

NO HOUSE, NO VOTE: ELITE VOTING LAWS AND HOUSELESS PEOPLES' FRANCHISE IN CANADA

Written for POL S 323

By Kael Kropp

ABSTRACT Canadian election laws oscillate between elite and participatory approaches, where the former precludes, and the latter facilitates, equity-deserving groups from exercising their democratic right to vote. The term 'houseless' replaces the pejorative 'homeless', removing the inherent familial and kinship components of home possession to focus on lacking shelter as the missing element of one's life. In this paper, I marshal extant scholarship in elections policy, voter identification law, and political history to argue that elite voter identification laws systematically exclude houseless voters from Canadian political venues. I articulate and defend a participatory approach in designing future election legislation, extinguishing heuristics around houseless Canadians and supporting their political involvement. This article provides directions for optimal voter identification laws, reflecting a participatory approach to protect the democratic rights of every Canadian—not just those with a permanent roof over their heads.

INTRODUCTION

This essay traces both the elite and participatory approaches to voter identification laws in Canada, situating an argument for increased participatory measures within the history of houseless peoples' voting in the twenty-first century. An elite approach supports a minimal franchise for only those who are deemed informed, interested, and invested in existing socio-economic structures, rendering them motivated to engage in political life (Courtney 2004). This perspective discounts the political worth of those citizens who do not broadly engage with Canadian social and economic systems, like a majority of houseless people. A participatory approach favors the participation of every member of society, facilitating each Canadians' entrance into the democratic decision-making process (Courtney 2004). I argue that the latter approach must be emphasized and entrenched in voter identification legislation.

I follow Springer's (2000) suggestion to replace the outdated use of 'homelessness' with 'houselessness,' to mean those "people sleeping in the street or other places not meant for human habitation and those finding shelter in institutions established by the public or private welfare system" (p. 483). These specific semantics remove the inherent familial and kinship components of home possession, rather focusing on the lack of infrastructure or shelter as the missing element in one's life (Springer, 2000). First, I will chart the evolution of voter identification requirements in Canada since 2000, noting legislative ties to democratic elitism or participation. Then, I will identify the consequences of such elite approaches, defending a normative argument around extending participatory voter requirement laws in Canada. Throughout this essay, I shall dispel what cogent arguments could be made against participatory approaches to voter identification

laws, highlighting the fragility of these unjust oppositions.

A BRIEF HISTORY OF TWENTY-FIRST CENTURY CANADIAN VOTER IDENTIFICATION LAWS

In 2000, the *Canada Elections Act* was “amended to require voters to prove their identity and address before casting their ballot” when registering on election day (Bryden et al. 2020, 126). This amendment represented an early elite approach to democratic participation, as it made requisite a permanent address and piece of photo identification to vote. However, these barriers were side-stepped by a clause that allowed for electors to register with only “a sworn statement and having any other elector registered in that polling division vouch for them” (Bryden et al. 2020, 148). At face value, this sounds like a participatory accommodation for voting, however, this process removed the onus on governments to provide adequate voting accessibility to houseless Canadians. As such, the 2000 Canada Elections Act provided an initial step towards greater participatory franchise for houseless Canadians but fell short of delivering universal voting access to houseless people.

2007 saw the adoption of Bill C-31, which amended the Canada Elections Act to include provisions for Canadians previously “unable to furnish the required identification” to register ahead of election day through one of three means (Bryden et al. 2020, 149). These included: providing a piece of officially issued photo identification (driver’s license, passport); providing two pieces of non-photo identification that include “the elector’s name and address,” or; signing the aforementioned sworn statement affirmed by an existing elector from the same polling division (Bryden et al. 2020, 149). These requirements addressed the same interests of houseless peoples as the 2000 Canada Elections Act, however, Bill C-31 elevated the participatory approach by lengthening the period in which houseless Canadians could enroll as eligible voters.

By and large, the Canada Elections Act from 2000 to early 2014 sought to defend a participatory model for voting, benefiting houseless Canadians by providing routes around the need for government-issued identification and permanent addresses. While there existed real concerns for those socially isolated houseless individuals unable to secure a signed statement from a proximal elector, these amendments were rooted in participatory intent and, thus, should be appreciated as a foundation for houseless Canadians’ future political participation. Unfortunately, the 2014 addition of Bill C-23, the *Fair Elections Act*, idled democratic participation among houseless people and reverted the Canadian approach to be overly elite.

The Fair Elections Act prohibited the use of voter information cards as a recognized form of voter identification, further replacing the ‘vouching system’ with “a procedure for attest[ing] an elector’s address but not the elector’s identity” (Bryden et al. 2020, 150). Essentially, this policy reversion precluded houseless individuals from registering and voting in Canadian elections. By targeting would-be electors’ addresses, rather than their identities, the Conservative government overtly disregarded the conditions of all houseless Canadians. Moreover, lawyer Stephen Shrybman critiqued the Fair Elections Act as making more onerous the process of verifying houseless electors’ identity whilst reducing the chief electoral officer’s “ability to educate people on voting... [and] investigate electoral wrongdoings” (Nicol, 2015). This granted the Conservative majority government increased authority over administering and interpreting elections that, as Shrybman posited, relied on “suppression tactics for political gain,” excluding those houseless Canadians unlikely to vote Conservative (Nicol, 2015). Regardless of the Conservative Party’s intention, the *Fair Elections Act* was deeply rooted in an elite view of democracy that unilaterally deemed houseless people as disinvested from Canadian socio-economic and political life. The 2015 electoral victory of the Liberal Party ushered in a return to the participatory approach of the early 2000s.

The 2018 *Elections Modernization Act* removed the 2014 prohibition on voter information cards as valid identification and reintroduced the “ability to vouch for an elector’s identity and address” (Bryden et al. 2020, 151). This revived a participatory approach to democratic franchise in Canada and—when coupled with the reinstatement of the chief electoral officer’s mandate to educate and inform voters on electoral processes—improved the turnout of houseless Canadians in the recent 2019 federal election (CBC News, 2019). Most notably, the *Elections Modernization Act* allowed for any “shelter, soup kitchen, or other institution [to] sign a form provided by Elections Canada and ‘act as a proof of address’” for houseless Canadians (Grenier, as cited in CBC News, 2019, para 3). These legislative strides better positioned houseless Canadians to exercise their democratic rights. This is the current legislative framework that governs Canadian federal elections—a strong indication for a continued participatory approach in future federal elections. The next section identifies what consequences houseless Canadians faced as a result of the 2014 *Fair Elections Act*, further cautioning that a return to such an elite approach would reinvoke democratic exclusion for already vulnerable people.

THE ELITE APPROACH AND ITS SOCIO-POLITICAL CONSEQUENCES

I echo Courtney’s (2004) argument in his book, *Elections*, that “federal and provincial voter [registration] lists were [historically] manipulated in a blatantly partisan fashion by various governments” to secure political longevity and suppress dissenting electors from voting (p. 78). Furthermore, Courtney (2004) draws from White’s (2002) assertion that those excluded from voter lists tend to be “young, poor, mobile, tenants, and those with limited language skills”—demographics that predominantly overlap with Canada’s houseless population (p. 95). These practices manifested in the Conservative government’s 2014 *Fair Elections Act* which excluded houseless peoples’ inclusion on voter lists; the

Conservatives rationalized this as protecting against voter fraud (Courtney, 2004). By excluding likely dissenting houseless Canadians from the democratic process, I argue that the Conservative government perceived and acted on a threat to their political longevity. Voting data from 2011 confirms this argument: an estimated 400,000 Canadians “used the voter identification card in the 2011 election,” with a further 120,000 individuals using the vouching system (Nicol, 2015, para 10). In addition, the Chair of the Canadian Federation of Students, Maude Barlow, noted that “if 6,000 voters in 14 ridings had voted differently in [2011],” the Conservatives would not have won a majority government (Nicol, 2015, para 13). So, the Conservatives recognized the threat posed by those electors with no permanent address and redesigned voter requirements to suppress a meaningful, dissenting sample of Canadians.

This suppression carries with it pronounced sociopolitical consequences. Statistics Canada collects data on ‘homelessness’ in terms of hidden homelessness (short term houseless individuals who stay with close others to avoid public or private shelters), public and private shelter users, and those who do not access shelters—who are much more difficult to count (Government of Canada, 2016). Using stratified cluster sampling, the National Shelter Study identified the degree to which different demographics accessed public or private sheltering as the result of homelessness between 2005 and 2016. In 2014, it was approximated that 13,866 Canadians accessed bed nights or shelters (Government of Canada, 2016). While we cannot unilaterally assume that each of those individuals does not have a permanent address, we can expect a majority not to. Regardless, if only a small number of those who access shelters are excluded from exercising their democratic franchise, the Conservative government still violated Section 3 of the Canadian Charter of Rights and Freedoms, which guarantees the right for every Canadian citizen to vote in a general federal or provincial election (Canadian Charter of Rights and Freedoms, 1982, p. § 3). When these Canadians are

systematically excluded from the democratic process, the Canadian Government infringes on the laws it exists to protect. Paradoxically, houseless Canadians were denied the right to vote in opposition to a Conservative government that actively sought to extinguish their democratic rights.

More pervasive yet is the fact that houseless peoples are disproportionately comprised by arguably vulnerable Canadians: young adults, LGBTQ+, and Indigenous peoples. LGBTQ+ Canadians are more likely than non-LGBTQ+ Canadians to experience houselessness requiring them to live in shelters, on the street, in abandoned buildings, or with their friends and families (Prokopenko & Kevins, 2020). So, those who are most affected by LGBTQ+ legislation are unable to vote for candidates or political parties that would support initiatives for their betterment or safety. This is similar for those Indigenous peoples disproportionately affected by houselessness; in 2014, Indigenous people accounted for over twice as many houseless people in Canada (Rodrigue, 2016). Excluding these already vulnerable people from Canada's electoral process reflects an elite approach to voter requirement laws by the Conservative government.

AVOIDING DEMOCRATIC ELITISM'S CIVIC EXCLUSION

2006 marked concerns over election security arising from voter identification fraud; the House of Commons Standing Committee on Procedure and House Affairs defended the need for photo identification to combat "the potential for fraud and misrepresentation in voting" (Bryden et al. 2020, 148). This has been the primary defense used by proponents of strict voter identification requirements, alongside the positions that individuals are responsible for the actions that render them houseless. The former argument is the most compelling of these two, as it addresses a real concern seen in other parts of the world. It is true that, to a limited extent, fabricated identification and duplicate entries on voter registries have contributed to electoral fraud (Burke, 2020). However, proponents of an elite

approach fail to recognize the pitfalls of mandating photo and address requirements in voting. For example, one of the most common forms of photo identification is a driver's license; not all Canadians drive—especially those living in metropolitan centers. Forgetting for a moment how pervasive these threats are to houseless individuals, proponents of this elite approach would disadvantage Canadians who rely solely on public transit. Additionally, a passport could be used as a substitute piece of photo identification; but not all Canadians travel—especially those with fewer financial resources to leave the country.

The fragile elite argument is translated to the second position: houseless individuals are responsible for their own situation. This is not necessarily true. While personal actions might contribute to individuals' houselessness, Rukmana (2020) traces the influences of policy and institutional variables like "rent control, rental assistance... affordable housing policy... economic conditions, demographic composition, safety nets, climate, and transience" as causes for houselessness (p. 306). Considering this, it is unfair to suggest all houseless people are responsible for their situation and, as such, forfeit their democratic rights. That is overtly unjust. A participatory approach to democracy would extinguish these heuristics surrounding houseless Canadians, supporting their political involvement. The results of such encouragement might install parliamentarians committed to delivering actionable policy on combating houselessness in Canada.

IN SUM

This essay has traced how twenty-first century approaches to voter identification requirements have reflected both participatory and elite approaches to democracy. The consequences of elite approaches, like those of the Conservative government in their creation of the 2014 Fair Elections Act, serve only to denigrate the political worth of houseless Canadians. Focused efforts should be made to ensure that forthcoming parliaments do not roll back the important electoral rules set forth by the 2018 Elections Modernization Act. Future

directions for voter identification requirements must reflect a participatory approach to protect the democratic rights of every Canadian—not

just those with a permanent roof over their heads.

REFERENCES

- Bryden, P.E., Louis Massicotte, Alain Pelletier, James Robertson, and Michael Dewing. 2020. *A History of the Vote in Canada*. 3rd Edition. Edited by Stéphane Perrault. Gatineau: Chief Electoral Officer of Canada. <https://www.elections.ca/content.aspx?section=res&dir=his/chap4&document=index&lang=e>.
- Burke, Ashley. 2020. "Elections Canada probing thousands of 2019 election ballots with unclear evidence of citizenship." *CBC News*. August 11, 2020. <https://www.cbc.ca/news/politics/elections-canada-analysis-non-citizen-voting-2019-federal-election-1.5756434>.
- Canadian Charter of Rights and Freedoms, § 7, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982. <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/resources-ressources.html#copy>.
- CBC News. 2019. "New ID rules break down barriers for voters who are homeless." October 19, 2019. <https://www.cbc.ca/news/canada/kitchener-waterloo/homeless-voting-elections-canada-1.5325900>.
- Courtney, John. 2004. *Elections*. Vancouver: University of British Columbia Press. <https://search-ebSCOhostcom.login.ezproxy.library.ualberta.ca/login.aspx?direct=true&db=e000xna&AN=382667&site=ehost-live&scope=site>.
- Government of Canada. 2016. *Highlights of the National Shelter Study 2005 to 2016*. Ottawa: Employment and Social Development Canada. <https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html#3>.
- Nicol, John. 2015. "Fair Elections Act ID rules block voting, groups argue in court challenge." *CBC News*. July 3, 2015. <https://www.cbc.ca/news/canada/fair-elections-act-id-rules-block-voting-groups-argue-in-court-challenge-1.3136431>.
- Prokopenko, Elena, and Christina Kevins. 2020. "Vulnerabilities related to COVID-19 among LGBTQ2+ Canadians." *Statistics Canada*. December 15, 2020. <https://www150.statcan.gc.ca/n1/pub/45-28-0001/2020001/article/00075-eng.htm>.
- Rodrigue, Samantha. 2016. "Hidden homelessness in Canada." *Statistics Canada*. November 15, 2015. <https://www150.statcan.gc.ca/n1/pub/75-006-x/2016001/article/14678-eng.htm>.
- Rukmana, Deden. 2020. "The Causes of Homelessness and the Characteristics Associated With High Risk of Homelessness: A Review of Intercity and Intracity Homelessness Data." *Housing Policy Debate* 30 (2): 291-308. <https://doi.org/10.1080/10511482.2019.1684334>.
- Springer, Sabine. 2000. "Homelessness: a proposal for a global definition and classification." *Habitat International* 24 (4): 475-484. [https://doi.org/10.1016/S0197-3975\(00\)00010-2](https://doi.org/10.1016/S0197-3975(00)00010-2).
- White, Graham. 2002. "Sandbagging the permanent voters' list." Paper presented at the Transparency, Disclosure, and Democracy Conference, Ottawa, ON, 27 February. <https://pemberton.bibliocommons.com/item/show/107435617049>.