UNAVOIDABLY SIDE BY SIDE: CITIZENSHIP AS AN INTEGRATED POLICY ISSUE IN CANADA

ABSTRACT

In the current era of globalization, mass migration and heightened security, and Canadian public policy discourses appear beleaguered by competing notions of citizenship and immigration. What is the best citizenship route to successful immigrant integration and nation building? How can policy-makers balance legal and civic concepts of citizenship, while simultaneously ensuring that Canada is prepared for the 21st century's demographic challenges and labour market pressures? Eva Lazar proposes a new and integrated approach to citizenship as a policy issue – one that may provide Canadian policy-makers with an essential lens for assessing and pursuing contemporary immigrant integration and nation building goals.

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Over 200 years ago, philosopher Immanuel Kant wrote that human beings live "unavoidably side by side," but to do so in a state of peace required concerted human effort. Today in Canada it is generally expected that as birth rates decline and the population ages, this country will become increasingly dependent upon high levels of immigration to deal with long-term labour market demands created by a combination of demographics and global economic pressures. At the same time, the expansion of immigrant source countries[1] and deepening cultural diversity has been accompanied by new integration challenges[2] for new immigrants as well as established citizens, fuelling public debates over the meanings of citizenship and immigration in the 21st century. On the one hand, growing disagreement over existing and imagined citizenship ideals may be a healthy sign of a deepening multicultural democracy; it may even begin to correct the widely bemoaned contemporary disengagement of citizens from public life. On the other hand, as post-9/11 terrorism continues to stoke public anxieties and strain public policy discourses, the call for social solidarity based on shared values appears unremitting.[3] In this context, Canadian policy-makers in the areas of citizenship and immigration find themselves walking a nation building tightrope: balancing numerous internal and external pressures related to foreign policy interests, domestic security concerns, human rights commitments and social inclusion goals.

Occasionally informing public debate, Canadian research and theorizing on the broad and interrelated areas of citizenship and immigration are extensive and growing; however, elaborated consideration of this work is a subject for a separate paper. Instead, and respecting these contributions, this article offers policy-makers a particular conceptual route to navigating citizenship and contemporary immigration pressures through three broad, interrelated and dynamic liberal democratic citizenship concepts – specifically, *juridical status*, *civic identity* and *civic practice*. While these three citizenship concepts often arise within citizenship and immigration policy discourses, they have yet to be treated together within an integrated framework recognized across a wide range of governmental departments. The framework offered here is not intended as prescriptive or leading to fixed solutions; rather, it is meant to offer a new perspective on citizenship and immigration policy issues in Canada.

Three concepts of citizenship

Juridical status

Historically, citizenship as *juridical status* has related to the core legal responsibilities of a liberal democratic state: to warrant national state certification (in the case of immigrants through

naturalization), accompanied by the granting of rights and security for its citizens. Citizenship from this perspective has been the mark of formal legal inclusion within the nation-state – a specific and internationally recognized geopolitical entity. Hence, legal citizenship traditionally defined the population that could legitimately make claims on the State for protection as opposed to those – both inside and outside of a national territory – who could not.

As a result of intensified international migration and enhanced communications over the past several decades (Aleinikoff and Klusmeyer 2000), the juridical basis of citizenship in contemporary nation-states is being increasingly contested. Organizing and legitimating principles of citizenship are based progressively on universal personhood rather than national belonging. This shift is demonstrated by the incorporation of guestworkers in Europe without legal citizenship status into various aspects of the social and institutional order of their host countries, often enjoying as non-citizens a range of rights and protections.[4] By contrast, in the United States undocumented workers have settled into permanent and large communities, intensifying American debates on the legitimacy of various routes to legal citizenship.[5]

Clearly, while citizenship as juridical status continues to be associated with a number of important policy issues – namely citizenship qualifications, statutory bars to citizenship, revocation, and deportation – citizenship cannot be reduced to legality alone. In fact, as the following section will demonstrate, the declining benefits of naturalization may be contributing to making legal citizenship largely unnecessary to the pursuit of other civil, political and social rights, as well as responsibilities, for a great number of new immigrants.

Over the past six decades Canada has developed a unique constitutional and statutory framework to support a civic identity that accommodates diversity and advances equality.... Within this federal legislative framework, rights and entitlements have been extended increasingly to individuals, including non-citizens.

Civic identity

Civic identity refers to the character of membership within a civic community, which in turn shapes the processes of social cohesion and trust. As discussed above, many non-citizens living in host countries in the current period develop their civic identity long before, or even without, naturalization. By extension, the civic identity of non-citizens may also contribute to the shaping of a number of social and political phenomena associated with social cohesion in their host societies: community values, the limits of governmental decision making in relation to individuals, the rights of private interest groups and associations, and the balance between individual and group concerns. The opportunities and risks associated with this particular trend depend on the compatibility of non-citizens' values and behaviours with those of the host society; the effectiveness of integration policies and programs; and a host society's receptivity to deepening pluralism and diversity. This article takes a decidedly optimistic view of the possibility that all people living in Canada can potentially contribute to Canadian nation building in a positive manner, regardless of the juridical status of individuals.

Over the past six decades Canada has developed a unique constitutional and statutory framework to support a civic identity that accommodates diversity and advances equality. The suite of legal tools affecting both citizens and non-citizens to varying degrees includes the *Canadian Citizenship Act* (1947 and 1977), the *Canadian Bill of Rights* (1960), the *Official Language Act* (1969), the *Multiculturalism Act* (1978), the *Human Rights Act* (1977), the *Charter of Rights and Freedoms* (1982), the *Employment Equity Act* (1985 and 1995), the *Immigration and Refugee Protection Act* (2002), the *Canada Health Act* (1985), the *Canada Labour Code* (1985), and the *Official Languages Act* (1988). Within this federal legislative framework, rights and entitlements have been extended increasingly to individuals, including non-citizens. This means that non-citizens may move freely within Canada, obtain education and employment, and qualify for a range of government services, including health care.

In support of this approach to nation building, Canadian scholars Will Kymlicka and Keith Banting recently pointed out that "[m]any rights are indeed owed to people simply on the basis of their personhood, regardless of their legal nationality; for instance, respect of basic civil liberties, and provision of health care and education."[6] At the same time, Kymlicka and Banting suggest that in the interests of national solidarity, "the State has a legitimate interest in preserving the category of national citizenship as the locus of certain tangible rights, such as voting rights, and responsibilities such as jury duty and military service."[7] In addition to those restrictions identified by Kymlicka and Banting, non-citizens are restricted from employment in the public service, from holding a passport, and also do not enjoy a number of Charter rights and protections, perhaps mostly significantly the right to enter and remain in Canada.[8]

Notwithstanding the legitimate (and intuitively sensible) concern that maintaining some distinctions between citizens and non-citizens is important for national solidarity, it is important to note here that only approximately 65% of Canadians chose to vote in the last national election, and that Canada does not have mandatory military conscription. Moreover, there are

some circumstances under which the Canadian Armed Forces will in fact accept the enlistment of non-citizens.[9] Hence, while the symbolism of legal citizenship remains important, it is becoming increasingly difficult to demonstrate convincingly that the few remaining rights and obligations associated with juridical status are relatively more significant than those accorded to non-citizens for successful nation building. Expressed differently, Canadian civic identity amongst all those living in Canada may be more significant to immigrant integration and to Canadian nation building than the putative benefits of juridical status.

Undeniably, the privileges bestowed upon non-citizens, in addition to the increase in dual citizenship,[10] foster important public policy questions about the allegiance of new immigrants to Canada, or the incentives for positive civic identity. On the one hand, it is well known that 85% of immigrants to Canada become legal citizens following the required residency period of three years (Statistics Canada 2005) – a phenomenon often viewed as an expression of allegiance and commitment to Canada. This naturalization rate is in stark contrast to that of Australia, where 75% of individuals who complete the two year residency requirement are naturalized. Moreover, according to the Longitudinal Survey of Immigrants to Canada (LSIC), more than 92% of immigrants who arrived in Canada between October 2000 and September 2001 intended to become citizens.[11]

Nevertheless, a high rate of naturalization does not necessarily correlate with sustained allegiance to Canada, a cohesive citizenry, or ultimately, nation building. In fact, there is very little empirical research demonstrating immigrants' individual motivations for applying for legal citizenship.[12] Provocatively, author Neil Bissoondath has suggested that the motivations for acquiring Canadian citizenship appear to be wide-ranging. For example, motivations for naturalization may "emerge from the realization that all of one's intellectual and emotional loyalties have come, through the years, to commit themselves to Canada." Alternatively, the desire for legal citizenship may be "merely access to a passport that allows return to the comforts of the former homeland with the assurance of safe haven should the plan go awry, or should political instability necessitate flight."[13]

The point here is not to cast judgement upon immigrants' varied motivations for becoming Canadian citizens. Rather, it is to emphasize that what remains most important to immigrant integration and nation building is the civic identity of all those who live in Canada, regardless of citizenship status.

Despite naysayers, Canadians have demonstrated consistently high levels of support for multiculturalism and immigration policies. Moreover...diversity per se in Canada does not exert a negative influence on civic attitudes and behaviours.

Civic practice

The notion of partnership often conjures up the idea that citizens are entitled to equal benefits and entitlements; however, partnership is also closely linked to ideas of citizen participation and responsibility, or citizenship as *civic practice*. The notion of civic practice places the active and responsible citizen in the foreground. Specifically, civic practice captures the Aristotelian, or republican, notion of citizenship, which defines the citizen as one who can participate "in giving judgement and holding office"[14] and who shares in the administration of justice. Civic practice is often characterized as the participation of private actors in the public sphere, whether through voting, involvement in political parties and electoral processes, or engagement in a wide range of community activities.[15] The focus of this concept of citizenship is on the responsibilities that shape and build a diverse and multi-ethnic society, and on ensuring basic civility in its functioning.

The quality of civic practice is dependent upon citizens possessing the sufficient civic knowledge required to understand and effectively engage in the country's public life.[16] Moreover, as economist Amartya Sen (1999) reminds us, it is the capacity and freedom of individuals to participate in civic life that bridges the rights and entitlements of citizenship to the responsibilities of citizenship. In this view, legal, regulatory and policy frameworks combine with political, socio-cultural and economic conditions to determine the capacity of citizens to engage in civic practice. Concomitantly, the proper role for public institutions is to help form a sense of civic responsibility and to support enabling conditions which allow citizens to fulfil their obligations.[17]

As noted above, the civic practice of voting and participating in electoral politics in Canada is limited to citizens. Nevertheless, there is evidence to demonstrate that official multiculturalism in Canada, with its commitment to promoting and assisting understanding between individuals, organizations, institutions and communities of different origins through a wide range of policies and programs, plays a strong role in supporting civic participation and facilitating immigrant integration before legal status is obtained.[18] Moreover, there has been a growing policy discussion in Canada on the use of immigrant integration as a two-way street in order to emphasize rights and responsibilities, while encouraging newcomers to become active and engaged citizens. Indeed, Citizenship and Immigration Canada suggests directly to the new immigrant: "ask yourself which *responsibilities* you will take on when you become a Canadian citizen."[19] Although this approach to immigrant integration and civic development is laudable, it is important to note that

official multiculturalism was also envisioned as a reciprocal approach requiring high levels of responsibility and civic practice amongst *all* Canadian citizens.

Despite naysayers, Canadians have demonstrated consistently high levels of support for multiculturalism and immigration policies.[20] Moreover, recent studies on measures of social capital – an indicator of the willingness of individuals to work together and to engage in cooperative civic endeavours collectively – suggest that diversity *per se* in Canada does not exert a negative influence on civic attitudes and behaviours.

Nevertheless, recent studies indicate declining civic practice and eroding trust in public institutions over the past decade amongst Canadian citizens – epithetically known as the "democratic deficit" (Stasiulis 1997, Gidengil et al. 2004, EKOS 2005, Pammet 2003). Predictably, a number of surveys indicate that a large segment of Canadian society lacks the basic civic knowledge needed to meaningfully participate in civic life.[21] However, recent findings suggest that declining civic participation is not a phenomenon specific to new immigrants, second generation immigrants or visible minorities generally in Canada, but to all Canadian citizens.[22] Hence, given that rates of civic practice appear similar amongst new immigrants and established Canadian citizens in many respects, policy-makers should exercise caution to ensure that civic practice is not problematized as a policy issue exclusive to immigrants.

Conclusion

The challenge of citizenship and the diminishing significance of juridical status in Canada have evoked a number of political and policy responses over the past several years. The most significant amongst these have included a number of failed attempts to modernize the *Citizenship Act* itself in order to align it with the provisions and principles of the Charter and other legislation, while accounting for public opinion and evolving civil society discourses on citizenship.[23]

In the 21st century, strengthening and modernizing the tools related to legal citizenship may offer only a partial solution to the question of how people in Canada live and work side by side. However, an integrated policy approach – one that considers seriously juridical status alongside civic identity and civic practice – may offer policy-makers a new lens for approaching the challenges of immigrant integration while simultaneously addressing goal of nation building for all. However, continued analysis of citizenship as an integrated policy issue will require serious commitment by policy-makers to re-examining the repertoire of citizenship and immigration policy tools available, while imagining new tools and solutions through a horizontal process that includes public consultation. Finally, policy-makers must be committed to making these tools work together to respond effectively and holistically to external pressures in developing a truly integrated and inclusive approach to Canadian citizenship.

Most Canadians would agree that citizenship should ideally be based on a willingness, not a resignation, to live side by side.

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Notes

[1] Immigration in recent decades has shaped Canadian diversity. Whereas in 1980 one in three immigrants came from the US or Europe, today that proportion is filled by immigrants from countries in the Middle East and Africa. Countries in Asia and the Pacific now account for about half of all immigrants to Canada. As a result, today few immigrants speak English as their mother tongue, while the percentage of those who have French as their mother tongue has remained unchanged in the last 25 years. Some languages, such as Mandarin and Arabic, have replaced European languages as those most commonly spoken in Canada. This diversity for the most part characterizes large urban centres, particularly Montréal, Toronto and Vancouver, where over half of newcomers to Canada choose to settle.

[2] According to census data, while immigrants and the Canadian-born both had poverty rates of 17% in 1980, the rate of poverty among new immigrants has steadily increased to 20% while the Canadian-born rate had declined to 14%. In 1980, one year after arrival in Canada, a skilled worker principal applicant could expect to earn almost 25% more than the Canadian-born; by 2003, the average was 32% less than the Canadian-born. Several factors contribute to the poorer economic performance of some recent immigrants, including language problems as the greatest barrier, followed by a lack of Canadian job experience. The latter is often accompanied by a lack of recognition of foreign credentials and work experience. Other research points to the role played by unfavourable local labour market conditions, the demand for specific skills and occupations, racial discrimination and low literacy skills. Additional challenges may lie with problems related to integration policy and programs themselves, which do not always effectively address the contemporary complexities of integration and newcomers needs.

[3] There is a long-standing and wide-ranging debate in Canada as to whether this country has a system of shared values, what these values might be, and whether shared values are even necessary for social cohesion and nation building. On the one hand, many Canadian social historians argue that a central expression of the Canadian notion of citizenship has been our long history of social programs, demonstrating commitment to the common good. Social programs, such as employment insurance, pensions, family allowances, and universal health care, operate as a safety net, by helping to spread the costs, or share the risks, of living in society. As well, equalization payments to certain provinces provide another way of smoothing out the inequities of geographic resources.

[4] The British council in Brussels is currently addressing the phenomenon of 13 million EU residents in the EU-15 member states as non-naturalized immigrants through the development of stronger policies governing inclusion and civic citizenship. The project notes: "If Europe is to meet its Lisbon targets on employment and jobs; maintain cohesive, healthy societies; and live up to its founding values of equality and openness, then it must take a close look at its policies governing inclusion and civic citizenship." See www.britishcouncil.org/brussels-europe-inclusion-index-in-detail.htm.

[5] In May 2005, United States Senators John McCain and Edward M. Kennedy introduced legislation to reform this country's immigration system. The *Secure America and Orderly Immigration Act* (s. 1033) suggested allowing millions of undocumented migrants in the United States the opportunity to obtain legal status as temporary guest workers, thereby creating the possibility of eventual citizenship for this population. The provisions on undocumented workers were incorporated into Arlen Specter's *Comprehensive Immigration Reform Act* of 2006, which was voted out of the Judiciary Committee. In the spring of 2006, millions of people in over 100 US cities demonstrated against the current immigration system and in favour of the legalization of undocumented migrants.

[6] Kymlicka and Banting (forthcoming, 303). Note that the *Canada Health Act* states that "the primary objective of Canadian health care policy is to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers" (1984, c. 6, s. 3).

[7] Op cit.

[8] Thorough review of all legislation for impacts on non-citizens is the subject of another paper. Briefly, as a result of the guarantee of equality in section 15 and the decision of the Supreme Court of Canada in *Andrews vs. Law Society of British Columbia* (1989), the Charter constrains the governments' capacity to confer benefits or impose restrictions on the basis of citizenship. However, some examples of restrictions on non-citizens are outlined here. The *Canada Elections Act* specifies that voting is limited to every person who is a Canadian citizen and is 18 years of age or older on polling day (although the Chief Electoral Officer, the Assistant Chief Electoral Officer; and citizens imprisoned in a correctional institution serving a sentence of two years or more are disqualified from voting). (2000, c. 9, s. 11; 2003, c. 22, s. 100) Moreover, under the Act, electoral candidates themselves must fulfil the qualifications for voting. (2000, c. 9, s. 65; 2002, c. 7, s. 92) Only three Charter rights are specifically intended for legal citizens. These are the right to vote and be qualified for membership in the House of Commons or a provincial legislature (s. 23), to enter and remain (s. 6(1)), and minority-language education rights (s. 23). Other rights are conferred variously on "everyone," "any person," "every individual," or "any member of the public in Canada. For further analysis of the implication of the Charter for distinguishing between citizens and non-citizens see Sharpe (1993, 234).

[9] For example, in cases where the Canadian Forces have need of and cannot fill a position with a Canadian citizen, but have permanent resident status and possess specialized skills/qualifications, and do not pose a risk to any national interest, may be enrolled into the Canadian Forces if permission is granted by the Commander of the Canadian Forces Recruiting Group (CFRG). See www.recruiting.forces.gc.ca/engraph /howtojoin/non_canadians_e.aspx.

[10] The 1977 *Citizenship Act* allowed for dual citizenship. According to 2001 Census data, 2.5% of the Canadian population identifies themselves as being a citizen of at least one other country. Amongst recent Canadian citizens, approximately, 13.5% also identify themselves as citizens of another country.

[11] 95% of people living in Canada are Canadian citizens – 81% by birth and 14% by naturalization. The remaining 5% of people living in Canada may be non-permanent residents, disinterested in naturalization, or provisionally or permanently ineligible for citizenship. See Tran, Kustec and Chui 2005, p. 9-10.

[12] Nevertheless, some studies suggest that naturalized citizens are slightly more successfully economically integrated than non-citizens. According to the 2001 Census, the employment rate for naturalized citizens aged 25-54 was 84% (similar to the general population), while the rate for those who were eligible but did not have citizenship was 80%. Further, 20% of naturalized citizens had personal incomes under $10,000 in 2000, compared to 26% of those who were eligible but did not have citizenship.

[13] Bissoondath, Neil, "A Question of Belonging: Multiculturalism and Citizenship," in Kaplan (1992, 384).

[14] Aristotle. (1981, 169). Obviously Aristotle's omission of women and slaves from the notion of citizenship severely devalues its appeal in both historical and contemporary contexts.

[15] Civic practice is directly linked to the quality of its democratic system. One popular – though limited – way to measure changing levels of civic engagement has been through comparisons of voter turnout over time. Voter turnout in federal elections in Canada has been decreasing steadily since the late 1980s, though it increased slightly in the last election. In 2004, only 61% of eligible voters cast a ballot, the lowest level of voter participation recorded in Canadian history for a federal election. As noted earlier in this paper, in 2005 only 65% of eligible voters cast a ballot. On the other hand, according to the national survey of giving, volunteering and participating, participation in social and community organizations has been rising, particularly amongst youth. See www.givingandvolunteering.ca/.

[16] For more information on the levels of civic knowledge amongst Canadian citizens, see http://dominion.ca/.

[17] From a policy perspective, this requires providing the space and opportunity for citizenship, as well as the provision of support and institutional mechanisms. As well, the public role may be found within a broader governance structure based on partnership in program delivery between a mix of governments, markets, and non-profit organizations.

[18] See Kymlicka (1998). For dissenting views, see Gwyn (1995) and Granatstein (1998).

[19] Citizenship and Immigration Canada, "A Look At Canada." Available at www.cic.gc.ca/English/citizen/look/look-02e.html. Emphasis in original.

[20] In 2003, a survey published by the Centre for Research and Information on Canada (CRIC) in 2003 found that 54% of Canadians cited multiculturalism as a source of pride. This figure rose to 66% among those between the ages of 18 and 30.

[21] According to the Dominion Institute/Angus Reid Group Poll Citizenship Exam Survey of 1997, 45% of Canadians would not be granted citizenship on the basis of having failed the Citizenship Exam. See www.angusreid.com/old/pressrel/citizenexam-Nov97.html. Based on these results, the Dominion Institute recommended that the Council of Ministers of Education develop and implement a National Civics Framework.

[22] See Pendakur and Aizelwood (2005). Pendakur's and Aizelwood's findings demonstrate that in Canada, the hypothesis that diversity does not exert a negative influence on civic attitudes and behaviours: "We find that in Canada, where differences based on ethnocultural identifiers do exist, they are the exception rather than the rule.…Rather, in Canada, where community size, diversity, wealth, and education so closely and positively correlate, an urban lifestyle may be a more useful explanation for variance in civic attitudes and behaviours….Perhaps the dominant finding is the effect of community size on measures of social capital." (p. 14) Further, "[m]itigating the effect of city size are the individual characteristics of education and income." As Pendakur and Aizelwood conclude, "[b]ased on our research, controlling diversity is neither justifiable nor realistic, but more importantly, does not appear to be the answer. Education and income appear to be far more effective levers for affecting social capital" (p. 15).

[23] Between 1998 and 2003, all three bills introduced to reform the *Citizenship Act* failed.xxiv Before the last federal election, the Report of the Standing Committee on Citizenship and Immigration released a number of reports recommending the updating of Canada's citizenship laws. See the Standing Committee on Citizenship and Immigration reports, *Citizenship Revocation: A Question of Due Process and Respecting Charter Rights*, June 2005, and *Updating Canada's Citizenship Laws: It's Time*, October 2005. More recently, reacting to the crisis in Lebanon and the evacuation of over 10,000 Canadian-Lebanese citizens, Canadian historian Jack Granatstein suggested that "[i]t is long past time for a new Citizenship Act to replace the legislation that came into effect in 1977. And it may be that the government should establish a Royal Commission on the Rights and Obligations of Canadian Citizenship." See J. L. Granatstein's (2006).