HAS IT BECOME TOO EASY TO ACQUIRE CANADIAN CITIZENSHIP?

ABSTRACT

Has it become too easy to acquire Canadian citizenship? In the case of dual citizens, should we be more demanding in terms of a commitment to Canadian values and requiring exclusive loyalty to Canada? Should we continue to award citizenship to anyone born on our territory, and should we revert to the five-year residency requirement from the current three-year requirement?

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In recent years, questions have been raised about whether it has become too easy to acquire Canadian citizenship and whether there needs to be a better balance between the benefits available from acquiring it and the obligations and responsibilities that should accompany it.

Two developments in particular have led to increased public interest in such issues. First, terrorists attacks or plots in a number of Western countries, in some cases by members of immigrant communities who had spent all or most of their lives in the West, raised concerns about loyalty and commitment to the values of the adopted countries of some newcomers.

A second and largely unrelated group of issues surfaced in connection with the evacuation by Canada of tens of thousands of its citizens from Lebanon during the 2005 conflict in that county. This led to questions about the obligations of the Canadian Government to assist those who had chosen to live outside the country on a long-term basis. Another issue that has received attention recently is the financial implications of the possible return of what could be hundreds of thousands of people holding Canadian passports and who have spent most of their working lives outside the country, people who may well return to Canada when they retire and benefit from social services like the health care system, even though they have not contributed to these services through payment of taxes.

Does acquisition of citizenship automatically mean loyalty to Canada?

Questions have been raised about whether sufficient demands have been made of newcomers in terms of their commitment to Canada. Those who are supporters of large-scale immigration and multiculturalism policy tend to argue that, for the most part, Canada has been quite successful in integrating newcomers and attracting their loyalty. As proof of this, it has been pointed out that in 2001, 84% of eligible immigrants became Canadian citizens, compared with 75% of those eligible in Australia and 50% and 40% in Britain and the United States, respectively (Tran et al. 2005).

While these figures are impressive and certainly reflect a strong attachment to Canada on the part of many newcomers, it should not automatically be assumed that loyalty and attachment are the only explanations. Other factors may well have entered into their decision to acquire Canadian citizenship, factors such as:

- Better access to certain types of employment in Canada; the right to work in the United States in select highly skilled jobs because of Canada's participation in NAFTA;
- Access to various types of services, such as consular assistance, if problems are encountered while traveling or living abroad;
- Eligibility to vote in elections, which, for some, means the opportunity to support policies that benefit their particular community;
- The ability to move from one country to another more easily than if they travelled on the passport of their country of origin (for a small number of individuals of national security concern).

Even some who feel a genuine attachment to Canada may acquire Canadian citizenship because their conception of what it is to be a Canadian differs significantly from what most other Canadians would consider appropriate. This author recalls talking with one young man who expressed great pride

and pleasure in his adopted country and was highly appreciative of the educational and economic opportunities it had given him, our free society, generous welfare system, friendly and welcoming people, etc. However, one of the things he valued most about the generosity of his new homeland was that it did not place obstacles in the way of him using Canada as a base for providing material support to a terrorist group in his country of origin.[1]

Briefings for prospective immigrants

There is little doubt that immigrants coming to Canada face major challenges, not only in establishing themselves economically but also in adapting to Canadian society – especially if they come from a very different cultural setting. There is certainly no shortage of examples of newcomers who have found such challenges highly stressful and, at times, overwhelming.

A number of Western countries with large numbers of newcomers who encounter similar problems have been developing briefing programs to give prospective immigrants a more accurate picture of some of the things they should expect to deal with if they decide to move. The purpose of such briefings is, in effect, to discourage them from immigrating if it appears that they and their families will have serious problems adapting to the cultural norms and practices of the receiving country.

Canada may well consider establishing similar briefing programs for prospective immigrants and could begin by examining what other countries are doing in this regard. Such programs should make it clear that Canadian society and law strongly endorse certain values (gender equality, for example) and that newcomers will be required to accept and abide by certain standards if they come here.

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Revocation of citizenship

A case could also be made for a more formal undertaking on the part of permanent residents when they apply for citizenship. They could be required to take an oath swearing that not only are they fully committed to Canadian values and will give their complete allegiance and loyalty to Canada but also their actions in the future will reflect these commitments.

Currently, naturalized Canadians can have their citizenship revoked if evidence reveals they acquired it fraudulently, by false representation or by knowingly concealing material circumstances; this action has been taken in a number of cases where individuals failed to indicate when they applied to become Canadians that they had been involved in war crimes. Similarly, someone who has sworn to uphold Canadian values and principles and be loyal only to Canada and whose subsequent actions are in serious conflict with these commitments, actions such as being involved in or supporting terrorist activities, would be liable to have their citizenship cancelled.

When the Conservative Party was in opposition, a proposal along these lines was, in fact, floated by Peter MacKay, then the deputy leader of the Conservatives. MacKay recommended that Ottawa revoke the citizenship of Fateh Kamel when he returned to resume residence in Canada after spending several years in a French prison after being convicted on terrorist charges (Bell 2005). MacKay, moreover, appeared to have had public support for such a recommendation, judging by a 2005 poll that showed three out of four Canadians supported revoking the citizenship of people who have acquired it and go on to commit serious crimes, become involved in terrorism, etc. (*Vancouver Sun* 2005).

British Prime Minister Tony Blair proposed a similar but more comprehensive package in the wake of the July 2005 bombings in London. He indicated he would seek to put measures in place so that anyone who preaches hatred or violence could be deported, those linked to terrorism would be automatically refused asylum and steps would be taken to make it easier to strip naturalized citizens of their British citizenship if they preached violence.

The kind of measures proposed by Prime Minister Blair might well be difficult to implement in Canada given the challenges that would almost certainly be launched under the Charter of Rights. There could also be opposition from those arguing that this would create unacceptable differences in the treatment of those who are Canadian citizens by birth and those who are citizens by choice. While equality in treatment may be a worthy goal in general, indeed one that was enunciated in the 1977 *Citizenship Act*, it could also be argued that if a person is made aware of these conditions before they are granted citizenship, they must be prepared to accept the consequences if they fail to meet them.

Dual citizenship

Dual citizenship is a subject that has come under considerable discussion in recent years. It raises not only the question of what specific rights and obligations a person has to a second country of citizenship but also the issue of whether a person's loyalties are divided in such circumstances. When Canada made it clear, with the passage of the 1977 *Citizenship Act*, that Canadians could be citizens of two or more countries at the same time, it also declared that they could have multiple allegiances (Citizenship and Immigration Canada 2008).

While some have questioned whether permitting our citizens to have divided loyalties is a good thing and have suggested that a second citizenship should not be

permitted if one wants to be a Canadian, the tide of events would appear to be on the side of retaining a provision for dual citizenship, and the prospect of reversing the situation appears to be remote. In a 2005 paper published by the Center for Immigration Studies in Washington, Stanley Renshon estimated that 151 counties allow some form of multiple citizenship. He outlined the various ways a person might acquire a second citizenship. One of the ways involved the fact that some countries continue to regard a person as their national, whether the person wants to be or not, even if that person becomes the citizen of another country (Renshon 2005: 8). Canada would, therefore, not be able to grant citizenship to newcomers from such countries if we did not permit dual citizenship.

But if we are prepared to continue with the policy of allowing Canadians to hold more than one citizenship, should limits at least be placed on the extent to which they can actively participate in the affairs of the other country where they are a citizen? As Renshon points out, some countries actively encourage their expatriates to maintain strong ties with their former homeland. This is done in a variety of ways, including sending remittances home, voting and even standing for election in their country of origin. At the same time, some of these countries also encourage their nationals to acquire citizenship in the country they have emigrated to in order to be able to vote and have as much influence as possible in the policies of their new homeland in favour of the interests of their country of origin (Renshon 2005: 10). In such circumstances, these countries endeavour to ensure that their emigrants' primary sense of loyalty remains with them rather than with their adopted country.

Under the circumstances, while it would probably be difficult at this stage to insist that Canadians cannot have a second nationality, we should at least require that someone who has made the decision to immigrate to Canada and become a Canadian citizen should declare unequivocally that their loyalty will henceforth be exclusively to Canada. Concomitant with this should be requirements that Canadian citizens do not vote or run for office in the elections of other foreign countries nor serve in their armed forces or as a public official.

Waiting period to become a citizen

The 1977 *Citizenship Act* shortened the waiting period of residence in Canada for a permanent resident before applying for citizenship from five years to three years. The purpose of this change was to promote citizenship among newcomers by making it easier to obtain. Many Canadians, however, feel that we made it too easy and thereby reduced its value. A poll released in January 2007, for example, found that 57% of those surveyed wanted stricter controls over the awarding of citizenship, while 35% thought they were about right and 3% wanted them eased (Angus Reid 2007).

A sampling of other Western countries indicates that three years is an unusually short period. While there are differences in the way each country calculates the required residency period (with variations, for example, in the number of days permitted abroad), a sampling of Western countries indicates that Canada has one of the shortest periods. New Zealand also has a three-year requirement, while Australia has increased its requirement from two to four years. In contrast, other countries are more demanding: five years of residency is required in the United States, United Kingdom and Ireland, seven in Norway and eight in Germany and Switzerland.

There has been speculation that Canada's waiting period was shortened to make newcomers eligible more quickly to vote in elections on the assumption they would cast their ballots in favour of the party in office (Bissett 2008). Specific allegations along these lines were made in the United States when it was claimed that the processing of the citizenship applications of up to one million people were expedited so they could vote in the 1996 presidential election (presumably in support of the Democratic candidate) (Schippers 2000).

Under the circumstances, it would make a good deal of sense to return the residency requirement in Canada to five years. It would also make sense to adopt a more effective and accurate way of recording the arrival and departure of permanent residents – there is no shortage of reports of individuals who successfully make false claims related to having fulfilled residency requirements. An electronic system for recording the arrival and departure of permanent residents using a central data bank could significantly reduce the incidence of such fraud and provide other useful information to the authorities.[2]

Birth citizenship

Canadian law provides for a child born in Canada to non-Canadian parents to be automatically eligible for Canadian citizenship. This provision has resulted in foreign women traveling to Canada for the purpose of giving birth so their child can acquire Canadian citizenship (Aubry 2005). This is done for a variety of purposes, including using the child's status as a Canadian to have access to the health care system, so the child can attend Canadian educational institutions without the fees required of foreigners and, when the child is old enough, being able to sponsor other family members as immigrants to Canada (in such cases, the child is usually referred to as an "anchor baby").[3]

Britain passed legislation ending birth citizenship in 1981, Australia passed it in 1986 and New Zealand in 2006. Ireland was the last member of the European Union to allow acquisition of citizenship by this means and terminated the provision to do so in 2005. There is no reason why Canada should not follow suit.

Other issues

There are two other issues for which the author does not have any specific prescriptions to offer but that certainly need to be addressed:

- Services to Canadians living abroad;
- Consular assistance.

The question of our obligations to Canadian citizens who choose to live abroad for extended periods is complicated and has a number of ramifications. This issue received considerable attention in the summer of 2006 when we evacuated an estimated 15,000 Canadians from

Lebanon at a cost of $94 million during the conflict between Hezbollah and Israel (Chant 2006). The issue revolved around, in particular, the question of whether our government should be obliged to assist in the removal of citizens who had decided to return and settle in Lebanon and activated their Canadian connections only when faced with danger.

While there is a dual citizenship dimension to this type of situation inasmuch as many of those involved may have held Lebanese as well as Canadian citizenship (with Lebanese citizenship likely bringing with it advantages in terms of ease of entry into Lebanon, ownership of property in that country, etc.), in the final analysis, this issue has to be treated as one of consular assistance to Canadians in general, regardless of whether they are dual citizens.

It still remains to be worked out how this kind of situation should be dealt with and who should pay the expense of the assistance. However, the notion that Canadians who remain in Canada should absorb what could be substantially high costs involved in aiding fellow citizens who have chosen to live in potentially dangerous areas abroad is contentious, and measures will have to be considered for either ensuring that the beneficiaries share a greater portion of the costs or, alternatively, putting in place provisions for them to opt out of receiving the benefits of consular assistance if they prefer not to pay for a substantial part of these costs.

Canadians living abroad who retire in Canada

A paper released by the Asia-Pacific Foundation of Canada in 2006 estimated that there were 2.7 million Canadians living abroad and that, in per capita terms, this was considerably more than the US, Australian, Indian or Chinese diasporas (Zhang 2006).

While having such a large diaspora could certainly be advantageous for Canada, it also has major financial implications if all or many of our expatriates choose to return to live here when they retire and, therefore, have access to social services such as the public health care system. The United States has addressed the problem by taxing the foreign-earned income of citizens living and working abroad. No other developed country, however, has adopted this approach.[4]

Imposing such a tax would obviously not be popular among expatriate Canadians and would also be difficult to administer, particularly in terms of obtaining an accurate picture of overseas earnings. We should, nevertheless, examine what measures could be taken to ensure that Canadians who spend a significant part of their working lives abroad and do not pay Canadian income tax are required to contribute to the costs of the benefits they receive in Canada if they return to retire here.

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Notes

[1] I am not in a position to say whether he is still so enamoured with Canada given that our conversation took place several years ago, and, in the interim, the government has become much more intolerant of the funding of terrorist groups.

[2] In her May 2008 report, the Auditor General of Canada recommended we put in place exit controls in order to determine whether individuals ordered deported have left the country. Such a system would also serve to substantially decrease the possibility of someone being able to falsely claim that they had spent time in Canada for the purpose of fulfilling the residency requirement for citizenship.

[3] A report in the *Asian Pacific Post* provided details on how women from Korea made use of the system in Canada (*Asian Pacific* Post 2004), while a University of Western Ontario paper describes a similar case involving someone from Hong Kong (Habermehl 2005). According to other sources, women from India, China, Philippines and other countries also come to Canada for this purpose.

[4] In addition to the United States, the Asia-Pacific American Chambers of Commerce list only Eritrea, North Korea, the Philippines and Vietnam as taxing the overseas income of its citizens (Asia-Pacific American Chambers of Commerce, 2006).