**To the Yukon Citizen's Assembly**

Respectfully submitted by

Daniel Sokolov
of Whitehorse


Dear Members of the Yukon Citizen's Assembly,

thank you for your work, the time and effort you have been investing. Thank you for stepping up to this important task.

Is it high time to **improve our democratic system** in the Yukon. In many aspects, it has yielded good results, but it frustrates and excludes a significant number of Yukoners. In the current system, too many votes do not count; in most electoral districts, more than half of votes do not elect anyone, while individual electors in other districts may wield a lot of power, simply by residing in a specific edifice. The first-past-the-post system is also unfair to candidates and MLAs. That must not continue. We need and **deserve proportional representation**.

My submission consists of the following compact chapters:

- KISS – Front Line Experiences
- Upgrade to Fair Results
    - Proportional Representation – Open Party List
    - Mixed Member Proportional
- No Online Voting
- No Voting Machines or Scanners
- No Forced Voting
- Let's Vote on Weekends
- Add More Members
- [Re]Conciliation & Regional Representation

**KISS – Keep It a Simple System**

I have had the privilege to serve as an **election officer in numerous elections** on all levels (local, regional, provincial, territorial, federal, First Nations) from Coast to Coast in a range of roles. I do not represent or speak for any election authority I have worked for. My submission sums up my personal point of view, informed by my own, first hand experience. Also, I have no membership with or allegiance to any political party.

The most important lesson I have learned from serving tens of Thousands of voters as an election officer over many years is this: Keep It a Simple System. That is: **Keep It a Simple System from the point of view of the voter** arriving at the polling station.

Hence, I strongly **advise against any voting system that involves the ranking of candidates.** While such systems have their advantages on paper, those are mostly academic exercises. They do not lead to fairer results in real life.

For large parts of the electorate, a ranking system would be **too complicated** and may even lead to unintended results. For many voters, especially seniors and voters with disabilities, it is already a physical challenge to place a single correct check mark on any given ballot. If they had to rank candidates, they would be prone to mistakes, or might even **abstain from voting out of intimidation or frustration**. Which would be a very sad outcome of this election reform.

An even larger number of electors would simply be **overwhelmed by the task** of deciding which party or candidate they oppose more than the next, so that they could rank them correctly. That, again, leads to frustration and eventual elector apathy.

**Nobody wants to feel like an idiot.** If that happens to a voter at the polls, they will likely stay home the next time. Any ranking system increases that risk.

Please remember that we have a considerable number of electors who can not functionally read and write. Also, there is always a number of voters who are not sober. The best way to prevent random rankings is to not have rankings.

Fringe parties, unknown to most electors, might be ranked in the middle repeatedly, giving them more weight than voters actually had in mind.

At the same time, some more involved voters might try to game the system, or rank some fringe candidates on second and third place, in an attempt to strengthen their first vote in comparison to a strong competitor, although they don't actually regard the fringe parties as their second or third best choice. Such "strategic voting" could lead to the unintended (!) election of candidates.

Worse yet, many voters would never find out how exactly their vote influenced the result, i.e. what party or candidate(s) their ballot ended up being counted for at what stage of the counting process. That is highly **unsatisfactory** for any voter.

The concept of "Reduce to the max" applies perfectly to our elections.

Having said that, KISS does not mean that the Yukon has to stick to the current first-past-the-post system. **Simple and fairer options are available.**

**Upgrade to Fair Results – Proportional Representation**

The **first-past-the-post system is unfair.** It is not only unfair to electors who can not influence the composition of the legislature because they live in the wrong electoral district, it is also unfair to candidates and MLAs.

In the most recent territorial election, the distribution of votes between the three political parties was vastly different from the distribution of seats. Yukon-wide, one party received more than 28% of the votes, but ended up with less than 16% of the seats – and if not for the luck at a draw of lots, may have had only a bit over 10% of the seats. Another party, which had merely 4 percentage points more vote share, received more than double the seats. And if not for their misfortune at a draw of lots, may have had four times (!) the number of seats. And the party with the highest vote share was not even given the chance to form a government.

Looking at individual electoral districts, one MLA was elected with 37.65% of valid votes in their electoral district. That means 62.35% of voters did not want that person to represent them. However, these 62.35% of votes did not count. At the same time, in four other electoral districts, candidates who received more than 37.65% were not elected. That is unfair to electors and candidates alike.

Similar issues arise when we look at absolute numbers of votes in different districts in the 2021 Yukon election. I am sure you have studied those closely.

We can conclude: **While all votes matter in our current system, too many votes do not count.**

This is undemocratic – less because a small number of voters can make a huge difference, but more so because it depends on where you happen to live if your vote is one of those that can make an outsize difference.

That element of chance frustrates electors, but also citizens who consider running in an election. With the current first-past-the-post system, it is almost impossible for new political parties to enter the legislature, even when they have sizable support from Yukoners. As a result, fewer political movements or parties come into formal existence. To wit, there was only a single independent candidate in our most recent territorial election, Jan Prieditis.

That results in less competition in the political sphere. And competition would have many benefits. In a political context, competition makes most parties and politicians work harder and try harder to come up with the better ideas and proposals. As a society, we are at a loss if we do not have those smaller political forces to question the political mainstream, and to drive established parties to improve.

I urge you to move democracy ahead and **bring us Proportional Representation.**

**Proportional Representation – Open Party List**

**I prefer an open party list system** where voters pick one party. Additionally, they would have the option (not the requirement) to express their preference for a particular candidate from a party list; candidates receiving a defined number of preferential votes would move to the top of their party's list, securing them a seat.

In order to keep fringe or "jocular" parties out and enable efficiency in the legislature, lists that receive less than 5% of the total number of valid votes cast should not win any seats (**5% threshold**).

The Open Party List system has many advantages: Every Yukoner's vote will have the same weight. Similarly, the number of votes required to win a seat would be more uniform, and, in any case, not depend on the voter's or candidate's address.

While we have not had by-elections in the Yukon, they may happen any time under our current system. A party list system removes that costly risk. If a seat becomes vacant, the next candidate on their party's list from the most recent election would be sworn in.

That way, the legislature would always be fully "staffed", as no seats would be vacant for months at a time. In other words, electors would not miss out on representation just because an MLA passes away or resigns.

**Mixed Member Proportional**

A **Mixed Member Proportional System would also be a good voting system.** It is in use in Germany, for example. Every voter in the Yukon would receive two ballots to cast: Ballot A would constitute a vote for a party list, Ballot B would be a vote for an individual candidate from the voter's electoral district. Voters would tick one box on each of the two ballots and cast both. The candidate on Ballot B could be from a different party (or no party) than the party chosen by the voter on Ballot A.

Each electoral district would elect one MLA, according to the tally of all B-ballots cast in each district. That ensures regional representation.

The Yukon-wide tally of all A-ballots would ensure proportionality. A party which, for example, receives 20 percent of the A-votes, would "earn" about 20 percent of the seats, currently 4 seats. If candidates from that party have won 4 or more electoral districts on the B-votes, they would take those seats. If, however, they have won less than 4 districts, the party would send additional MLAs to the legislature for a total of

4 seats. These additional members would be "at large" or Yukon-wide, not for a specific electoral district only.

This way, **Yukon's legislature would proportionally represent Yukoner's party preference** (Ballot A), and **each Yukoner would still have their local representative** in the legislature (Ballot B). The exact number of seats in the legislature would fluctuate somewhat from election to election, but that is merely a problem of furnishing desks.

Each ballot would still be simple, with only a single choice to make: A for a party, B for a candidate. And we would reduce or eliminate the risk of costly by-elections.

Whichever of the two proportional representation systems you decide to suggest to the legislature, it will yield higher voter turnout in the long run compared to the current first-past-the-post system – simply because it then makes sense to vote even if your neighbours overwhelmingly vote differently.

**No Online Voting, Please**

Democracy is under assault. The last thing we must do is undermine trust in the electoral process. Trust in the outcome of elections is what makes or breaks any democracy.

Online voting would undermine that trust. Online, no one can observe people come and announce that they are allowed to vote. No one can watch the counting of the ballots. There is no meaningful judicial recount. There is no guarantee of secrecy of the vote.

Currently, we employ community members as election officers. They count the ballots; scrutineers watch, and, should they observe anything untoward, raise alarm. If we replace that transparent process with a digital black box, run by some company, we can not expect citizens to trust the announced results. It would be an open invitation to the enemies of democracy to spread doubt and disinformation.

The issue of online voting has been studied at length, for example by Canada's House of Commons, Elections Canada, and the BC Independent Panel on Internet Voting (chaired by their Chief Elections Officer), a panel not dissimilar to the Yukon Citizen's Assembly. None of them has recommended general online voting.
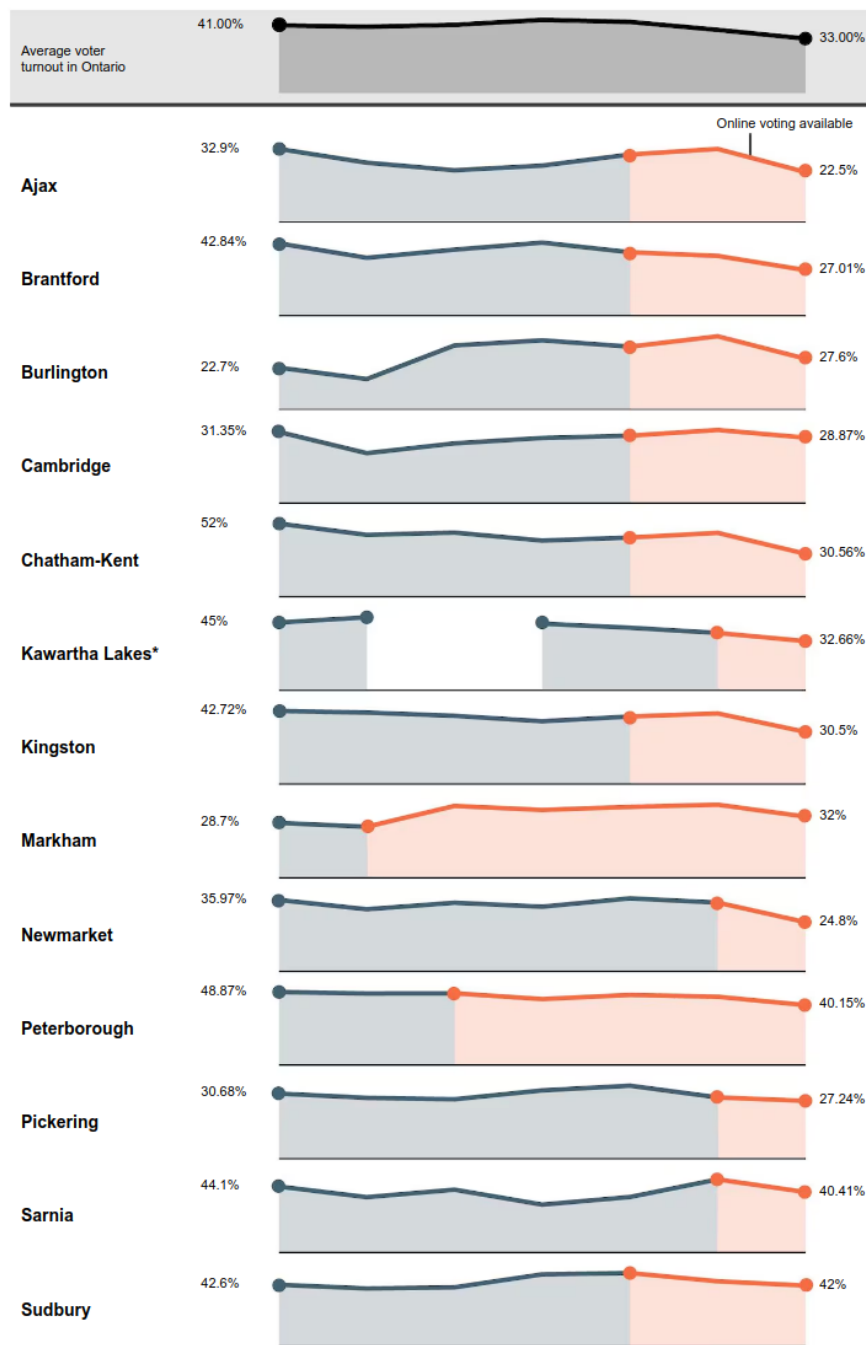
Earlier this year, the City Council of Whitehorse looked into online voting, hoping to find a way to increase voter turnout. However, as numerous studies have shown, online voting tends to reduce voter turnout.

For example, statistics from numerous municipalities in Ontario show that there was a modest increase in voter turnout at the first election with online voting, likely due to the novelty factor and media attention, but reduced voter turnout in subsequent elections, even below the baseline. See
https://www.cbc.ca/news/canada/toronto/online-voting-turnout-effect-1.6637975

## Voter turnout in areas with online voting
Per cent turnout, 2000-2022

| | | |
|---|---|---|
| Average voter turnout in Ontario | 41.00% | 33.00% |

Online voting available

| Municipality | Start | End |
|---|---|---|
| Ajax | 32.9% | 22.5% |
| Brantford | 42.84% | 27.01% |
| Burlington | 22.7% | 27.6% |
| Cambridge | 31.35% | 28.87% |
| Chatham-Kent | 52% | 30.56% |
| Kawartha Lakes* | 45% | 32.66% |
| Kingston | 42.72% | 30.5% |
| Markham | 28.7% | 32% |
| Newmarket | 35.97% | 24.8% |
| Peterborough | 48.87% | 40.15% |
| Pickering | 30.68% | 27.24% |
| Sarnia | 44.1% | 40.41% |
| Sudbury | 42.6% | 42% |

*Data for 2000 in Kawartha Lakes only includes mayoral results and data for 2006 is not available.*

*Note: Overall average turnout is provisional. Thunder Bay did not provide turnout data before 2018.*

Source: Individual municipalities, the Association of Municipalities of Ontario • CBC News

Likewise, when Halifax, Nova Scotia, introduced Online Voting in 2008, turnout dropped by a quarter, from 48 to 36 percent, and never fully recovered. The reason is simple: Online Voting does not motivate citizens who have not been voting already to vote online. As the Internet Voting Project Report found, almost all voters who used Online Voting reported that they had voted in all or most previous elections. Hardly any online voter had not voted before.

## 4.4 Internet voter profiles: Past voting behaviour and digital literacy

To understand the online voting experience further, it is helpful to examine Internet voters' past voting behaviour, perceived computer and Internet literacy, and personal characteristics such as age, education and income.

Figure 8: Reported voting record in past elections

TOC

THE CENTRE FOR
e-DEMOCRACY
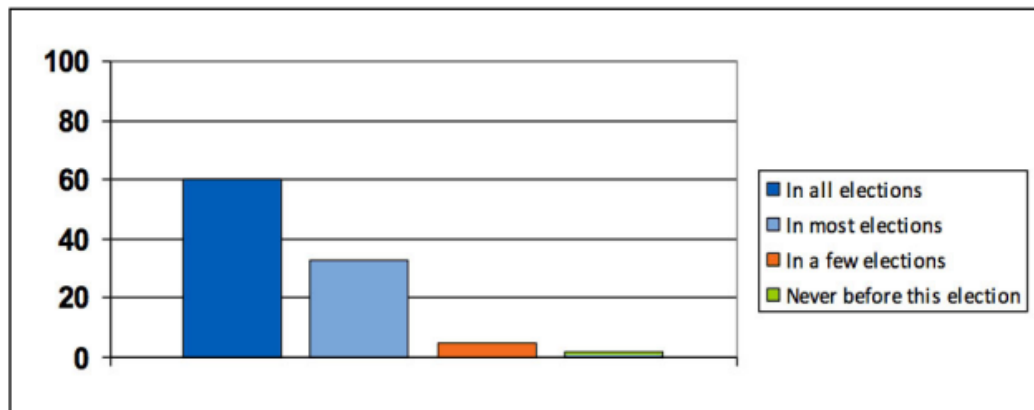
Source:
http://www.centreforedemocracy.com/wp-content/uploads/2016/08/IVP_Report.pdf

Furthermore, Online Voting fails to underscore the importance of the vote. Elections are community events. You get up, get dressed, and go to the polls. Although your choice is secret, the casting of your ballot is a public event with ceremonial aspects. When a vote is cast in the company of others, the act becomes **a community celebration of freedom and democracy.**

If voting becomes akin to liking something on Social Media, electors will, over time, perceive it as of similar significance.

Another benefit that is lost with online voting is the opportunity to teach children about voting by taking them along to a polling place. If voting becomes an "online

7/11

experience", we risk losing a significant part of the next generation of voters, because they will not have shared in that experience as children.

The counting of paper ballots, likewise, has many ceremonial aspects. Every ballot is taken, by hand, inspected, and counted. Every voter's expression is awarded the same attention. And, if shove comes to push, a judge can repeat the process to verify the result, or correct it, if necessary.

Moving to online voting would completely remove that ceremonial aspect, and the transparency it brings. Soon Yukoners would forget how important voting is.

As there would be no paper trail, no judge could undertake a meaningful verification of any online voting result. That would **undermine public trust** in the election system.

**No Voting Machines or Scanners**

Electronic voting machines or scanners come with challenges and very high cost. Today, "IT security" is a contradiction in terms. We must assume that any electronic system is insecure.

The cost of acquiring, verifying, installing, protecting and updating the required IT systems and data connections would be enormous. We would only use them every few years, and IT gets old very quickly. This is an inefficient use of tax payer's money.

Germany's Federal Constitutional Court has found that the use of machines violates their constitution because all electors have a right to examine all relevant steps of an election, without requiring special expertise. That transparency is not possible with voting machines or scanners. [March 3 2009, docket 2 BvC 3/07] https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2009/bvg09-019.html

As an election officer in Victoria, British Columbia, I experienced first hand that the use of ballot scanners lead to hours long lineups for thousands of voters. While the scanners delivered a quick result after the close of the polls, a traditional manual count would have meant a faster and vastly superior experience for voters, and less stress for election officers during the entire day.

Furthermore, some ballots were rejected by the ballot scanner as invalid although they would have been perfectly valid in a manual count. But when voters had used the wrong type of pen to mark the ballot, their votes did not count, because they failed the scanner.

The only advantage of an electronic system is a faster result at the end of the polling day. However, such **haste is unnecessary**. After months of campaigning, we can wait a

few hours for the result. It is not worth the huge effort, expense, and risk required to introduce voting machines, or scanners, let alone online voting. If the ballot is simple (KISS!), no scanners are necessary.

**Let's Vote on Weekends**

From my experience as a recruiter and instructor of election officers, I can say that the current requirement that polling be a Monday is unfortunate.

In fact, **a Sunday or holiday would be a much better polling day**. That would make it easier (and probably cheaper) to find suitable locations for polling stations. It would help significantly with finding qualified staff to work at the polling stations. In select locations, it would make it easier and cheaper to find parking, thus increasing accessibility. For most Yukoners, it would be easier to find the time to vote, and turnout would be more evenly distributed throughout the day, resulting in shorter lineups.

Election Canada's Chief Elections Officer already recommended in 2016 to move federal polling to Sunday:

> *[...] Having polling day on a weekday has a number of consequences. Polls must be open before and after work to give people sufficient time to vote. This means that, for long periods of the day, the poll may be nearly empty and then there is a large rush at the end of the day, which, given the inflexibility of the present process, leads to problems for poll workers and frustration and delays for electors. Having polling day on a weekday also greatly reduces the number of qualified personnel available to operate polling stations.*

> *Australia, New Zealand and a number of European countries have their polling day on a weekend, and Canada should consider a similar move. Weekend polling may make the vote more accessible for some Canadian electors — although it should be noted that Elections Canada's consultation with electors with disabilities underlined the importance of para-transportation services being available on a weekend polling day, were this change to be made.*

> *Weekend voting would also increase the availability of qualified personnel to operate polling stations and of accessible buildings, such as schools and municipal offices, for use as polling places. While schools can present ideal locations for voting, concerns about student safety make it increasingly difficult for ROs to obtain access to schools for voting while students are on the premises. For all these reasons, Elections Canada believes that having polling day on a weekend would better serve Canadians.*

Quoted from: *An Electoral Framework for the 21st Century: Recommendations from the Chief Electoral Officer of Canada Following the 42nd General Election, Chapter 1*
https://www.elections.ca/content.aspx?section=res&dir=rep/off/rec_2016&document=p3&lang=e#p3_d

While we already offer advance voting and special ballots in the Yukon, the official polling day still draws the largest turnout (**60.2% of all votes in 2021**). So the choice of day is important.

**No Forced Voting**

I oppose any fines for electors who do not vote. It is sad if a fellow citizen can not or does not want to vote. But there is no point in forcing them to do so. In the best of cases, they spoil a ballot. But they may vote for an extreme party they don't really support, simply out of anger about having to vote. This helps no-one and skews the election result.

In a free, democratic society, voting is a cherished right, not an imposed burden.

**Add More Members**

When the Yukon Legislative Assembly was created by passing the Yukon Elections Act in 1977, the Yukon had about 21,900 residents. The Legislative Assembly had 16 members, or 1 MLA per 1,369 Yukoners. Today, we have 46,259 residents (March 2024 according to the Yukon Bureau of Statistics). To keep the same level of representation, we should have 34 MLAs.

However, we only have 19 MLAs working for us, one per 2,435 Yukoners.

More members would provide for better connections between politicians and their constituents, more opportunity for political competition, and a chance for a more diverse range of MLAs. Not least, electoral district boundaries (if still necessary) would be less controversial.

There are two options: We could add seats to the existing Legislative Assembly. Or, we capture the moment and add a second chamber to further (Re)conciliation and Regional Representation.

**(Re)conciliation and Regional Representation**

The Yukon Citizen's Assembly should suggest that the Legislative Assembly studies the addition of a **second chamber to the Yukon legislature**. In that second chamber, **each Yukon First Nation would have a seat**.

Also, significant groups of settlers such as Anglophones, Francophones, Filipinos, Germanophones, visible minorities of a certain size, etc. could have a seat each. However, each citizen could only vote for one seat, even if they belonged to several of these groups. Such a **second chamber could be a significant step toward (re)conciliation** in the Yukon, while ensuring **representation for all Yukon regions**.

Alternatively, in addition to a seat for each Yukon First Nation, the mayor of each community plus the mayor of Whitehorse would be a member of the second chamber. That would bring a more regional focus, less party politics. And it would enhance the role of mayors, increasing voter turnout at municipal elections.

The exact composition and the specific powers of the second chamber would be explored in the necessary study combined with consultations with First Nations and all Yukon citizens. As the establishment of the second chamber would take some time, it should only happen after the Yukon moves to a proportional election system for the existing chamber.

**Thank you** for your attention and all the work you have put in over the recent months.

**Please help the Yukon achieve proportional representation.**

Daniel Sokolov