**Legal FAQ about the Voting Age Challenge**

Confidential - the purpose of this document is to assist the Voting Age Challenge litigants when communicating with others and the media about the case.

Nov 1, 2021. Updated versions will be made available as the case progresses.

In the chart below, we have listed some questions you may have or may be asked by the media about the Voting Age Challenge. We have included the answers to those questions with all the information you need.

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**What does it mean to bring a “constitutional challenge”?**

The Canadian Charter of Rights and Freedoms gives all Canadians rights that all laws must respect. However, there are times when the government is allowed to violate your Charter rights, which is when a violation is “justified.” This includes “Section 1” of the Charter, described below.

When someone thinks a law violates their Charter rights, they can ask a court to look at the law and decide if it actually does violate their rights. If it does not violate your rights, the law stays as it is. If it does violate your rights, and the violation is not justified, the law is unconstitutional and it is of no force and effect.

“Of no force and effect” means that the law is invalid – no one can use it anymore. The government must either get rid of it entirely or change it to respect your Charter rights. That is what we are doing with the voting age. We are asking a court to look at the law and decide if it is unconstitutional or not.

**What specific law are you challenging?**

Section 3 of the Canada Elections Act, which sets the voting age at 18.

**What sections of the Charter is this challenge about?**

Charter section 3: Every citizen of Canada has a right to vote.

Charter section 15: Every citizen has a right to be treated equally, including the right to not be discriminated against on the basis of age.

Charter section 1: “Charter rights can be limited by law so long as those limits can be shown to be reasonable in a free and democratic society”. This means that all Charter rights, including equality and the right to vote, can be violated if they are justified. In other words, a certain law is allowed to take away someone’s right to vote or be discriminatory; but, only if the government shows that violating that right is justified.

**What legal arguments are being made?**

Charter section 3 arguments: The Charter guarantees the right to vote to all Canadian citizens, regardless of their age. The fact that the government has put an age restriction on voting violates this right.

Charter section 15 arguments: Denying citizens under 18 the right to vote reinforces the political powerlessness of youth. It is also based on stereotypes that young people are less capable and less deserving of participating in Canadian democracy. This promotes the discriminatory view that young people and their interests are of lesser value to society.

Charter section 1 arguments (not justifiable discrimination): There is no current proof that 18 year-olds are smarter, more capable, or more responsible than people under 18. In fact, evidence shows that 16 and 17 year-olds are just as capable of making informed decisions when voting. Saying that young Canadians are “not mature” is not a good enough reason to stop a large portion of Canadian society from having their right to vote. Therefore, the discrimination and age restriction are not justified.

**What court are you bringing this challenge to?**

Ontario Superior Court of Justice. The lawyers working on this case are located in Ontario.

**What role does Justice for Children and Youth (JFCY) play?**

They are joining us in bringing the Charter challenge. They are a non-profit legal aid clinic dedicated to protecting and advancing the rights and interests of young people in Canada. Their work ensures that youth are not denied any rights that they are entitled to. For constitutional challenges like this one, JFCY helps young people access courts.

Also, when a youth litigant “ages out”, JFCY can stay on and continue to bring the challenge. If there were only youth litigants, and they all turn 18, the government could try and say the case is now “moot” since the youth have aged out and have the right to vote.

**What is the process involved with this challenge?**

(1) First, we apply to the Ontario Superior Court of Justice saying that we want to challenge section 3 of the Canada Elections Act (that sets the voting age at 18).

(2) Then, we argue against the government in court. We will say that the current voting age is unconstitutional. In other words, we are saying that the government has to change the current voting age. The government will say that it is constitutional and the voting age is just fine.

(a) We will first argue that the current voting age violates sections 3 and 15 of the Charter.

(b) If the court agrees with us on that point, the government has to show that violating your rights is justified (section 1 of the Charter). We will argue that it is not justified.

(3) The Ontario Superior Court of Justice will then choose a side. They will either agree with us or the government.

**What remedy are you seeking? In other words, what are you hoping to get out of this challenge, or what do you want the outcome to be?**

We want the court to say that the current voting age violates the equality rights and voting rights of young Canadians, and that this violation is not justified, making the current law of no force and effect. That way, the government has to lower the voting age.

**When have the qualifications for voters changed before?**

1867: Only men over the age of 21 who owned property could vote. [see other limits below]

1918: Women over 21 who owned property could vote. [see other limits below]

1948: No longer needed to own property to vote; and Asian-born Canadians granted the right to vote.

1960: Status Indians living on reserve granted the right to vote.

1970: The voting age was lowered from 21 to 18.

1993: All people with intellectual disabilities granted the right to vote.

2002: Prison inmates who had 2+ year sentences granted right to vote.

**Which countries have a voting age under 18?**

Age 16+: Argentina, Austria, Brazil, Cuba, Ecuador, Guernsey, Isle of Man, Jersey, Malta, Nicaragua, Scotland, Wales

Age 17+: countries such as Greece and Indonesia