 O.N.S.C. 907, [2014] O.J. No. 2098 (QL).

Frank v. Canada (Attorney General), 2015 O.N.C.A. 536.

Frank v. Canada (Attorney General), 2019 S.C.C. 1, [2019] 1 S.C.R. 3.

Franklin, Bob. 1986. "Children's Political Rights." In *The Rights of Children*, edited by Bob Franklin. Oxford: Basil Blackwell.

Franklin, Mark. 2004. *Voter Turnout and the Dynamics of Electoral Competition in Established Democracies Since 1945*. New York: Cambridge University Press.

Fraser v. Canada (Attorney General), 2020 S.C.C. 28, [2020] EXPT 1655.

Freeman, Michael. 1998. "The Sociology of Childhood and Children's Rights." *The International Journal of Children's Rights* 6: 433–44.

———. 2020. *A Magna Carta for Children? Rethinking Children's Rights*. Cambridge: Cambridge University Press.

Fritz, Ronald E. 1992. "The Saskatchewan Electoral Boundaries Case and Its Complications." In *Drawing Boundaries: Legislatures, Courts and Electoral Values*, edited by John C. Courtney, Peter MacKinnon, and David E. Smith. Saskatoon: Fifth House Publisher.

———. 1999. "Challenging Electoral Boundaries Under the *Charter*: Judicial Deference and Burden of Proof." *Review of Constitutional Studies* 5, no. 1: 1–33.

Furlong, Andy. 2013. *Youth Studies: An Introduction*. New York: Routledge.

Fyfe, R. James. 2007. “Dignity as Theory: Competing Conceptions of Human Dignity at the Supreme Court of Canada.” *Saskatchewan Law Review* 70, no. 1: 1–26.

Gamble, Andrew. 2006. “The Constitutional Revolution in the United Kingdom.” *Publius* 36, no. 1: 19–35. https://www.jstor.org/stable/20184940.

Garlicki, Lech. 2020. “On Specification and Entrenchment of Fundamental Rights: Discussion of *Legilsated Rights – Securing Human Rights Through Legislation*.” *Jerusalem Review of Legal Studies* 21, no. 1: 66–76. https://doi.org/10.1093/jrls/jlz022.

Garnett, Holly Ann, and Mark V. Keir. 2022. “Where Regulation Counts: Provincial Regulation of Municipal Elections in Canada.” *Canadian Public Administration* 65, no. 2: 333–51. https://doi.org/10.1111/capa.12462.

Gaspard, Valere. 2022. “Canada’s Ongoing Debate: The Federal Voting Age.” Research Paper, University of Ottawa. https://ruor.uottawa.ca/bitstream/10393/44015/1/Valere_Gaspard_MRP.pdf.

Gerber, Alan S., Donald P. Green, and Ron Schachar. 2003. “Voting May be Habit Forming: Evidence from a Randomized Field Experiment.” *American Journal of Political Science* 47, no. 3: 540–50. https://doi.org/10.1111/1540-5907.00038.

Gerring, John. 2004. "What Is a Case Study and What Is It Good For?" *The American Political Science Review* 98, no. 2: 341–54. https://www.jstor.org/stable/4145316.

Giesinger, Johannes. 2017. “Should Children Have a Right to Vote? Political Initiation and the Status of Childhood.” *Archives for Philosophy of Law and Social Philosophy* 103, no. 4: 456–69. https://doi.org/10.25162/arsp-2017-0247.

Gorman, Ruth. 2007. *Behind the Man: John Laurie, Ruth Gorman and the Indian Vote in Canada*. Calgary: University of Calgary Press.

Gosselin v. Québec (Attorney General), 2002 S.C.C. 84, [2002] 4 S.C.R. 429.

Gosseries, Axel. 2008. “Theories of Intergenerational Justice: A Synopsis.” *Surveys and Perspectives Integrating Environment and Society* 1, no. 1: 61–71.

Goudie, Yvonne. “Youth and Elections.” *ACE Project Electoral Knowledge Network*. Accessed March 29, 2023. https://aceproject.org/ace-en/topics/yt/annex-contributors.

Green Party of Canada. 2021. *Platform 2021*. https://www.greenparty.ca/sites/default/files/gpc_platform_en_v-02.pdf.

Greschner, Donna. 2001. “Does ‘Law’ Advance the Cause of Equality?” *Queen’s Law Journal* 27, no. 1: 299–318.

Grover, Sonja C. 2011. "Unconstitutional Age-Based Discrimination in the Vote Applied on Account of Young Age." In *Young People's Human Rights and The Politics of Voting Age*, by Sonja C. Grover, 167–213. Dordrecht: Springer Netherlands. https://doi.org/10.1007/978-90-481-8963-2_8.

Haig v. Canada; Haig v. Canada (Chief Electoral Officer), 1993 S.C.C. 58, [1993] 2 S.C.R. 995.

Hall, Peter A. 1986. *Governing the Economy: The Politics of State Intervention in Britain and France*. New York: Oxford University Press.

Hamilton, Vivian E. 2012. "Democratic Inclusion, Cognitive Development, and the Age of Electoral Majority." *Brooklyn Law Review* 77, no. 4: 1447–1514.

Harper v. Canada (Attorney General), 2004 S.C.C. 33, [2004] 1 S.C.R. 827.

Hart, Daniel, and Robert Atkins. 2011. "American Sixteen- and Seventeen-Year-Olds Are Ready to Vote." *The Annals of the American Academy of Political and Social Science* 633, no. 1: 201–22.

———, and Sarah Allred. 2020. "Stability and Change in Partisan Political Identification: Implications for Lowering the Voting Age." *Journal of Applied Developmental Psychology* 71 (November): 1–10. https://doi.org/10.1016/j.appdev.2020.101210.

Hart, Stella. 2009. "The 'Problem' with Youth: Young People, Citizenship and the Community." *Citizenship Studies* 13, no. 6: 641–57. https://doi.org/10.1080/13621020903309656.

Hartas, Dimitra. 2011. "Young People's Participation: Is Disaffection Another Way of Having a Voice?" *Educational Psychology in Practice* 27, no. 2: 103–15. https://doi.org/10.1080/02667363.2011.567088.

Harter, Susan. 2012. "Emerging Self-Processes during Childhood and Adolescence." In *Handbook of Self and Identity*, edited by Mark R. Leary, and June Price Tangney, 680–715. New York: Guilford Press.

Hartley, John. 2010. "Silly Citizenship." *Critical Discourse Studies* 7, no. 4: 233–48. https://doi.org/10.1080/17405904.2010.511826.

Harvey v. New Brunswick (Attorney General), 1996 S.C.C. 163, [1996] 2 S.C.R. 876.

Henaff, Gaël. 2002. "L'enfant, l'âge et le discernement." *Lien Social et Politiques*, no. 44: 41–50. https://doi.org/10.7202/005123ar.

Henderson, Ailsa, and James Mitchell. 2015. *The Scottish Question, Six Months On*. Edinburgh, Transatlantic Seminar Series. https://blogs.sps.ed.ac.uk/scottishreferendumstudy/files/2015/03/Scottish-Referendum-Study-27-March-2015.pdf.

Henderson, Ailsa, Robert Johns, Jac M. Larner, and Christopher J. Carman. 2022. *The Referendum that Changed a Nation: Scottish Voting Behaviour 2014–2019*. London: Palgrave Macmillan. https://doi.org/10.1007/978-3-031-16095-0.

Herzog, Donald J. 2018. *Without Foundations: Justification in Political Theory*. Ithaca: Cornell University Press. https://doi.org/10.1353/book.58026.

Hiebert, Janet L., and James B. Kelly. 2015. *Parliamentary Bills of Rights: The Experience of New Zealand and the United Kingdom*. Cambridge: Cambridge University Press. https://doi.org./10.1017/CBO9781139924511.

Hill, Malcolm, Andrew Lockyer, George Head, and Craig A. MacDonald. 2017. "Voting at 16 – Lessons for the Future from the Scottish Referendum." *Scottish Affairs* 26, no. 1: 48–68. https://doi.org/10.3366/scot.2017.0163.

Hinrichs, Karl. 2002. "Do the Old Exploit the Young? Is Enfranchising Children a Good Idea?" *European Journal of Sociology* 43, no. 1: 35–58.

Hogan, Alison. 2015. "First Nations and the Federal Franchise: 1960." *The Corvette* 3, no. 2: 93–111.

Hogan, John, and Sharon Feeney. 2012. "Crisis and Political Change: The Role of the Political Entrepreneur." *Risk, Hazards & Crisis in Public Policy* 3, no. 2: 1–24. https://doi.org/10.1515/1944-4079.1108.

Hogg, Peter W. 1992. *Constitutional Law of Canada*, 3rd ed. Scarborough: Carswell.

———, and Allison A. Bushell. 1997. "The Charter Dialogue between Courts and Legislatures (Or Perhaps the Charter of Rights Isn't Such a Bad Thing after All)." *Osgoode Hall Law Journal* 35, no. 1: 75–124.

———, and Wade K. Wright. 2007. "Charter Dialogue Revisited: Or 'Much Ado About Metaphors'." *Osgoode Hall Law Journal* 45, no. 1: 1–65.

Holt, John. 1974. *Escape from Childhood*. New York: E. P. Dutton.

Holzscheiter, Anna. 2010. *Children's Rights in International Politics: The Transformative Power of Discourse*. London: Palgrave Macmillan UK. https://doi.org/10.1057/9780230281646.

Howe, Paul. 2003. "Electoral Participation and the Knowledge Deficit." *Electoral Insight* 5, no. 2: 20–26.

———. 2008. "Political Culture in the Age of Adolescence." Unpublished manuscript presented at the annual conference of the Canadian Political Science Association, Vancouver.

———. 2011. *Citizens Adrift: The Democratic Disengagement of Young Canadians*. Vancouver: UBC Press.

———. 2020. *Teen Spirit: How Adolescence Transformed the Adult World*. Ithaca: Cornell University Press.

Huebner, Christine. 2021. "How Young People in Scotland Experience the Right to Vote at 16: Evidence on 'Votes-at-16' in Scotland from Qualitative Work with Young People." *Parliamentary Affairs* 74, no. 3: 563–80. https://doi.org/10.1093/pa/gsab017.

——— and Jan Eichhorn. 2019. "Votes at 16 in Scotland: Political Experiences Beyond the Vote Itself." In *Lowering the Voting Age to 16: Learning from Real Experiences Worldwide*, edited by Jan Eichhorn and Johannes Bergh, 121–142. Cham, Switzerland: Palgrave Macmillan. https://doi.org/10.1007/978-3-030-32541-1_7.

Hyde, Martin. 2001. "Democracy Education and the Canadian Voting Age." PhD diss., University of British Columbia.

Icegnole, Grace *et al.* 2019. "Adolescents' Cognitive Capacity Reaches Adult Levels Prior to their Psychosocial Maturity: Evidence for a 'Maturity Gap' in a Multinational, Cross-Sectional Sample." *Law and Human Behavior* 43, no. 1: 69–85. https://doi.org/10.1037/lhb0000315.

Igartua, José E. 2006. *The Other Quiet Revolution: National Identities in English Canada, 1945–71*. Vancouver: University of British Columbia Press.

Immergut, Ellen M. 1998. "The Theoretical Core of the New Institutionalism." *Politics & Society* 26, no. 1: 5–34. https://doi.org/10.1177/0032329298026001002.

Irvine, Marie-Adrienne. 1999. "A New Trend in Equality Jurisprudence?" *Appeal: Review of Current Law and Law Reform* 5: 54–73.

Jacob, Nina, Rhiannon Evans, and Jonathan Scourfield. 2017. "The Influence of Online Images on Self-Harm: A Qualitative Study of Young People Aged 16–24." *Journal of Adolescence* 60, 140–47. https://doi.org/10.1016/j.adolescence.2017.08.001.

James, Allison, and Adrian L. James. 2001. "Childhood: Towards a Theory of Continuity and Change." *The Annals of the American Academy of Political and Social Science* 575: 25–37. https://www.jstor.org/stable/1049178.

James, Allison. 2011. "To Be (Come) or Not to Be (Come): Understanding Children's Citizenship." *The Annals of the American Academy of Political and Social Science* 633: 167–79. http://www.jstor.org/stable/27895966.

Janky, Béla, and Attila Gulyás. 2018. “Voting Rights and Intergenerational Justice: Framing Effects and Voter Attitudes.” *Corvinus Journal of Sociology and Social Policy* 9, no. 2: 25–48. https://doi.org/10.14267/CJSSP.2018.2.02.

Johns, Robert. 2021. “As You Were: The Scottish Parliament Election of 2021.” *The Political Quarterly* 92, no. 3: 493–99. https://doi.org/10.1111/1467-923X.13047.

Johnson, David. 1994. “Canadian Electoral Boundaries and the Courts: Practices, Principles and Problems.” *McGill Law Journal* 39, no. 1: 224–47.

Johnston, Neil, and Elise Uberoi. 2020. *Voting Age: Briefing Paper Number 1747, 19 November 2020*. https://researchbriefings.files.parliament.uk/documents/SN01747/SN01747.pdf.

Karlan, Pamela S. 2006. “Framing the Voting Rights Claims of Cognitively Impaired Individuals.” *McGeorge Law Review* 38, no. 4: 917–30.

Kasza, Gregory J. 2010. "The Marginalization of Political Philosophy and Its Effects on the Rest of the Discipline." *Political Research Quarterly* 63, no. 3: 697–701. https://www.jstor.org/stable/25747970.

Kaur Bains, Satwinder, and Sharanjit Kaur Sandhra. 2019. “The Battle for the South Asian Right to the Vote.” *British Columbia History* 52, no. 1: 18–23.

Keating, Michael, and Guy Laforest. 2018. “Federalism and Devolution: The UK and Canada.” In *Constitutional Politics and the Territorial Question in Canada and the United Kingdom*, edited by Michael Keating and Guy Laforest, 1–18. London: Palgrave Macmillan. https://doi.org/10.1007/978-3-319-58074-6_1.

Kelly, James B. 2020. “Legislative Capacity and Human Rights in the Age of Populism – Two Challenged for Legislated Rights: Discussion of *Legislated Rights – Securing Human Rights Through Legislation*.” *Jerusalem Review of Legal Studies* 21, no. 1: 94–111. https://doi.org/10.1093/jrls/jlz024.

Kenealy, Daniel, Jan Eichhorn, Richard Parry, Lindsay Paterson, and Alexandra Remond. 2017. *Public, Elites and Constitutional Change in the UK: A Missed Opportunity?* London: Palgrave Macmillan. https://doi.org/10.1007/978-3-319-52818-2.

Keyes, John Mark. 1997. “When Bills and Amendments Require the Royal Recommendation: A Discussion Paper and Guidelines.” *Canadian Parliamentary Review* 20, no. 4: 15–21.

King, Gary, Robert O. Keohane, and Sidney Verba. 1994. *Designing Social Inquiry: Scientific Inference in Qualitative Research*. Princeton: Princeton University Press.

Kirkby, Coel. 2019. "Reconstituting Canada: The Enfranchisement and Disenfranchisement of 'Indians,' Circa 1837–1900." *University of Toronto Law Journal* 69, no. 4: 497–539. https://doi.org/10.3138/utlj.2018-0078.

Koop, Royce, and Peter John Loewen. 2010. “When to go Local, when to go National: Determinants of Private Members’ Legislation in the 38th and 39th Parliaments.” *Journal of Parliamentary and Political Law* 4: 1–12.

Koshan, Jennifer. 2013. "Redressing the Harms of Government (In)Action: A Section 7 Versus Section 15 *Charter* Showdown." *Constitutional Forum* 22, no. 1: 31–46.

Laborde, Cécile. 2008. *Critical Republicanism: The Hijab Controversy and Political Philosophy*. Oxford: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199550210.001.0001.

Lafond, Pierre-Claude. 2012. *L'accès à la justice civile au Québec: Portrait général*. Cowansville: Éditions Yvon Blais.

Lam, Chi-Ming. 2012. “The Disablement and Enablement of Childhood.” *International Studies in Sociology of Education* 22, no. 2: 147–67. https://doi.org/10.1080/09620214.2012.700190.

———. 2013. “Reconceptualisation of Childhood for Promoting Justice in an Open Society.” In *Childhood, Philosophy and Open Society*, by Chi-Ming Lam, 121–69. Singapore: Springer Singapore. https://doi.org/10.1007/978-981-4451-06-2_5.

Lamoureux, Diane, and Jacinthe Michaud. 1988. "Les parlementaires canadiens et le suffrage féminin: Un aperçu des débats." *Revue canadienne de science politique* 21, no. 2: 319–29. https://www.jstor.org/stable/3228493.

Lau, Joanne C. 2012. “Two Arguments for Child Enfranchisement.” *Political Studies* 60, no. 4: 860–76. https://doi.org/10.1111/j.1467-9248.2011.00940.x.

Law v. Canada (Minister of Employment and Immigration), 1999 S.C.C. 675, [1999] 1 S.C.R. 497.

Leane, G. W. G. 2004. "Enacting Bills of Rights: Canada and the Curious Case of New Zealand's 'Thin' Democracy." *Human Rights Quarterly* 26, no. 1: 152–88. https://doi.org/10.1353/hrq.2004.0006.

LeBrun, Andréanne, and Louise Bienvenue. 2017. "Pour ‘un gouvernement jeune et dynamique’ : L'abaissement du droit de vote à 18 ans au Québec en 1964." *Revue historique de l'Amérique française* 71, no. 1–2: 113–35. https://doi.org/10.7202/1042789ar.

Leca, Jean. 2010. "Political Philosophy in Political Science: Sixty Years on." *International Political Science Review* 31, no. 5: 525–38. https://www.jstor.org/stable/20869821.

Lecce, Steven. 2009. “Should Democracy Grow up? Children and Voting Rights.” *Intergenerational Justice Review* 9, no. 4: 133–39. https://doi.org/10.24357/igjr.4.4.510.

Lee, Carol F. 1976. "The Road to Enfranchisement: Chinese and Japanese in British Columbia." *BC Studies* 30: 44–76.

Lee, Nick. 2001. *Childhood and Society: Growing Up in an Age of Uncertainty*. Buckingham: Open University Press.

Lemyre, Xavier. 2016. *Youth, Participation and Engagement in Canada*. https://cudo.carleton.ca/system/files/dli_training/4328/youth-engagementlemyrefinal.pdf.

Lesch, Max, and Nina Reiners. 2023. "Informal Human Rights Law-Making: How Treaty Bodies Use 'General Comments' to Develop International Law." *Global Constitutionalism* 12, no. 2: 378–401. https://doi.org/10.1017/S2045381723000023.

Libman v. Quebec (Attorney General), 1997 S.C.C. 326, [1997] 3 S.C.R. 569.

Lieberman, Robert C. 2002. "Ideas, Institutions, and Political Order: Explaining Political Change." *The American Political Science Review* 96, no. 4: 697–712. https://www.jstor.org/stable/3117505.

Lijphart, Arendt. 1971. "Comparative Politics and the Comparative Method." *The American Political Science Review* 65, no. 3: 682–93.

Liske, Cyprian. 2019. "Brexit, Devolution and Scottish Independence: Political and Legal Impact of the Sewel Convention in the UK." *Przegląd Prawa Konstytucyjnego* 52, no. 6: 253–66. https://doi.org/10.15804/ppk.2019.06.19.

Lister, Ruth, Noel Smith, Sue Middleton, and Lynne Cox. 2003. "Young People Talk about Citizenship: Empirical Perspectives on Theoretical and Political Debates." *Citizenship Studies* 7, no. 2: 235–53. https://doi.org/10.1080/1362102032000065991.

Little, J. I. 2018. "Courting the First Nations Vote: Ontario's Grand River Reserve and the *Electoral Franchise Act* of 1885." *Journal of Canadian Studies* 52, no. 2: 538–69. https://doi.org/10.3138/jcs.2017-0071.r1.

Little Sisters Book and Art Emporium v. Canada (Minister of Justice), 2000 S.C.C. 69, [2000] 2 S.C.R. 1120.

Locke, John. 1988. *Two Treatises of Government: A Critical Edition*. Edited by Peter Laslett. Cambridge: Cambridge University Press.

López-Guerra, Claudio. 2012. "Enfranchising Minors and the Mentally Impaired." *Social Theory and Practice* 38, no. 1: 115–38. https://doi.org/10.5840/soctheorpract20123815.

———. 2014. *Democracy and Disenfranchisement: The Morality of Electoral Exclusions*. Oxford: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198705789.001.0001.

Lortie, Pierre. 1991. *Royal Commission on Electoral Reform and Party Financing: Reforming Electoral Democracy*. Minister of Supply and Services Canada.

Lovell, John. 2017. "Parliamentary Sovereignty in Canada." In *The Oxford Handbook of the Canadian Constitution*, edited by Peter Oliver, Patrick Macklem, and Nathalie Des Rosiers, 189–208. Oxford: Oxford University Press.

Lowndes, Vivien, and Mark Roberts. 2013. *Why Institutions Matter: The New Institutionalism in Political Science*. New York: Bloomsbury Academic.

Macdonald, Roderick A. 1990. "Access to Justice and Law Reform." *Windsor Yearbook of Access to Justice* 10: 287–337.

MacDonald, Heidi. 2017. "Women's Suffrage and Confederation." *Acadiensis* 46, no. 1: 163–76. https://www.jstor.org/stable/44784956.

MacKay, Robin. 2018. "Parliamentary Rules Concerning Private Members' Bills." *Canadian Parliamentary Review* 41, no. 3: 22–28.

Macleod, Colin M. 2014. "Agency, Authority and the Vulnerability of Children." In *The Nature of Children's Well-Being: Theory and Practice*, edited by Alexander Bagattini and Colin M. Macleod, 53–64. Vol. 9 of *Children's Well-Being: Indicators and Research Series*, edited by Asher Ben-Arieh. Dordrecht: Springer Science+Business. https://doi.org/10.1007/978-94-017-9252-3.

———. 2016. "Constructing Children's Rights." In *Justice, Education and the Politics of Childhood*, edited by Johannes Drerup, Gunter Graf, Christoph Schickhardt and Gottfried Schweiger, 3–16. Vol. 1 of *Philosophy and Politics – Critical Explorations*, edited by David M. Rasmussen and Alessandro Ferrara. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-319-27389-1.

Mahéo, Valérie-Anne, and Éric Bélanger. 2020. "Lowering the Voting Age to 16? A Comparative Study on the Political Competence and Engagement of Underage and Adult Youth." *Canadian Journal of Political Science* 53, no. 3: 596–617. https://doi.org/10.1017/S0008423920000232.

Make It 16 Incorporated v. Attorney-General, [2021] N.Z.C.A. 440.

Make It 16 Incorporated v. Attorney-General, [2022] N.Z.S.C. 134.

Mallory, J. R. 1944. "The Courts and the Sovereignty of the Canadian Parliament." *The Canadian Journal of Economics and Political Science* 10, no. 2: 165–78. https://doi.org/10.2307/137497.

Maloney, Ryan. “Young Canadians Launch Court Challenge to Lower Federal Voting Age from 18.” *CBC*, December 1st, 2021. https://www.cbc.ca/news/politics/young-canadians-voting-age-challenge-1.6268431.

Manfredi, Christopher P. 1990. “The Use of United States Decisions by the Supreme Court of Canada under the Charter of Rights and Freedoms.” *Canadian Journal of Political Science* 23, no. 3: 499–518. https://www.jstor.org/stable/3228648.

———. 2007. “The Day the Dialogue Died: A Comment on Sauve v. Canada.” *Osgoode Hall Law Journal* 45, no. 1: 105–23.

Mapp, Wayne. 1994. "New Zealand's Bill of Rights: A Provisional Assessment." *Agenda: A Journal of Policy Analysis and Reform* 1, no. 1: 81–89. https://doi.org/10.22459/AG.01.01.1994.09.

Matthews, Hugh, Melanie Limb, and Mark Taylor. 1999. “Young People’s Participation and Representation in Society.” *Geoforum* 30: 135–44.

Mayall, Berry. 2000. “The Sociology of Childhood in Relation to Children’s Rights.” *The International Journal of Children’s Rights* 8: 243–59.

McAllister, Ian. 2020. “Partisanship and Political Participation.” In *Research Handbook on Political Partisanship*, edited by Henrik Oscarsson and Sören Holmberg, 266–80. Cheltenham: Edward Elgar. https://doi.org/10.4337/9781788111997.00028.

McCarthy, Martha A., and Joanna L. Radbord. 1999. "Foundations for 15(1): Equality Rights in Canada." *Michigan Journal of Gender & Law* 6, no. 1: 261–376.

McCormick, Peter. 2010. “Waiting for Globalization: An Empirical Study of the McLachlin Court’s Foreign Judicial Citations.” *Ottawa Law Review* 41, no. 2: 209–43.

McCrudden, Christopher. 2008. “Human Dignity and Judicial Interpretation of Human Rights.” *European Journal of International Law* 19, no. 4: 655–724. https://doi.org/10.1093/ejil/chn043.

McInnes, Roderick, Steven Ayres, and Oliver Hawkins. 2014. *Scottish Independence Referendum 2014: Analysis of Results*. Research Paper 14/50, House of Commons Library. https://researchbriefings.files.parliament.uk/documents/RP14-50/RP14-50.pdf.

McLaverty, Peter, Graeme Baxter, Iain MacLeod, Elizabeth Tait, Ay, and Michael Heron. 2015. “New Radicals: Digital Political Engagement in Post-Referendum Scotland, Final Report.” *Communities and Culture Network +*. https://rgu-repository.worktribe.com/output/246201/new-radicals-digital-political-engagement-in-post-referendum-scotland-final-report-on-pilot-project-to-the-communities-and-cultrue-network.

Meydani, Assaf. 2012. “The Supreme Court as a Political Entrepreneur: The Case of Israel.” *Israel Studies Review* 27, no. 2: 65–85. https://www.jstor.org/stable/41804803.

Mills, John Stuart. 1993. “On Liberty.” In *Utilitarianism, On Liberty, Considerations on Representative Government, Remarks on Bentham’s Philosophy* (pp. 69–185), edited by Geraint Williams. London: Orion Publishing Group.

Milner, Henry. 2010. *The Internet Generation: Engaged Citizens or Political Dropouts?* Medford: Tufts University Press.

Moreau, Sophia. 2009. "*R. v. Kapp*: New Directions for Section 15." *Ottawa Law Review* 40, no. 2: 283–99.

Mráz, Attila. 2020. “Disenfranchisement and the Capacity/Equality Puzzle: Why Disenfranchise Children But Not Adults Living with Cognitive Disabilities?” *Moral Philosophy and Politics* 7, no. 2: 255–79. https://doi.org/10.1515/mopp-2019-0054.

Muldoon v. Canada, 1988 F.C. 9407, [1988] 3 F.C. 628.

Munn, Nicholas John. 2016. “Capacity, Consistency and the Young.” In *Justice, Education and the Politics of Childhood*, edited by Johannes Drerup, Gunter Graf, Christoph Schickhardt and Gottfried Schweiger, 49–64. Vol. 1 of *Philosophy and Politics – Critical Explorations*, edited by David M. Rasmussen and Alessandro Ferrara. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-319-27389-1.

———. 2018. “Against the Political Exclusion of the Incapable.” *Journal of Applied Philosophy* 35, no. 3: 601–16. https://doi.org/10.1111/japp.12229.

———. 2021. “The Trap of Incrementalism in Recognising Children’s Rights to Vote.” *Nordic Journal of Human Rights* 39, no. 2: 113–27. https://www.tandfonline.com/doi/full/10.1080/18918131.2021.1947621.

———. 2022. “How Low Can You Go? The Capacity to Vote Among Young Citizens.” In *Exploring Children’s Suffrage: Interdisciplinary Perspectives on Ageless Voting*, edited by John Wall, 47–65. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-031-14541-4_3.

National Records of Scotland. 2001. “Electoral Figures for 1996 to 2001.” *National Records of Scotland*. https://webarchive.nrscotland.gov.uk/20210314144408/https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/electoral-statistics/archive/electorate-figures-for-1996-to-2001.

———. 2015. “Introduction and Commentary.” *Electoral Statistics – Scotland 1st December 2015*. https://webarchive.nrscotland.gov.uk/20210314142806/https://www.nrscotland.gov.uk/st

atistics-and-data/statistics/statistics-by-theme/electoral-statistics/1st-december-2015/introduction-and-commentary.

———. 2023. *People Registered to Vote (Previously Called Electoral Statistics*. https://www.nrscotland.gov.uk/files//statistics/people-reg-vote/1-dec-22/people-registered-to-vote-22-report.pdf.

New Democratic Party. 2021. *Ready for Better: New Democrats' Commitments to You*. https://xfer.ndp.ca/2021/Commitments/Ready%20for%20Better%20-%20NDP%202021%20commitments.pdf.

New Zealand Bill of Rights (Declarations of Inconsistency) Act 2022, no. 45.

Nishiyama, Kei. 2020. "Deliberators, Not Future Citizens: Children in Democracy." *Journal of Deliberative Democracy* 13, no. 1: 1–24. https://doi.org/10.16997/jdd.267.

North, Douglass C. 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.

O'Neill, Brenda. 2003. "Examining Declining Electoral Turnout Among Canada's Youth." *Electoral Insight* 5, no. 2: 15–20.

Oliphant, Benjamin. 2014. "Interpreting the *Charter* with International Law: Pitfalls & Principles." *Appeal* 19: 105–29.

Oosterhoff, Benjamin, Laura Wray-Lake, and K. Paige Harden. 2022. "Adolescents Provide More Complex Reasons for Lowering the Voting Age than Do Adults: Evidence from National Convenience Samples." *Developmental Psychology* 58: 1574–84. https://doi.org/10.1037/dev0001366.

Opitz v. Wrzesnewskyj, 2012 S.C.C. 55, [2012] 3 S.C.R. 76.

Oreopoulos, Philip. 2005. "Canadian Compulsory School Laws and their Impact on Educational Attainment and Future Earnings." *Statistics Canada Research Paper 11F0019 No. 251*. https://www150.statcan.gc.ca/n1/en/pub/11f0019m/11f0019m2005251-eng.pdf?st=OdoFmiFi.

Osler, Audrey, and Aya Kato. 2022. "Power, Politics and Children's Citizenship: The Silencing of Civil Society." *The International Journal of Children's Rights* 30, no. 2: 440–72. https://doi.org/10.1163/15718182-30020007.

Ostberg, C. L., Matthew E. Wetstein, and Craig R. Ducat. 2001. "Attitudes, Precedents and Cultural Change: Explaining the Citation of Foreign Precedents by the Supreme Court of Canada." *Canadian Journal of Political Science* 34, no. 2: 377–99. https://www.jstor.org/stable/3232700.

Page, Edward A. 2007. “Intergenerational Justice of What: Welfare, Resources or Capabilities?” *Environmental Politics* 16, no. 3: 453–69.

Pal, Michael. 2011. “Breakdowns in the Democratic Process and the Law of Canadian Democracy.” *McGill Law Journal* 57, no. 2: 299–347.

———. 2023. “Section 3 of the Charter at 40.” In *The Surprising Constitution*, edited by Howard Kislowicz, Kerri Froc, and Richard Moon. Vancouver: UBC Press. Unpublished manuscript.

Pantell, Robert H., and Maureen T. Shannon. 2009. “Improving Public Policy for Children: A Vote for Each Child.” *Intergenerational Justice Review* 9, no. 4: 139–43. https://doi.org/10.24357/igjr.4.4.511.

Paré, Mona. 2017. “Children’s Rights Are Human Rights and Why Canadian Implementation Lags Behind.” *Canadian Journal of Children’s Rights* 4, no. 1: 24–47.

Penney-Crocker et al. *v. Canada*, Ontario Superior Court of Justice, No.CV-21-00673219-0000.

Percy-Smith, Barry. 2016. “Negotiating Active Citizenships: Young People’s Participation in Everyday Spaces.” In *Politics, Citizenship and Rights*, edited by Kirsi Pauliina Kallio, Sarah Mills and Tracey Skelton, 401–22. Singapore: Springer Reference.

Perrault, Stéphane. 2021. *A History of the Vote in Canada*, 3rd ed. Gatineau: Elections Canada.

Peterson, Paul E. 1992. “An Immodest Proposal: Let’s Give Children the Vote.” *Daedalus* 121, no. 4: 151–74.

Peto, Tommy. 2018. “Why the Voting Age Should be Lowered to 16.” *Politics, Philosophy & Economics* 17, no. 3: 277–97. https://doi.org/10.1177/1470594X17705651.

———. 2020. “Too Immature to Vote? A Philosophical Argument to Lower the Voting Age Special Issue: Age Limits in Law.” *Erasmus Law Review* 13, no. 1: 60–77.

Pickard, Sarah. 2019. “Devolution, the Independence Referendum and Votes at 16 in Scotland: Holyrood, a Pioneer in Democracy Leading the Way for Westminster?” *French Journal of British Studies* 24, no. 4: 1–21. https://doi.org/10.4000/rfcb.4963.

Picker, Colin B. 2002. “’A Light Unto the Nations’ — The New British Federalism, the Scottish Parliament, and Constitutional Lessons for Multiethnic States.” *Tulane Law Review* 77, no. 1: 1–90.

Pitkin, Hanna F. 1967. *The Concept of Representation*. Berkeley: University of California Press.

Poshteh v. Canada (Minister of Citizenship and Immigration), 2005 F.C.A. 85, [2005] 3 F.C.R. 487.

Power, Mark C., François Larocque, and Darius Bossé. 2012. "Constitutional Litigation, the Adversarial System and Some of Its Adverse Effects." *Review of Constitutional Studies* 17, no. 2: 1–40.

Preece, Rod. 1984. "The Political Wisdom of Sir John A. Macdonald." *Canadian Journal of Political Science* 17, no. 3:459–86. https://www.jstor.org/stable/3227603.

Priest, Maura. 2016. "Why Children Should Be Allowed to Vote." *Public Affairs Quarterly* 30, no. 3: 215–38. http://www.jstor.org/stable/44732770.

Purdy, Laura Martha. 1992. *In their Best Interest? The Case Against Equal Rights for Children*. Ithaca: Cornell University Press.

Quebec (Attorney General) v. 9147-0732 Québec inc., 2020 S.C.C. 32, [2020] 3 S.C.R. 426.

Quebec (Attorney General) v. A., 2013 S.C.C. 5, [2013] 1 S.C.R. 61.

Quintelier, Ellen. 2007. "Differences in Political Participation between Young and Old People." *Contemporary Politics* 13, no. 2: 165–80. https://doi.org/10.1080/13569770701562658.

Qvortrup, Jens. 2009. "Are Children Human Beings or Human Becomings? A Critical Assessment of Outcome Thinking." *Rivista Internazionale di Scienze Sociali* 117, no. 3–4: 631–54. https://www.jstor.org/stable/41625246.

R. v. Appulonappa, 2015 S.C.C. 59, [2015] 3 S.C.R. 754.

R. v. Big M Drug Mart Ltd., 1985 S.C.C. 69, [1985] 1 S.C.R. 295.

R. v. C.P., 2021 S.C.C. 19, [2021] A.C.S. no. 19.

R. v. Heywood, 1994 S.C.C. 34, [1994] 3 S.C.R. 761.

R. v. Kapp, 2008 S.C.C. 41, [2008] 2 S.C.R. 483.

R. v. Morales, 1992 S.C.C. 53, [1992] 3 S.C.R. 711.

R. v. Nova Scotia Pharmaceutical Society, 1992 S.C.C. 72, [1992] 2 S.C.R. 606.

R. v. Oakes, 1986 S.C.C. 46, [1986] 1 S.C.R. 103.

R. v. Therens, 1985 S.C.C. 29, [1985] 1 S.C.R. 613.

Rado, Klodian. 2020. "The Use of Non-Domestic Legal Sources in Supreme Court of Canada Judgments: Is this the *Judicial Snowbalization* of the Court?" *Utrecht Law Review* 16, no. 1: 57–85. https://doi.org/10.36633/ulr.584.

Rau, Eli G. 2021. “Partisanship as a Cause, Not Consequence, of Participation.” *Comparative Political Studies* 55, no. 6: 1021–58. https://doi.org/10.1177/00104140211047406.

Rawlings, Richard. 2015. “A Coalition Government in Westminster.” In *The Changing Constitution*, edited by Jeffrey Jowell and Colm O’Cinneide, 8th ed, 194–221. Oxford: Oxford University Press.

Reference Re. Provincial Electoral Boundaries (Saskatchewan), 1991 S.C.C. 61, [1991] 2 S.C.R. 158.

Reference Re. Public Service Employee Relations Act (Alta.), 1987 S.C.C. 88, [1987] 1 S.C.R. 313.

Rehfeld, Andrew. 2011. "The Child as Democratic Citizen." *The Annals of the American Academy of Political and Social Science* 633, no. 1: 141–66. https://doi.org/10.1177/0002716210383656.

Reid, Hubert. 2015. *Dictionnaire de droit québécois et canadien*, s.v. “Droit positif.” 5th ed. Montréal: Wilson & Lafleur.

Reiners, Nina. 2022. *Transnational Lawmaking Coalitions for Human Rights*. Cambridge: Cambridge University Press.

Reynaert, Didier, Maria Bouverne-de Bie, and Stijn Vandevelde. 2009. “A Review of Children’s Rights Literature since the Adoption of the United Nations Convention on the Rights of the Child.” *Childhood* 16, no. 4: 518–34. https://doi.org/10.1177/0907568209344270.

Ribeiro, Norberto, Carla Malafaia, and Teresa Ferreira. 2022. “Lowering the Voting Age to 16: Young People Making a Case for Political Education in Fostering Voting Competencies.” *Education, Citizenship and Social Justice*: 1–17. https://doi.org/10.1177/17461979221097072.

RJR-MacDonald Inc. v. Canada (Attorney General), 1995 S.C.C. 64, [1995] 3 S.C.R. 199.

Roach, 2013. "Enforcement of the Charter — Subsections 24(1) and 52(1)." *Supreme Court Law Review* 62: 473–537.

Robertson, James R. September 30, 2002. “Electoral Rights: Charter of Rights and Freedoms.” https://publications.gc.ca/Collection-R/LoPBdP/CIR/905-e.htm#ctherighttxt.

Roche, Jeremy. 1999. “Children: Rights, Participation and Citizenship.” *Childhood* 6, no. 4: 475–93. https://doi.org/10.1177/0907568299006004006.

Rogers Communications Inc. v. Châteauguay (City), 2016 S.C.C. 23, [2016] 1 S.C.R. 467.

Rogerson, Carol. 1987. "The Judicial Search for Appropriate Remedies Under the Charter: The Examples of Overbreath and Vagueness." In *Charter Litigation*, edited by Robert J. Sharpe. Toronto: Butterworths.

Rothstein, Marshall. 2000. "Section 1: Justifying Breaches of Charter Rights and Freedoms." *Manitoba Law Journal* 27, no. 2: 171–84.

Rousseau, Jean-Jacques. 1995. *Émile ou de l'éducation*. Edited by Charles Wirz. Paris: Gallimard.

Roznai, Yaniv. 2020. "Legislated Rights, Democratic Erosion, and the Rise of Executive Power: Comments on *Legislated Rights – Securing Human Rights Through Legislation*." *Jerusalem Review of Legal Studies* 21, no. 1: 129–44. https://doi.org/10.1093/jrls/jlaa001.

Runciman, David. 2007. "The Paradox of Political Representation." *Journal of Political Philosophy* 15, no. 1: 93–114. https://doi.org/10.1111/j.1467-9760.2007.00266.x.

Ryder, Bruce, Emily Lawrence, and Cidalia C. Faria. 2004. "What's Law Good For? An Empirical Overview of Charter Equality Rights Decisions." *The Supreme Court Law Review* 24: 103–36.

Ryder, Bruce, and Taufiq Hashmani. 2010. "Managing Charter Equality Rights: The Supreme Court of Canada's Disposition of Leave to Appeal Applications in Section 15 Cases, 1989–2010." *The Supreme Court Law Review* 51: 505–52.

Sanders, Douglas. 1983. "The Rights of the Aboriginal Peoples of Canada." *The Canadian Bar Review* 61: 314–38.

Sanghera, Gurchathen, Katherine Botterill, Peter Hopkins, and Rowena Arshad. 2018. "'Living Rights', Rights Claims, Performative Citizenship and Young People – the Right to Vote in the Scottish Independence Referendum." *Citizenship Studies* 22, no. 5: 540–55. https://doi.org/10.1080/13621025.2018.1484076.

Sauvé v. Canada (Attorney General), 1988 O.N.S.C. 4571, [1988] O.J. No. 1766 (QL).

Sauvé v. Canada (Attorney General), 1992 O.N.C.A. 2786, [1992] O.J. No. 565 (QL).

Sauvé v. Canada (Attorney General), 1993 S.C.C. 92, [1993] 2 S.C.R. 438.

Sauvé v. Canada (Chief Electoral Officer), 1995 F.C. 3565, [1996] 1 F.C. 857.

Sauvé v. Canada (Chief Electoral Officer), 2002 S.C.C. 68, [2002] 3 S.C.R. 519.

Schachter v. Canada, 1992 S.C.C. 74, [1992] 2 S.C.R. 679.

Schapiro, Tamar. 1999. “What Is a Child?” *Ethics* 109, no. 4: 715–38. https://doi.org/10.1086/233943.

Schrag, Francis. 1975. “The Child’s Status in the Democratic State.” *Political Theory* 3, no. 4: 441–57. https://www.jstor.org/stable/190839.

Schriner, Kay. 2002. “The Competence Line in American Suffrage Law: A Political Analysis.” *Disability Studies Quarterly* 22, no. 2: 61–73.

Schües, Christina. 2016. “Epistemic Injustice and Children’s Well-Being.” In *Justice, Education and the Politics of Childhood*, edited by Johannes Drerup, Gunter Graf, Christoph Schickhardt and Gottfried Schweiger, 155–70. Vol. 1 of *Philosophy and Politics – Critical Explorations*, edited by David M. Rasmussen and Alessandro Ferrara. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-319-27389-1.

Scotland Act 1998 (U.K.), 1998, c. 46.

Scotland Act 2016 (U.K.), 2016, c. 11.

Scotland Ministry for Parliamentary Business. 2022. “Chapter 1 – Candidates.” In *Electoral Reform Consultation*, by George Adam, 6–18. Edinburgh: The Scottish Government. https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-paper/2022/12/electoral-reform-consultation/documents/electoral-reform-consultation/electoral-reform-consultation/govscot%3Adocument/electoral-reform-consultation.pdf.

Scottish Elections (Franchise and Representation) Act 2020, A.S.P. 2020, c. 6.

Scottish Elections (Reduction of the Voting Age) Act 2015, A.S.P. 2015, c. 7.

Scottish Independence Referendum (Franchise) Act 2013, A.S.P. 2013, c. 13.

Scottish Parliament Information Centre. 2022. “Local Government Elections May 2022.” *Spice Spotlight*. https://spice-spotlight.scot/2022/05/11/local-government-elections-may-2022/.

Seleman, Carrie. 2018. “Children’s Suffrage: Giving 16 Year Olds the Right to Vote.” *Children’s Legal Rights Journal* 38, no. 2: 174–77.

Shenton, Andrew K. 2004. "Strategies for Ensuring Trustworthiness in Qualitative Research Projects." *Education for Information* 22, no. 2: 63–75.

Sheppard, Colleen. 1992. “Children’s Rights to Equality: Protection versus Paternalism.” *Annals of Health Law* 1, no. 1: 197–211.

Silbaugh, Katharine. 2020a. “More than the Vote: 16-Year-Old Voting and the Risks of Legal Adulthood.” *Boston University Law Review* 100, no. 5: 1689–1726.

———. 2020b. “Developmental Justice and the Voting Age.” *Fordham Urban Law Journal* 47, no. 2: 253–92.

Simons, Helen. 2009. *Case Study Research in Practice*. London: SAGE Publications Ltd. https://doi.org/10.4135/9781446268322.

Sloam, James, and Matt Henn. 2019. *Youthquake 2017*. Cham: Palgrave Pivot. https://doi.org/10.1007/978-3-319-97469-9.

Smith, David G. 1957. "Political Science and Political Theory." *The American Political Science Review* 51, no. 3: 734–46. https://doi.org/10.2307/1951860.

Smith, Noel, Ruth Lister, Sue Middleton, and Lynne Cox. 2005. “Young People as Real Citizens: Towards an Inclusionary Understanding of Citizenship.” *Journal of Youth Studies* 8, no. 4: 425–43. https://doi.org/10.1080/13676260500431743.

Smits, Katherine. 2016. *Applying Political Theory: Issues and Debates*, 2nd ed. London: Palgrave Macmillan.

Stanley, Timothy. 2016. "John A. Macdonald, ‘the Chinese’ and Racist State Formation in Canada." *Journal of Critical Race Inquiry* 3, no. 1: 6–34. https://doi.org/10.24908/jcri.v3i1.5974.

Statistics Canada. 2022. “Reasons for not voting in the federal election, September 20, 2021.” *The Daily*, accessed October 23, 2023. https://www150.statcan.gc.ca/n1/daily-quotidien/220216/dq220216d-eng.htm.

Stewart, Marianne C. and Harold D. Clarke. 1998. “The Dynamics of Party Identification in Federal Systems: The Canadian Case.” *American Journal of Political Science* 42, no. 1: 97–116. https://www.jstor.org/stable/2991748.

Tang, Shiping. 2011. *A General Theory of Institutional Change*. Oxford: Routledge.

Taylor v. Attorney-General, [2015] N.Z.H.C. 1706.

ten Dam, Geert, Femke Geijsel, Rene Reumerman, and Guuske Ledoux. 2011. “Measuring Young People’s Citizenship Competences.” *European Journal of Education* 46, no. 3: 354–72. https://doi.org/10.1111/j.1465-3435.2011.01485.x.

The Collector of Voter for the Electoral District of Vancouver City and the Attorney General for the Province of British Columbia v. Tomey Homma and the Attorney General for the Dominion of Canada, [1902] U.K.P.C. 60, [1903] 9 A.C. 151.

Thomas, Nigel. 2007. “Towards a Theory of Children’s Participation.” *The International Journal of Children’s Rights* 15: 199–218. https://doi.org/10.1163/092755607X206489.

Thorlakson, Lori. 2018. "Political Parties and Party Systems in Multilevel Layered-Out Systems: Canada." In *Borders and Margins: Federalism, Devolution and Multi-Level Governance*, edited by Guy Lachapelle and Pablo Oñate, 183–194. Leverkusen: Verlag Barbara Budrich. https://doi.org/10.2307/j.ctvddzgdk.16.

Tierney, Stephen. 2007. "Giving with One Hand: Scottish Devolution Within a Unitary State." *International Journal of Constitutional Law* 5, no. 4: 730–53. https://doi.org/10.1093/icon/mom024.

———. 2009. "Federalism in a Unitary State: A Paradox Too Fat?" *Regional & Federal Studies* 19, no. 2: 237–53. https://doi.org/10.1080/13597560902753511.

———. 2019. "The Territorial Constitution and the Brexit Process." *Current Legal Problems* 72, no. 1: 59–83. https://doi.org/10.1093/clp/cuz007.

Tonge, Jon, Andrew Mycock, and Bob Jeffery. 2012. "Does Citizenship Education Make Young People Better-Engaged Citizens?" *Political Studies* 60, no. 3: 578–602. https://doi.org/10.1111/j.1467-9248.2011.00931.x.

Toots, Anu, and Tönu Idnurm. 2020. "Modernizing Voting in a Post-transition Country: The Estonian Experience of Lowering to Voting Age." In *Lowering the Voting Age to 16: Learning from Real Experiences Worldwide*, edited by Jan Eichhorn and Johannes Bergh, 167–87. Cham, Switzerland: Palgrave Macmillan. https://doi.org/10.1007/978-3-030-32541-1_9.

Torney-Purta, Judith, and Jo-Ann Amadeo. 2011. "Participatory Niches for Emergent Citizenship in Early Adolescence: An International Perspective." *The Annals of the American Academy of Political and Social Science* 633, no. 1: 180–200. https://doi.org/10.1177/0002716210384220.

Trakman, Leon E., William Cole-Hamilton, and Sean Gatien. 1998. "R. v. Oakes 1986–1997: Back to the Drawing Board." *Osgoode Hall Law Journal* 36, no. 1: 83–149.

Tremmel, Jörg, and James Wilhelm. 2015. "Democracy or Epistocracy? Age as a Criterion of Voter Eligibility." In *Youth Quotas and Other Efficient Forms of Youth Participation in Ageing Societies*, edited by Jörg Tremmel, Antony Mason, Petter Haakenstad Godli, and Igor Dimitrijoski, 125–47. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-319-13431-4_9.

Turcotte, André. 2005. "Different Strokes: Why Young Canadians Don't Vote." *Electoral Insight* 7, no. 1: 12–16.

United Nations General Assembly. 1966. *International Covenant on Civil and Political Rights*. U.N.T.S. 999, p. 171.

———. 1989. *Convention on the Rights of the Child*. U.N.T.S. 1577, p. 3.

———. 2006. *Convention on the Rights of Persons with Disabilities*. U.N.T.S. 2515, p. 3.

United Nations Human Rights Committee. 1996. *CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote) The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Services*. 57th session, U.N. Doc. CCPR/C/21/Rev.1/Add.7, https://eos.cartercenter.org/uploads/document_file/path/94/453883fc22.pdf.

United Kingdom Electoral Commission. 2014. "Scottish Independence Referendum: Report on the Referendum Held on 18 September 2014." Electoral Commission. https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Scottish-independence-referendum-report.pdf.

———. 2021. "Report on the Scottish Parliament Election on 6 May 2021." *Electoral Commission*. https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/elections-and-referendums/our-reports-and-data-past-elections-and-referendums/scottish-parliamentary-elections/report-scottish-parliament-election-6-may-2021.

———. 2022. "Report on the May 2022 Scottish Council Elections." *Electoral Commission*. https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/elections-and-referendums/our-reports-and-data-past-elections-and-referendums/scotland-local-council-elections/report-may-2022-scottish-council-elections.

———, and YouGov. 2014. *Scottish Independence Referendum: Research Post-Polling Day Opinion Research Report*.

———, and David Denver. 2011. "The Scottish Parliament Elections of 2011: Report to the Electoral Commission." *Electoral Commission*. https://www.electoralcommission.org.uk/sites/default/files/pdf_file/SP-2011-electoral-data-report-WEB.pdf.

———. 2016. "The Scottish Parliament Elections of 2016: Report to the Electoral Commission." *Electoral Commission*. https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Report-Electoral-Data-May-2016-Scotland-Scottish-Parliament.pdf.

Uslaner, Eric M. 1990. "Splitting Image: Partisan Affiliations in Canada's 'Two Political Worlds'." *American Journal of Political Science* 34, no. 4: 961–81. https://doi.org/10.2307/2111467.

Valentine, Gill. 2003. "Boundary Crossing : Transitions from Childhood to Adulthood." *Children's Geographies* 1, no. 1: 37–52. https://doi.org/10.1080/14733280302186.

van Parijs, Philippe. 1998. "The Disenfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice." *Philosophy & Public Affairs* 27, no. 4: 292–333.

Volacu, Alexandru. 2021. “Justice, Symmetry, and Voting Rights Ceilings.” *Theoria* 87, no. 3: 643–58. https://doi.org/10.1111/theo.12306.

Wagner, Markus, David Johann, and Sylvia Kritzinger. 2012. “Voting at 16: Turnout and the Quality of Vote Choice.” *Electoral Studies* 31, no. 2: 372–83. https://doi.org/10.1016/j.electstud.2012.01.007.

Waldron, Jeremy. 2006. “The Core of the Case Against Judicial Review.” *The Yale Law Journal* 115, no. 6: 1346–1406. https://doi.org/10.2307/20455656.

Wall, John. 2010. “Children and Political Representation: The Challenge of the Gift.” *Journal of Childhood and Religion* 1, no. 5: 1–32.

———. 2012. “Can Democracy Represent Children? Toward a Politics of Difference.” *Childhood* 19 (1): 86–100. https://doi.org/10.1177/0907568211406756.

———. 2014. “Democratising Democracy: The Road from Women’s to Children’s Suffrage.” *The International Journal of Human Rights* 18, no. 6: 646–59. https://doi.org/10.1080/13642987.2014.944807.

———. 2021. *Give Children the Right to Vote: On Democratizing Democracy*. London: Bloomsbury Publishing.

———, and Anandini Dar. 2011. “Children’s Political Representation: The Right to Make a Difference.” *International Journal of Children’s Rights* 19: 595–612. https://doi.org/10.1163/157181811X547263.

Warming, Hanne. 2011. “Children’s Participation and Citizenship in a Global Age: Empowerment, Tokenism or Discriminatory Disciplining?” *Social Work & Society* 9 (1): 119–34.

Watts, Michael. 2006. “Citizenship Education Revisited: Policy, Participation and Problems.” *Pedagogy, Culture & Society* 14, no. 1: 83–97. https://doi.org/10.1080/14681360500487496.

Weale, Albert. 1999. *Democracy*. New York: MacMillan Press Ltd.

Webber, Grégoire *et al*. 2018. *Legislated Rights: Securing Human Rights through Legislation*. Cambridge: Cambridge University Press. https://doi.org/10.1017/9781108551069.

Weller, Susie. 2003. “‘Teach Us Something Useful’: Contested Spaces of Teenagers’ Citizenship.” *Space and Polity* 7, no. 2: 153–71. https://doi.org/10.1080/1356257032000133919.

———. 2006. “Situating (Young) Teenagers in Geographies of Children and Youth.” *Children’s Geographies* 4, no. 1: 97–108. https://doi.org/10.1080/14733280600577517.

Weinrib, Jacob. 2021. “The *Frank* Dissent’s Novel Theory of the Charter: The Rhetoric and the Reality.” *The Supreme Court Law Review* 100, no. 4: 85–103. https://doi.org/10.60082/2563-8505.1413.

Weiss, Julia. 2020. “What Is Youth Political Participation? Literature Review on Youth Political Participation and Political Attitudes.” *Frontiers in Political Science* 2: 1–13. https://doi.org/10.3389/fpos.2020.00001.

Westman, Jack C. 1991. “Juvenile Ageism: Unrecognized Prejudice and Discrimination Against the Young.” *Child Psychiatry* 21, no. 4: 237–56. https://doi.org/10.1007/BF00705929.

———. 2019. *Dealing with Child Abuse and Neglect as Public Health Problems: Prevention and the Role of Juvenile Ageism*. Cham, Switzerland: Springer. https://doi.org/10.1007/978-3-030-05897-5.

Wiland, Eric. 2018. “Should Children Have the Right to Vote?” In *The Palgrave Handbook of Philosophy and Public Policy*, edited by David Boonin (pp. 215–224). Cham: Springer International Publishing. https://doi.org/10.1007/978-3-319-93907-0_17.

Withler v. Canada (Attorney General), 2011 S.C.C. 12, [2011] 1 S.C.R. 396.

Working Families Coalition (Canada) Inc. v. Ontario (Attorney General), 2023 O.N.C.A. 139.

Wright, Alex. 2004. *Who Governs Scotland?* London: Routledge. https://doi.org/10.4324/9780203499696.

Yu, Henry Shuen Ngei. 2013. "Asian Canadian History." In *The Oxford Handbook of Asian American History*, edited by David K. Yoo and Eiichiro Azuma, 116–32. Oxford: Oxford University Press. https://doi.org/10.1093/oxfordhb/9780199860463.013.35.

Zeglovits, Eva. 2013. “Voting at 16? Youth Suffrage Is up for Debate.” *European View* 12, no. 2: 249–54. https://doi.org/10.1007/s12290-013-0273-3.

———, and Julian Aichholzer. 2014. “Are People More Inclined to Vote at 16 than at 18? Evidence for the First-Time Voting Boost Among 16- to 25-Year-Olds in Austria.” *Journal of Elections, Public Opinion and Parties* 24, no. 3: 351–61. https://doi.org/10.1080/17457289.2013.872652.

———, and Martina Zandonella. 2013. “Political Interest of Adolescents Before and After Lowering the Voting Age: The Case of Austria.” *Journal of Youth Studies* 16, no. 8: 1084–1104. http://dx.doi.org/10.1080/13676261.2013.793785.