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**Us and Them: The Plumbing and Poetry of Citizenship Policy
and the Canadians Abroad**

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Us and Them: The Plumbing and Poetry of Citizenship Policy and the Canadians Abroad

By Ajay Parasram¹

Executive Summary

This paper illustrates how a Canadian population abroad of nearly 2.8 million people has important implications for the development of Canadian citizenship policy. The paper traces the evolution of citizenship policy from its earliest days. Following official timelines from government sources, the paper is divided into four periods: 1867 – 1947; 1947 – 1977; 1977 – 2009; and 2009 onwards.

The first section describes how immigration policy served as a de facto citizenship policy until the first Citizenship Act in 1947. Canada's immigration policy was designed to preserve the 'natural' ethnic and cultural make up of Canada as seen by the government. The preference for British immigrants had a major impact on the composition of the Canadian population, and emerged amid much debate between traditionalists and reformists in the Canadian parliament. Immigration policy was one of strategic exclusion, barring peoples on the basis of race, class, morality, religion and political ideology. This legal framework provided the Canadian state no legal channels to protect its citizens abroad, even though an extraordinary 20% of Canadians lived in the United States in 1900.

Section two covers the period between the first (1947) and second (1977) Citizenship Acts, highlighting the symbolic importance of achieving autonomy over citizenship and addressing the preference for British-Canadians over Canadian-born citizens. To acquire citizenship in this period, the government required that an individual "permanently reside in Canada," tying geography and citizenship together. The period between the Acts saw an influx of refugees and immigrants in the context of a developing policy of multiculturalism. This also led to an increase in the pool of naturalized citizens.

Section three explores how citizenship came to be seen as a right given to qualified immigrants and a natural end to the immigration process. The requirement to permanently reside in Canada was removed, the qualifying period of residency was reduced from five to three years and plural citizenship was recognized. These changes came as the policy of multiculturalism was becoming institutionalized. Canada's demographics changed rapidly to include many more visible minorities under the framework of the Charter of Rights and Freedoms and multiculturalism, which was fundamentally different from the framework of the past. By the 1980s, there were again calls to revise the Citizenship Act. There were concerns that citizenship had been devalued through plural citizenship, that there were unknown costs associated with Canadians abroad, and that generations of Canadians were being born abroad with no real connections to Canada.

By the 21st century, concern over Canadians who had lost their citizenship a number of different ways, the "Lost Canadians," prompted the government to amend the Citizenship Act, creating Bill C-37 aimed at simplifying policy, restoring citizenship to the "Lost Canadians" and limiting the right to pass citizenship on to descendents by one generation.

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Section four focuses on current issues arising from the study. Eight specific areas are discussed to help guide the “plumbing” of citizenship policy related to the Canadians abroad and are briefly summarized as:

- *Residency requirement:*
There are problems of definition as well as of equity. Is a physical presence necessary to absorb culture, and can it be done all at once, or is it an ongoing process?
- *Under-appreciation of non-government work abroad:*
Canadians employed or volunteering with Canadian companies, NGOs, faith-based groups and the like operating abroad are not able to pass their citizenship on to their children in the same way as government employees or military personnel.
- *Statelessness:*
The current Citizenship Act has already created at least one stateless child, meaning the child in question does not have access to social services, travel documents, etc.
- *Gender:*
There is an unfair expectation that pregnant mothers will travel to Canada to give birth to ensure continued the citizenship of subsequent generations. The mothers must incur extra costs, while the policy does not necessarily achieve its objective of keeping Canadians resident in Canada, as mother and child can immediately leave Canada.
- *Attachment:*
Many government policies (such as taxation) that affect Canadian residents abroad create incentives to show *dis*attachment to Canada.
- *Plural citizenship:*
Plural citizenship simultaneously poses security concerns (multiple passports, loyalty issues, etc) and provides benefits. However, a return to mono-citizenship would also create problems
- *Equity:*
The 1977 Act was aimed at achieving equity, but aspects of the 2009 amendment potentially provide simplicity at the expense of equity.
- *Security:*
Natural disasters, man-made disasters and epidemics increase the service-provision expectation of Canadian government by its population abroad.

Each represents a key area for researchers who need to consider citizenship policy as it relates to Canadian citizens abroad and at home. While these issues relate to the “plumbing” of citizenship, consideration of the challenges to the historically constructed Canadian identity by multiculturalism and the Charter represent the equally important “poetry” of citizenship.

This paper suggests that revisiting the plumbing and poetry of citizenship is necessary as the global context in which citizenship is practised is in a constant state of flux. The 2009 amendment to the Citizenship Act addressed a minor problem with the plumbing, but failed to revisit the broader poetics of citizenship that affect Canadians abroad. Specifically, broadening the focus on citizenship as it is practised in Canada and transnationally will allow Ottawa to evaluate the challenges and opportunities Canada’s “Secret Province” of 2.8 million citizens poses for 21st century citizenship.

Introduction²

The first person to ascend to citizenship in Canada was not Leif Ericson, John Cabot, Samuel de Champlain, Mistahimaskwa, Laura Secord, or John A. Macdonald. It was William Lyon Mackenzie King, the tenth Prime Minister of Canada and he ascended to citizenship on January 3, 1947, 80 years after Canada came into being. Citizenship has changed dramatically through the course of Canadian history. While the country did not have autonomy over its citizenship policy until 1947, other policies affected the composition of its citizenry, captured through legislation and British policy. This paper seeks to explore the history of citizenship policy to better understand how citizenship is a key policy affecting the Canadian population resident abroad.

The historical approach allows us to plot conceptual shifts in citizenship policy, and offers us an opportunity to consider how we might recalibrate for the future. Canada is a very young state, and thus a discussion of citizenship issues as it pertains to Canadian residents abroad must be seen in relation to immigration policies that predate citizenship. The history presented in this paper follows the timeline designed by Citizenship and Immigration Canada. Following this approach can be problematic at times as it presents Canadian citizens as subjective political beings rather than as active agents.³ I follow the official history because of the relationship the state has in proliferating what Benedict Anderson might call the “Canadian imagined community;” the limits of Canada and the cultural sinews that hold it together.⁴ I argue that the population of Canada and its citizenship identity are inter-related, and it is because of this relationship that citizenship policy has changed dramatically through the latter half of the 20th century.

Section one touches briefly on pre-20th century Canada, and then deals more substantively with the 1906 and 1910 Immigration Acts while highlighting milestones leading up to the 1947 Citizenship Act. Section two focuses on the period between the Citizenship Acts of 1947 and 1977; section three on the period between 1977 and 2009; while section four ties the historical issues into the context of today. Citizenship after the 1977 Act reflects in part a national debate on multiculturalism and how it has changed Canadian nationalism. The issues arising from this

² The author is grateful for the vital insights and comments of his colleagues, in particular Jean Michel Montsion, Don DeVoretz and Jillian Oliver. Special thanks to Mark Davidson and colleagues from Citizenship and Immigration Canada for their assistance, including introducing the concept of citizenship policy as both “plumbing” and “poetry”.

³ Scholars of citizenship have addressed the problem of treating people as agentless beings rather than directly influencing the policies of government and governmental agencies. See: Moulin, Carolina and Nyers, Peter. “We Live in a Country of UNHCR’ – Refugee Protests and Global Political Society,” *International Political Sociology* 1:4, 2007

⁴ As Benedict Anderson identified in his seminal work, *Imagined Communities*, the nation as we have come to understand it today is an imagined political community that is both limited and sovereign. Anderson argues that the state is an imagined construct because no matter how small it is, one will never know all its members. Nevertheless, we feel a kinship through icons of Canadianness (for example, the maple leaf) that most Canadians can identify with. The nation, Anderson argues, is limited and sovereign, because “even the largest of them, encompassing perhaps a billion living human beings, has finite, if elastic, boundaries, beyond which lie other nations.” Following Anderson, the Canadian state today reflects a purposeful historical construction. Unlike many other nation-states, the Canadian population is largely a product of strategic immigration policy that affected the type of immigrants brought to the country. See: Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 1991).

study highlight the sensitivity and complexity of citizenship, as well as the need to revisit the policy each generation.

Section One: 1867 - 1947

Citizenship involves a division between citizen and non-citizen, demanding certain rights for citizens that are not extended to non-citizens. This distinction becomes complex when the citizenry itself is divided into classes, as has been the practice throughout British colonial history. The principle governing the administration of citizenship within the British Empire was to grant different rights to different types of people. The objective was to attract immigrants to the colonies, but not to the motherland.⁵ Irene Bloemraad argues that Canada followed the British tradition of bestowing the king's protection on anyone born on his land and allowing immigrants to attain that protection through naturalization.⁶ While the British model allowed the colonies relative autonomy over citizenship as it affected local issues, only England could grant the status of "British subject" with the rights and privileges it carried throughout the Empire.⁷

By 1870, London had changed its Naturalization Act to allow equal rights for its subjects in any colony; however, those rights went no further than the colony in which the person was naturalized. For example, a naturalized British subject would enjoy the same rights and privileges as a Canadian-born British subject in Canada; however, if that naturalized British subject went to Trinidad and Tobago, he would not carry his "Britishness" with him. The citizen in this example would be considered different from a British-Trinidadian and a British-born citizen. This distinction is important from the perspective of Canadians living abroad, as their rights as British subjects would not necessarily be respected equally throughout the Empire. Without a Citizenship Act and autonomy over foreign relations⁸, the Canadian government was legally powerless to protect Canadians abroad without British intervention.⁹

Constructing Canada: Security Screening and Naturalization in the Early 20th Century:

"Canada" is a modern concept with a sparse population of mostly European settlers occupying a vast territory. Building the nation depended greatly on the immigrants admitted to the territory.

⁵ Bloemraad, Irene. "Much Ado About Nothing? The Contours of Dual Citizenship in Canada and the US" in *Dual Citizenship in a Global Perspective* by Thomas Faist and Peter Kivisto 159 -189. New York: Palgrave Macmillan, 2007,162.

⁶ Ibid.

⁷ Ibid. This protection is enshrined in Section 81 of the British North America (BNA) Act, "Naturalization and Aliens."

⁸ Canada did not gain autonomy over its foreign relations until the Statutes of Westminster in 1931.

⁹ The United States is, and has always been, the prime destination for Canadian émigrés. Indeed, in the year 1900, approximately 1 out of every 5 Canadians lived in the United States and the border itself was barely in place. The United States did not have an institutionalized border guard service until 1924, and even then, it focused on policing north-bound migrants from Mexico and east-bound migrants from across the Pacific. Canadian migration in and out of the United States became a concern when the US practiced prohibition and the need to prevent illicit movement across the border became a priority. See: Ramierz, Bruno. "Migration and National Consciousness: The Canadian Case" in *Citizenship and Those who Leave: Politics of Emigration and Expatriation* by Nancy Green and Francois Weil 211-224. Chicago: University of Illinois Press, 2007, 211; "Border Patrol Overview" *Customs and Border Protection*. Available online at

http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/overview.xml.

Giving “legal” meaning to territory that had been occupied differently for an immeasurable period of time required fundamentally changing the way “Canadians” related to territory and was inherently a colonizing process.¹⁰ Without citizenship, the government relied on immigration to construct the nation it wanted.

The Immigration Act of 1906 provided a legal definition of an emigrant and created a tiered system for desirable sources of immigrants. The act was hotly debated in the House of Commons, with one camp favouring a restrictive policy based on getting ‘the right kind of immigrant.’ The opposing camp enjoyed the support of the industrial class, preferring an open immigration policy based on the concept that aliens would learn how to be good citizens upon entry to Canada.¹¹

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citizenship policies.*

Though not controlling citizenship directly, the Immigration Acts of 1906 and 1910 were *de facto* citizenship policies; largely concerned with issues of security, as well as health, criminality and culture. Under the 1910 Immigration Act, the term “Canadian citizen” first appeared, though there was no Citizenship Act to define one.¹² These acts provided a legal basis from which Canada could deny entry to restricted groups and also deport immigrants on the basis of their mental health, criminal record, or ‘moral’ character. Between 1902 and 1912, the country deported 890 people for being mentally unfit, 6,900 people for committing a criminal offence, and 2,580 people because it was feared that they *might* commit a crime.¹³ Clauses 26 to 34 of the 1906 Immigration Act outline the type of immigrants prohibited from Canada:

No immigrant shall be permitted to land in Canada, who is feeble-minded, an idiot, or an epileptic, or who is insane, or has had an attack of insanity within five years: nor shall any immigrant be so landed who is deaf and dumb, or dumb, blind or infirm, unless he belongs to a family who accompany him...who is a pauper, or destitute, a professional beggar, or vagrant, or who is likely to become a public charge; and any person landed in Canada who, within two years thereafter, has become a charge upon the public funds, whether municipal, provincial, or federal, or an inmate of or a charge upon any charitable institution, may be deported and returned to the port or place whence such immigrant came or sailed for Canada.¹⁴

In short, Canadian immigration policy was considerably more restrictive than it is today. In the absence of a welfare state, the need for new immigrants to be self-sufficient led to discrimination on the basis of health and class. The 1906 Act goes on to outline that the government could, by proclamation, prohibit any class of immigrant from entry to Canada and also deport any immigrant within two years who had committed immoral acts, crimes, or had become poor or destitute. The Act stipulates that the deportation of a father or head of the

¹⁰ Ariey-Jouglard, Rachel. “Engineering Indigenous Lives in Canada’s North: national identity, biopower, and diamond mining in the North-West Territories,” Masters Research Paper, Carleton University, 2008.

¹¹ “Forging Our Legacy: Canadian Citizenship and Immigration 1900 – 1977” *Citizenship & Immigration Canada* Available online at <http://www.cic.gc.ca/EnGLish/resources/publications/legacy/chap-3.asp#chap3-3>.

¹² Bloemraad, Irene. “Much Ado About Nothing? The Contours of Dual Citizenship in Canada and the US,” 14.

¹³ ‘Immigration Acts (1866-2001)’ *Canadian Encyclopedia*. Available online at http://www.canadiana.org/citm/specifique/immigration_e.html#1906.

¹⁴ “An Act respecting Immigration and Immigrants: Assented to 13th July, 1906,” *Early Canadiana Online*. Available online at <http://www.canadiana.org/en/?doc=home>.

household meant that all dependent members of the family could be deported at the same time.¹⁵ Though not unusual for the time, up until 1947, a woman's legal identity as a Canadian was tied directly to her male 'guardian,' and his actions could lead to her deportation and that of her children, regardless of their actions.

The themes of cultural, economic and moral security were further strengthened in the 1919 Amendment to the Immigration Act. This Amendment included Section 38 which allowed the government to exclude "undesirable" races and nationalities. This section was used not only to prohibit the entry of people from Eastern European countries, but also Doukhobers, Hutterites and Mennonites on the basis of their religion.¹⁶ Canada also sought to exclude on the basis of political ideology, outlawing over a dozen leftist groups and issuing Orders in Council against publications following the 1917 Bolshevik Revolution and the 1919 Winnipeg General Strike.¹⁷

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The Canadians Abroad in the 20th Century

Thus Canada had explicit tiers of citizenship in the early 20th century. Prior to 1947, Ottawa described as aliens those people born outside the Empire but living in Canada. They had no right of entry and could only gain standing as a British subject or Canadian national through naturalization. British subjects could quickly naturalize as Canadian nationals. Though aliens from outside the Empire could also naturalize as Canadian citizens, their status throughout the British Empire depended on the laws in the area in which they travelled.¹⁸ Because the dominant destination for Canadians abroad was the United States, protection of rights throughout the British Empire would have been of little benefit. Indeed, 1.18 million Canadians lived in the United States in 1900, representing approximately 22% of the Canadian population.¹⁹ From 1915 to 1918, Canadians comprised nearly one third of immigrants in the United States, drawn by US labour shortages – despite labour shortages in Canada.²⁰

The preference for British immigrants and by extension, British cultural traditions had an impact on immigration, but also affected marginalized groups within Canada, such as French-speaking Quebeckers and the many indigenous nations. An editorialist from *La Gazette de Berthier* noted as early as 1892 that "If our population keeps on abandoning the land for a few more years the French Canadian nationality will be transported to the United States."²¹ French-speaking Canadians' decision to leave Canada rather than relocating to other French-speaking parts of

¹⁵ Ibid.

¹⁶ "Immigration Acts: 1866 – 2001," *Canada in the Making* available online at http://www.canadiana.org/citm/specifique/immigration_e.html#1919.

¹⁷ "A Hundred Years of Immigration to Canada," *Canadian Council for Refugees*. Available online at <http://www.ccrweb.ca/history.html>.

¹⁸ Bloemraad, 165

¹⁹ Ramierz, Bruno. "Migration and National Consciousness: The Canadian Case" in *Citizenship and Those who Leave: Politics of Emigration and Expatriation*, by Nancy Green and Francois Weil 211-224. Chicago: University of Illinois Press, 2007, 211.

²⁰ Ibid.

²¹ Cited in Ramierz, 213.

Canada such as Prince Edward Island or Manitoba reflects their dissatisfaction with their place in Canada.²²

Britishness and Tiers of Citizenship

Bloemraad notes that alien naturalized citizens were in a separate class from British naturalized Canadians. Indeed, British subjects naturalizing as Canadians needed only to satisfy a five-year residency requirement to become a Canadian, while non-British immigrants had to cross many hurdles. Some notable examples included head taxes, explicit rewards for immigration officers who settled British immigrants in Ontario and Quebec, and other discriminatory practices as evidenced by groups such as the Asiatic Exclusion League.

While a 1930 Order in Council (P.C. 2115) banned the immigration of any person of an “Asiatic Race,” the government issued another Order in Council the next year stating that any Asian seeking to naturalize as a Canadian had to first give up any other citizenship. This precursor to a single citizenship policy is important, as is the question of to whom it might apply. Japan, for example, did not have a legal provision by which its citizens could renounce their citizenship, thereby strengthening the ban on Japanese immigration to Canada.²³

Under a series of laws beginning in 1885, Chinese immigrants were forced to provide nearly an entire year’s worth of salary as head taxes in order to purchase entry to Canada.²⁴ The taxes were abandoned by the Chinese Exclusion Act of 1923.²⁵ The British-first policy was very effective, with immigration from Britain growing from 86,796 at the end of the 1906 fiscal year, to 142,622 at the end of fiscal year 1914.²⁶

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The Canadian population was influenced heavily by the 1906 – 1910 Immigration Acts and other legislation leading up to the 1947 Citizenship Act. Perceptions of equity, racial, cultural and economic security helped guide progress toward the first Citizenship Act, a milestone in the nation-building process.

Section Two: 1947 - 1977

The Canadian Citizenship Act (1947)

²² I thank my colleague, Jean Michel Montsion, for helping clarify this important point.

²³ “A Hundred Years of Immigration to Canada,” *Canadian Council for Refugees* available online at <http://www.ccrweb.ca/history.html>.

²⁴ “The Early Chinese Canadians: 1858 – 1947,” *Library and Archives Canada*. Available online at <http://www.collectionscanada.gc.ca/chinese-canadians/021022-3000-e.html>.

²⁵ Henry Yu, “Finding Ourselves in History,” *Library and Archives Canada*. Available online at <http://www.collectionscanada.gc.ca/chinese-canadians/021022-3100-e.html>.

²⁶ Forging Our Legacy: Canadian Citizenship and Immigration 1900 – 1977,” *Citizenship and Immigration Canada* available online at http://www.oscarcahen.com/external/cic_1900-1977.html.

The mood in Canada during the interwar period was unwelcoming to immigrants. With the onset of the Great Depression and a 25% unemployment rate by 1933, established and potential immigrants were victims of the hard economic times.²⁷ While some residents of British Columbia's Lower Mainland backed the anti-Asian lobby, some residents of North Bay, Ontario complained that Canadian forestry workers had "to stand around and starve while foreigners get the first privilege."²⁸

During the Second World War, Paul Martin Sr., a minister in the cabinet of Mackenzie King, led the discussion on an independent Canadian citizenship policy. Throughout the 1940s, an all-party consensus developed, focusing on the "plumbing and poetry"²⁹ of citizenship. The poetry involved gaining autonomy over citizenship, while the plumbing of the inaugural Citizenship Act offered an opportunity to consolidate different Naturalization Acts and Immigration Acts that dealt with citizenship.³⁰ The Canadian Citizenship Act (1947) was enacted on June 27, 1946 and came into force on January 1, 1947. One of the primary motivations for seeking autonomy over the administration of citizenship was that it was a vital part of nation-building to give equal rights to Canadians by birth and Canadians by choice.³¹ Important differences in this Act from previous iterations include:

- All Canadian citizens would have automatic right of entry to Canada.
- As a rule, immigrants (including those from the Commonwealth) would not qualify for full citizenship until they had been resident in Canada for five years and had taken out citizenship papers. However, immigrants who were already British subjects would not lose their privilege, including the right to vote after they had resided in Canada for one year. Immigrants who had served in the Canadian armed forces during either of the World Wars would qualify for naturalization after one year.
- Married women would be given full authority over their nationality status.
- Citizenship would be lost under certain circumstances, such as the adoption of citizenship of another country.
- Provision would be made for instruction in the rights and responsibilities of citizenship and for appropriate citizenship ceremonies, including a revised oath of allegiance.
- An applicant for citizenship could substitute 20 years of residence in Canada for knowledge of English or French.³²

The debates leading to the first Citizenship Act were intense. The Act itself as well as the symbolic importance of the first official citizens reflected a desire for a homogenous, relatively open, national identity. Citizenship was a *privilege*, given to those who satisfied the moral, ethnic, social and economic criteria set out by the government. This was an important milestone, as it officially repealed the Chinese Exclusion Act which prevented Chinese immigrants from bringing their families to Canada.

²⁷ Ibid.

²⁸ Ibid.

²⁹ I thank Mark Davidson from Citizenship and Immigration Canada for bringing this useful perspective to my attention.

³⁰ Ibid.

³¹ *Proud to Be Canadian*, Department of the Secretary of State of Canada Ottawa: June, 1987 (obtained by special request to Citizenship and Immigration Canada).

³² "Forging Our Legacy."

It did not, however, remove the preference for European and American immigrants, nor the special status of British subjects. Until the second Citizenship Act in 1977, passports still proclaimed, “A Canadian citizen is a British subject”³³ and people of British citizenship could fast-track the naturalization process as well as gain the franchise long before becoming citizens. Prime Minister Mackenzie King ensured that the 1947 Act preserved what the government saw as the ‘natural’ ancestry of Canada, while offering a more liberal immigration policy for those who fit into the desirable category of potential Canadians.

The 1947 Citizenship Act offered a legal badge of membership to a political democracy that described the rights, privileges and responsibility of citizens.³⁴ No longer were Canadians deemed to be subjects of Britain alone, sacrificing their state protection at the border. The 1947 Act stipulated for the first time that “Canadian-born citizens” and “naturalized Canadian citizens” held identical status and privileges. It also established criteria for immigrants to ascend to citizenship, including:

- being at least 21 years old;
- having resided in Canada for five years;
- being in possession of good character;
- adequate knowledge of French or English;
- adequate knowledge of the privileges and responsibilities of Canadian citizenship;
- *having the intention to reside permanently in Canada* (emphasis added).³⁵

The decision to state that naturalizing Canadians must permanently reside in Canada is important, as it describes what parliamentarians in the 1940s saw as the natural path of immigration. While such a policy would be difficult or even impossible to enforce, it highlights a concept of citizenship tied squarely to the sovereign limits of the Canadian state. The practice of citizenship, however, did not necessarily align with this statement. The legacy of “border babies,”³⁶ war-brides and Canadians who lost their citizenship due to residency or retention requirements offer evidence of a population abroad.

³³ *Proud to Be Canadian*. The historical and symbolic significance of the passport is very important in the development of Canadian nationalism. Contemporary passports have descended from a tradition rejuvenated by King Louis XIV of France, when he issued letters to favoured members of his court asking the governors of other territories to allow “passé port” which translates to “pass through the port” as most travel was done by sea at the time. How a citizen is identified and introduced to foreign officials follows the same legacy, and historically, Canadians have required the protection of the Queen of England to go abroad. Though less stringent policies were applied to travelling to the United States, Canadians still had to seek a letter from the Governor General. For a detailed account, see “History of Passports” *Passport Canada* available online at <http://www.passport.gc.ca/pptc/hist.aspx?lang=eng>.

³⁴ Fratl, Jason and Godleska, Christina. “Study on Loss of Canadian Citizenship for the years 1947, 1977 and 2007 Standing Committee on Citizenship and Immigration: *B.C. Civil Liberties Association* Witness Statement (39th Parliament, 1st session). Available online at <http://www.bccla.org/othercontent/CIMM.pdf>.

³⁵ *Proud to Be Canadian*, 7.

³⁶ Border babies refer to the instance where a child is born in the United States to at least one Canadian parent. Generally speaking, the parent(s) would be Canadian citizens living in Canada, but travelled to a neighbouring American hospital to give birth. This was not uncommon in border communities in Canada and the United States as the border dividing the two states was not heavily securitized until the 21st century. Under the 1947 Act, however, children born abroad needed to register or declare their intention to maintain their Canadian citizenship. For more information, see: Edmonston, Barry. “Study: On Loss of Citizenship, 1947, 1977, and 2007,” March 19, 2009. Available online at <http://www.cbc.ca/news/background/lostcanadians/pdf/edmonstonbrief.pdf>.

The Union of Citizenship and Immigration

Immigration and Citizenship were merged into the Department of Citizenship and Immigration in 1950 as part of the movement to bring citizenship legislation together under the same banner.³⁷ By 1952 a new Immigration Act was introduced that gave considerable power to the government to control the admission and deportation of immigrants on the basis of race, place of origin, customs, habits, modes of life, unsuitability to climate and ability to be assimilated.

From the perspective of Canadians living abroad, the 1947 Act had great importance. While the legal recognition of citizenship and control over foreign policy meant that the Canadian government could act on one's behalf abroad, one could only become naturalized as a citizen if the objective was to permanently reside in Canada. It is likely that neither the department nor the government reflected deeply on the phenomena of naturalized citizens leaving Canada to reside permanently abroad.³⁸ With waves of post-war Europeans, looking for a new home, and Ottawa's need to attract immigrants to meet labour shortages and colonize the Canadian frontier,³⁹ it was unlikely that transnational Canadians would have been much of a concern.

While the first Canadian Citizenship Act was based on the premise that Citizenship was a privilege, the 1977 Act saw citizenship as an inherent right for all qualified immigrants.

Under the 1947 Citizenship Act, any Canadian who naturalized as a citizen of another country (unless it was through marriage) forfeited their Canadian citizenship. In some cases, if a Canadian performed service in the military of another country, they would also lose their citizenship.⁴⁰ Under the Act however, children born to a Canadian parent anywhere would keep their rights as a Canadian citizen, including the right to pass their Canadian citizenship on to their descendents, as long as the child was registered.⁴¹ Thus, through citizenship policy the government created disincentives to reside abroad. This regime was short lived however, as the 1977 Act will illustrate.

The Canadian economy had changed rapidly since the Great Depression. Arguably most important was the changing self-perception of the Canadian state. Canada under the 1947 Act was still based on the citizenship practice of exclusion. That would change in the years leading up to the Citizenship Act of 1977.

Section Three: 1977 - 2009

The Canadian Citizenship Act (1977)

While the first Canadian Citizenship Act was based on the premise that citizenship was a privilege, the 1977 Act saw citizenship as an inherent right for all qualified immigrants.⁴²

³⁷“A Hundred Years of Immigration to Canada,” *Canadian Council for Refugees* available online at <http://www.ccrweb.ca/history.html>.

³⁸ Davidson, Mark. Telephone interview, Vancouver: October 27, 2009.

³⁹ The need to push the frontier of Canada both West and North was a vital part of the Canadian nation building project. For an excellent discussion of the ‘myth’ of the North and its relevance to Canadian nation-building, see Ariey-Jouglard, Rachel, “Engineering Indigenous Lives in Canada’s North: national identity, biopower and diamond mining in the North-West Territories,” Masters Research Paper, Carleton University, 2008.

⁴⁰ *Proud to Be Canadian*, 7.

⁴¹ *Ibid.*, 9.

⁴² *Ibid.*, 8.

Amidst a rapidly changing world with improved international transportation, and waves of immigrants and refugees, the British-first tenor of the original Citizenship Act was clearly in need of revision. After the 1969 Royal Commission on Bilingualism and Biculturalism argued that the integration of other cultures, rather than assimilation ought to be a priority, Canada officially adopted multiculturalism by 1971.⁴³ Debates in parliament leading to the Citizenship Act in 1977 focused on the rapidly changing global environment and the complications of administering a policy of singular citizenship.⁴⁴ Irene Bloemraad speculates that though there was not much discussion in parliament on plural citizenship, the context of multiculturalism was a likely motivator. Far from the rhetoric of Mackenzie King, then Prime Minister Pierre Trudeau argued:

National unity if it is to mean anything in the deeply personal sense, must be founded on confidence in one's own individual identity; out of this can grow respect for that of others and a willingness to share ideas, attitudes and assumptions. A vigorous policy of multiculturalism will help create this initial confidence.⁴⁵

The initial influx of European refugees and immigrants in the post-World War II period helped set the stage for the departure from Canada's staunch ethnic homogeneity to a policy that saw heterogeneity as a virtue.⁴⁶ By 1973, a Ministry of Multiculturalism was established,⁴⁷ and from 1971 to 1981 almost \$200 million was spent on the portfolio.⁴⁸ Incoming immigrants and refugees in the 1970s were increasingly visible minorities, from Caribbean migrant workers to East African or Vietnamese refugees. This shift made issues of equity and non-discrimination a critical challenge for the government.⁴⁹

Both the 1947 and 1977 Acts had the goal of nation-building at their core; however the meaning of nationalism and the global context in which nationalism and citizenship is practised had changed dramatically in the intervening years. The thinking changed substantively from awarding citizenship to people on the basis of their ethnic desirability to creating citizens from qualified immigrants from virtually any part of the world. Key differences between the 1947 and 1977 Acts include:

- the residency requirement was reduced to three years from five;
- citizenship was seen as a right rather than a privilege;
- a citizen was defined as a "Canadian citizen" rather than a "British subject;"
- the requirement to permanently reside in Canada was removed;
- the special treatment for British citizens was ended;
- plural citizenship was adapted, allowing Canadians to

⁴³Dewing, Michael and Leman, Marc. "Canadian Multiculturalism," *Library of Parliament* available online at <http://www.parl.gc.ca/information/library/PRBpubs/936-e.htm>.

⁴⁴Davidson, Mark. Telephone Interview with Author, Vancouver: October 27, 2009.

⁴⁵ Bloemraad, 165. Leaders such as John Diefenbaker and Pierre Trudeau speak to an important generational change in Canada. Diefenbaker prided himself in being the first Canadian Prime Minister of neither French nor English ancestry, and Trudeau's ancestry combined both French and English roots. Representing the two main political parties, these non-traditional Prime Ministers were instrumental in the passing of the important pieces of legislation that changed the character of Canadian nationalism, including the Bill of Rights, establishing multiculturalism, and the Charter of Rights and Freedoms.

⁴⁶ Dewing and Leman.

⁴⁷ Dewing and Leman.

⁴⁸ Karim, 702.

⁴⁹ Ibid.

- keep their existing citizenship and
- naturalize elsewhere without losing their Canadian citizenship.

From the perspectives of Canadians living abroad, several implications are worth noting. The residency requirement under the 1977 is nearly half what it had been since 1947. With the shift from citizenship as a right rather than a privilege, it turned the notion more into a process than a special event.⁵⁰

Shifting from mono to plural citizenship made ascension to citizenship for immigrants more attractive. Indeed, as Guo and DeVoretz have noted, strategic immigrants would have been enticed by this change.⁵¹ It tapped into a cohort of Canadian-born citizens who now had the right to go abroad and ascend to citizenship elsewhere. The purpose of the 1977 Act was largely to correct the shortcomings of the 1947 Act in the context of the world of the 1970s. The desire for equality in the Citizenship Act and associated policy changes in immigration and refugee policy were designed to reform Canada's views on naturalized citizenship. In the words of one parliamentarian:

...We are coming to believe that a legally admitted landed immigrant who has been in this country a reasonable period of time should acquire the right to become a citizen. I am suggesting that this artificial distinction of a right which exists by virtue of birth in Canada as against birth somewhere else on this small planet is one that should be examined.⁵²

Shifting from mono to plural citizenship made ascension to citizenship for immigrants more attractive.

The 1977 Citizenship Act was based on the principles of "improved access and equal treatment."⁵³ As a result of stripping away ethnic, racial and religious preferences in the Act as well as in related policies, the stock of new Canadians rapidly diversified. The new points system screened on the basis of skills. Like the 1947 Act, the 1977 Act saw naturalization as the natural finish-line for immigrants' integration, which -- as we will see in the next section -- has proven to be a problem. Rather than adopting a restrictive policy, the government sought to make the process of naturalizing very easy, by lowering the residency requirement and adopting a policy of plural citizenship. Canadian-born citizens living abroad could now become naturalized as citizens in their host countries without forfeiting their Canadian identity and rights. Immigrants could preserve their previous citizenship(s) while taking a step toward integrating further into Canadian society by naturalizing as Canadians.

The 1977 Act represents a statement about nation-building which incorporates a fundamental shift in priorities from exclusiveness to inclusiveness. A critical aspect of the shift from exclusion to inclusion and ethnic singularity to ethnic pluralism is how the government and citizens of Canada engaged with the more difficult aspects of multiculturalism. It is in part a failure to engage with the challenges of ethnic pluralism and the seemingly politically incorrect feelings associated with multiculturalism that makes multiculturalism an underappreciated component of citizenship in 1977 and 2009. Since the 1971 adoption of multiculturalism and its associated policies, Canada began accepting non-European refugees as well. Tibetans, East-

⁵⁰ Proud to be Canadian.

⁵¹ Guo, Shibao and DeVoretz, Don J. "Chinese Immigrants in Vancouver: Quo Vadis?" *Journal of International Migration and Integration* 7 (4) 425 – 447, 2006.

⁵²"Forging Our Legacy: Canadian Citizenship and Immigration 1900 – 1977."

⁵³ Proud to Be Canadian, 8.

African Asians, Chileans, American and Vietnamese refugees fleeing their home countries began arriving in cities throughout Canada in the 1970s, contributing to the rapid change in urban Canada's ethnic composition.⁵⁴

... the committee agreed with witnesses who spoke about the perception of a devalued citizenship and questions of mixed loyalties associated with plural citizenship.

Challenging the 1977 Act: Lead up to 2009 Amendment and the "Lost Canadians"

The 1980s saw technology shrink the distances between places, and concepts such as the 'global village' to describe a world becoming increasingly inter-connected. Amid these changes, and in

Many believed that the 1977 Act had gone too far and the allowance of plural citizenship contributed to the devaluation of Canadian citizenship through compromised loyalties.

the context of the 1982 patriation of the Constitution and the adoption of the Canadian Charter of Rights and Freedoms, parliamentarians sought to revisit the Citizenship Act.

Though it is clear to most that parliamentarians in the 1970s wanted to expedite Canadianization through changes to the Citizenship Act,⁵⁵ the mid-1980s saw a major push for further amendments. Many believed that the 1977 Act had contributed to the devaluation of Canadian citizenship through compromised loyalties.⁵⁶ Several concerns were articulated in a 1987 special paper prepared by the Department of the Secretary of State. Most relevant in the context of Canadians living abroad were concerns about:

- The diminishing value of Canadian citizenship under the 1977 Act;
- Plural citizenship;
- Residency requirement for attaining citizenship;
- Measuring the attachment of Canadian citizens;
- The right to pass on citizenship to successive generations.⁵⁷

These issues can be reduced to two main points: questions about loyalty to Canada, and about who gets to be Canadian. A theme in the concerns raised in 1988, and again under the auspices of the Standing Committee on Citizenship and Immigration in 1994, was the threat plural citizenship posed to the value of Canadian citizenship. Indeed, when the government asked the Standing Committee to review plural citizenship in 1994, the committee agreed with witness who spoke about the perception of a devalued citizenship and questions of mixed loyalties associated with plural citizenship. The committee recommended that the government consider going back to a policy of singular citizenship, as it was practiced between 1947 and 1973/1977.⁵⁸ According to the paper, entitled "Proud to Be Canadian," issues arising from plural citizenship and the associated diminishing value of citizenship included:

⁵⁴ "Forging Our Legacy: Canadian Citizenship and Immigration 1900 – 1977."

⁵⁵ Davidson, Mark. Telephone Interview with the author. Vancouver: October 27, 2009.

⁵⁶ Proud to be Canadian, 10.

⁵⁷ Proud to Be Canadian, 10.

⁵⁸ Though not formally institutionalized into the Citizenship Act until 1977, by 1973 the practice of forcing naturalizing Canadians to renounce their previous citizenship was dropped. See: Young, Margaret, "Canadian

- Canadian citizenship becoming an insurance policy for ‘citizens of convenience;’
- Citizenship becoming a mechanism for those who are not truly connected to Canada but want to secure the right of re-entry for themselves and possibly family without making contributions to Canada;
- Use of the Canadian passport for convenience;
- Access to benefits such as pensions and medical care without paying into the programs as a resident;
- Conflicts of interest and inability of Canada to intervene on their behalf in other countries where they are citizens, with particular reference to military duty;
- Increased cost of consular services internationally associated with Canadians abroad.⁵⁹

These issues are still relevant today. The 2006 crisis in Lebanon brought into focus the costs associated with not knowing the size and whereabouts of the Canadian population abroad. Though Canada has no mandatory military service, many other countries where Canadians may also be citizens do, including China, Austria, South Korea and Israel.⁶⁰ Most relevant to citizenship and the Canadians abroad is how the push for changing the Citizenship Act in the late 1980s into the 1990s was influenced by the rapidly changing stock of Canadians. Indeed, there is a fundamental relationship between multiculturalism and the Charter of Rights and Freedoms. Section 27 states that:

This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.⁶¹

Parliament did not follow the Standing Committee on Citizenship and Immigration’s recommendation to renounce plural citizenship...

The politically sensitive handling of questions relating to loyalty, particularly regarding Canadians living overseas, brings several considerations into focus: multiculturalism, plural citizenship and residency requirement.

Parliament did not follow the Standing Committee on Citizenship and Immigration’s recommendation to renounce plural citizenship. However, three important court cases speak to the need to make the Citizenship Act congruent with the Charter of Rights and Freedoms; in other words, the principles of equality before the law.

In the first case, *Benner vs. Canada* (1997), the court ruled that children who were born to a Canadian mother abroad must be treated identically to children born of a Canadian father

Citizenship Act and Current Issues,” *Law and Government Division – Depository Services Program*. Available online at <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/BP/bp445-e.htm>.

⁵⁹ Proud to Be Canadian, 10.

⁶⁰ The financial effects on the Treasury associated with Canadians abroad, as well as issues on the attachment of Canadians Abroad are explored in other papers in the Canadians Abroad project, available online at www.canadiansabroad.ca.

⁶¹ “Charter of Rights and Freedoms,” *Department of Justice* available online at <http://laws.justice.gc.ca/en/charter/1.html>.

abroad. This means that the child is entitled to Canadian citizenship by maternal descent abroad by application without having to take a citizenship test or oath of citizenship.⁶²

In the case of the Attorney General of Canada vs. McKenna (1999), regarding the distinction between children adopted abroad by Canadian parent(s) and children born to Canadian parents, the court ruled that the law was in violation of section 15 of the Charter of Rights and Freedoms, which refers to equality rights.⁶³ Specifically, the court found that the adopted children of Canadian parents living abroad do not have the option of becoming permanent residents, and therefore it would be wrong to deny them equal treatment.⁶⁴

Finally, the Taylor vs. Minister of Citizenship and Immigration Canada case (2006) first found that the children born out of wedlock prior to the 1947 Act, outside of Canada, should not lose their citizenship based on a retroactive application of the Charter of Rights and Bill of Rights. The government appealed the decision, and the court overturned the previous decision, stating that even if Mr. Taylor had been a Canadian under the 1947 Act, he would have lost his citizenship because of two different loss provisions: ten consecutive years spent abroad for non-natural-born Canadians and failure to declare citizenship retention papers before his 24th birthday.⁶⁵ This case was instrumental in leading to Bill C-37: An Act to Amend the Canadian Citizenship Act, which passed into law on April 17, 2009.

Bill C-37: The “Lost Canadians” and the Canadians Abroad

The call for revisions gained momentum into the 2000s helping to build the case for amending the 1977 Citizenship Act. Yet a serious questioning of the role of multiculturalism remained absent from these debates. The 2009 Amendment focused on two main tasks: restoring citizenship to most people who lost it unfairly from 1947 to 1977 (the so-called “Lost Canadians”) and changing the Act to limit the ability of Canadians abroad to pass on their citizenship rights by one generation.⁶⁶ The purpose, as defined by the Minister of Citizenship and Immigration, was to

⁶²“Canadian Citizenship Test” available online at <http://www.cititest.com/blogs/canadian-citizenship/category/citizenship-law/>.

⁶³“Equality Rights” *Charterofrights.ca* available online at http://www.charterofrights.ca/en/17_00_01.

⁶⁴ “Canadian Citizenship Test.”

⁶⁵ Doyle, Norman. “Reclaiming Citizenship for Canadians,” *Standing Committee on Citizenship and Immigration* available online at <http://www.lostcanadian.com/assets/documents/07-12-06-committee-report.pdf>.

⁶⁶ Tilson, David. “Review of the Subject-Matter of Bill C-37, *An Act to Amend the Citizenship Act*, Enacted in Second Session of the 39th Parliament,” *Report of the Standing Committee on Citizenship and Immigration* June, 2009. Available online at http://www2.parl.gc.ca/content/hoc/Committee/402/CIMM/Reports/RP3989008/402_CIMM_Rpt11/402_CIMM_Rpt11-e.pdf.

...achieve greater simplicity and transparency in citizenship laws as well as to preserve the value of citizenship by ensuring it could not be passed on endlessly to generations of Canadians living outside of Canada.⁶⁷

Research on the Lost Canadians, presented to the Standing Committee on Citizenship and Immigration in 2007, found that the total number of people who might have difficulty establishing their Canadian citizenship was between 200,000 and 215,000, representing six demographic groups:

- Canadian-born persons with US Citizenship living in the US;
- Canadian-born persons with US Citizenship living in Canada;
- War brides;
- War babies;
- US border babies;
- Babies born abroad.⁶⁸

The 2009 Amendment was focused on two main tasks: restoring citizenship to most people who lost it unfairly from 1947 – 1977 (the so-called “Lost Canadians”) and changing the Act to limit the ability of Canadians abroad to pass on their citizenship rights by one generation.

Based on 2006 Census figures, this represents approximately 0.63% of the population. According to the then Minister of Citizenship and Immigration, Diane Finley, the number of cases in which citizenship issues needed to be resolved in 2007 was between 450 and 485, or approximately 0.0014% of the Canadian population.⁶⁹

While the Lost Canadians is an issue of great importance for those affected and corrects important oversights from the past,⁷⁰ the Citizenship Act amendment directly affects the estimated 2.8 million Canadian citizens living abroad (8% of the total population). Canadians have voiced concerns to the Standing Committee on Citizenship and Immigration, addressing feelings that the Amendment failed to “take into consideration all the ties that parents may have with Canada.”⁷¹ Indeed, the Committee recommended that the government “allow the transmission of citizenship by descent to children born abroad to a Canadian parent, provided that the Canadian parent resided in Canada for a specific period of time, as established through legislation, before the child was born.”⁷²

The government rejected this proposed amendment on the basis that it contradicted Bill C-37. Minister Jason Kenney argued that the complex process of tying attachment to Canada to

⁶⁷ Kenney, Jason. “Government of Canada Response to the Standing Committee’s 11th Report Review of the Subject Matter of Bill C-37, An Act to Amend the Citizenship Act, Enacted in Second Session of the 39th Parliament.” Available online at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4163758&Language=E&Mode=1&Parl=40&Ses=2>.

⁶⁸Edmonston, Barry. “Study: On Loss of Citizenship, 1947, 1977, and 2007” March, 2009. Available online at <http://www.cbc.ca/news/background/lostcanadians/pdf/edmonstonbrief.pdf>.

⁶⁹Finley, Diane. “Notes from: Main Estimates and Loss of Citizenship,” *Standing Committee on Citizenship and Immigration*, May 29, 2007. Available online at <http://www.cic.gc.ca/English/department/media/speeches/2007/2007-05-29.asp>.

⁷⁰ See “The Lost Canadians,” available online at <http://www.lostcanadian.com/main.asp>.

⁷¹ Tilson, 5. See also the *Canadian Expat Association*, available online at <http://thecanadianexpat.com/>.

⁷² Tilson, 5.

citizenship under the 1947 and 1977 Citizenship Acts contributed to the confusion around citizenship leading to the Lost Canadians phenomenon.⁷³

Section Four: Issues Arising from Historical and Current Citizenship Policies

Beginning in the 1940s and accelerating through the 1970s, a series of legislative changes saw Canada evolve into a pluralistic, multicultural society. This combined with the global changes made transnationalism a lived reality, if not a policy reality. By the 1980s, it was clear that immigrants were not becoming naturalized with the intention of permanently making their home in Canada, and Canadian-born citizens, too, were living transnationally. Though parliamentarians had designed citizenship policy in the belief that immigrants were coming to settle permanently in Canada, this prescription had no basis in the 1977 Citizenship Act for Canadians, naturalized or Canadian-born.⁷⁴

Many Canadians living abroad expressed their feelings of attachment to Canada. While many understand the need to revisit the transmission of citizenship in accordance with *jus sanguinis*⁷⁵ and *jus soli*,⁷⁶ there are several areas where the current Citizenship Act poses concerns for citizenship, and clashes with the norms of equity outlined in the 1977 Act and the 1982 Charter of Rights and Freedoms. Perversely, the under-interrogated effects of multiculturalism and plural citizenship policy on the practice of citizenship may have helped contribute to public resentment about “citizens of convenience.” There are problems with multiculturalism that affect citizenship and the choice of Canadians (both Canadian-born and naturalized) to live abroad. That arguably has led to Canadians living abroad becoming another cohort to have citizenship rights prescribed to it asymmetrically by government.

The key conceptual requirement for Canada to consider a policy shift that views its Diaspora as a potential asset is to view this country as both an immigrant receiving and immigrant sending nation, in the growing spaces where transnational citizenships are practiced.

The age of globalization and transnationalism is changing the context of citizenship today. Increasingly, Canadian “space” can be seen as being separate from Canadian “place.” Social media sources such as Facebook, Twitter, Skype, internet television as well as the expansion of media accessibility makes even the most remote news or clubs from small town Canada accessible virtually anywhere. Indeed, many interview subjects consulted under the Canadians Abroad Country Profiles⁷⁷ said that the experience of transnational living

⁷³ Kenney, Jason. “Government of Canada Response to the Standing Committee’s 11th Report Review of the Subject Matter of Bill C-37, An Act to Amend the Citizenship Act, Enacted in Second Session of the 39th Parliament.” Available online at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4163758&Language=E&Mode=1&Parl=40&Session=2>.

⁷⁴ As stated earlier in this paper, from 1947 – 1977, the intent to permanently reside in Canada was a condition for naturalizing immigrants.

⁷⁵ “Right of blood” referring to citizenship conferred based on lineage.

⁷⁶ “Right of soil” referring to citizenship conferred based on place of birth.

⁷⁷ Country Profiles are available online at www.canadiansabroad.ca.

strengthened their feelings of attachment to Canada. Many of these subjects were several generation Canadian and citizens of no other country.⁷⁸

Greater transnationalism requires that government policies be equipped to meet the needs of Canadian citizens wherever they are. Countries such as India, Italy or Israel have created policies for their citizens abroad. Italy, for example, provides representation in their legislative assembly for Italians abroad, who can run for election.⁷⁹ India and Israel have cabinet ministers tasked with implementing their country's diaspora relations.⁸⁰

The "brain circulation" phenomenon speaks to the fact that rather than elites coming from the "global south" to the "global north" permanently, there are instead increasingly large cohorts of people who are moving around the world regularly.⁸¹ As Karim notes, "It is clear that Canada will have to engage sooner rather than later in an international discussion about the implications of transnational diasporas for immigration, citizenship, foreign policy and security."⁸² The key requirement for Canada to consider a policy shift that views its population abroad as an asset is to view this country as both an immigrant receiving and immigrant sending nation, in the growing spaces where transnational citizenships are practised.

The following section discusses eight issues arising from the current Citizenship Act. Canadians abroad have become a new cohort of citizens who have their rights described to them differently from their peers. Building on the changes in technology and globalization, these policy issues are framed in the context of transnational Canadian spaces rather than limited Canadian places. It is necessary to push debates about citizenship and the Canadians abroad forward to make the case that place does not necessarily connote one's attachment to Canada through transnational spaces. A core interest for Citizenship and Immigration is to look at the plumbing of citizenship policy, particularly the difficult residency requirement and how citizenship applies to all Canadians.⁸³

Issues

• Residency Requirement

The residency requirement is based on the assumption that through a physical presence one could absorb Canadian culture and be able to integrate into the social milieu of the country. In 1977, the residency requirement was reduced from five years to three for all immigrants. Even though a definition of residency has been debated since at least 1987, it has yet to be precisely determined. In practice, individuals have been able to land in Canada, and then accrue credit for being in Canada part time while they live and work abroad.

⁷⁸ Cho, Hanna. *Canadians in the Republic of Korea* Selected Profiles of the Canadians Abroad Conference, Four Seasons Hotel, Vancouver BC: June 16, 2009. Scholars of nationalism in particular have identified the importance of attachment within Diaspora communities, heightened in the modern era by technology. See: Shain, Yossi and Aharon Barth, 2003. "Diasporas and International Relations Theory." *International Organization* 57 (3): 449-79 and King, Charles and Neil J. Melvin, 1999-2000. "Diaspora Politics: Ethnic Linkages, Foreign Policy and Security in Eurasia," *International Security* 24 (3): 108-38.

⁷⁹ Karim, 709.

⁸⁰ Ibid.

⁸¹ DeVoretz, Don. "Immigrant Circulation and Citizenship: Hotel Canada?" *Canadians Abroad Project* July 2009, available online at http://www.asiapacific.ca/sites/default/files/filefield/PP_09_4_DD_HotelCanada.pdf.

⁸² Karim, 709.

⁸³ Davidson, Mark.

Although the formula which calculates residency is quite clear, the exact definition of residency is open to interpretation. In the late 1970s, case law determined that physical presence was not necessary to satisfy the requirement.⁸⁴ It ought not to be an issue for a Canadian-born person to reside abroad indefinitely, as they have already attained 'Canadianness' by birth. If, however knowledge of Canada is dynamic, then a residency requirement is necessary for Canadian-born as well as naturalized Canadians. Under such a regime, all Canadians would be compelled to stay within Canada's borders lest they lose their citizenship. This begs the question – is physical presence in Canada as vital today as it might have been in 1906, 1910, 1947 and 1977? If it is, are we prepared to legislate that moving away from Canada after a certain amount of time leads to the partial loss of citizenship, as is the case with the loss of voting rights?

Sweden provides an interesting comparison. It allows non-citizens to run for political office, but does not give them the vote. To naturalize as a Swede, one must satisfy residency requirements that differ depending on your place of origin: immigrants from Nordic countries need two years; refugees, four years; all others, five years.⁸⁵ Until 2000, Germany required continuous residency of 15 years before an immigrant could naturalize; it has since been reduced to seven years.⁸⁶

- **International work is under appreciated**

The current Citizenship Act makes allowances to extend citizenship to children born abroad to Canadian government and military employees as if they were born in Canada.⁸⁷ Non-governmental work abroad is underappreciated because Canadians in these categories are not able to pass their citizenship on to their children.

. Examples of the latter include:

- a. Canadian businesses with employees based abroad;
- b. Canadian charities and non-governmental organizations based abroad;
- c. International government-structures (United Nations/Commonwealth, etc.) and associated groups;
- d. Canadians working for non-Canadian businesses, NGOs and governments, gaining cultural literacy and international experience which is important in helping individuals compete in the international and domestic labour force

The United States offers an interesting contrast. American citizens are expected to pay taxes to America wherever they are, and are also encouraged to vote in American elections, regardless of where they are and how long they have been abroad.⁸⁸ One need not own any property in the United States, and several states have a policy that even if the citizen never

⁸⁴Young, Margaret. "Canadian Citizenship Act and Current Issues," *Law and Government Division – Depository Services Program* available online at <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/BP/bp445-e.htm>.

⁸⁵ Scott, Kirk. "The Economics of Citizenship: Is there a Naturalization Effect?" in DeVoretz, Don J. and Bevelander, Pieter (eds) *The Economics of Citizenship* (Malmo: Holmbergs, 2008), 107-108.

⁸⁶ Oezcan, Veysel, "Changes to German Law Help Boost Naturalization Numbers," *Migration Information Source*. available online at <http://www.migrationinformation.org/Feature/display.cfm?ID=152>.

⁸⁷ "CP-9: Acquisition and Loss of Canadian Citizenship," *Citizenship and Immigration Canada* available online at <http://www.cic.gc.ca/english/resources/manuals/cp/cp09-eng.pdf>, 5.

⁸⁸ Canadian citizens lose the right to vote in federal elections after five years of being resident abroad. Upon returning to Canada however, this right is restored.

returns, he or she is still entitled to vote.⁸⁹ Canada could consider strengthening ties with its citizens abroad by offering certain services of democratic accountability for a global taxation or buy-in options for social services.⁹⁰ As it stands, Canadians abroad lose the right to vote in federal elections after five years and in order to vote, they must have a Canadian address and be absent from it only temporarily.⁹¹

- **Statelessness**

A few months after the most recent amendments to the Citizenship Act, a child was born stateless as a result of the changed laws. Rachel Chandler was born to a naturalized Canadian who was working in Beijing in September, 2009. Her father was born in Libya, where Rachel's grandparents met while teaching at an English school. Rachel's paternal great grandparents fought in World War II and descended from generations of Irish and Canadian and American heritage. Though her father had lived in the Toronto area since he was two years old until moving to Beijing to work in 2007, Rachel is not Canadian because she is a second-generation Canadian born abroad. She is also not Chinese because her parents are not married. Thus, she is not eligible for health services, travel documents, or protection from any state.⁹² When Canadian officials were confronted with this dilemma, they suggested that Rachel's father, Patrick, ask Ireland whether it would be willing to bestow citizenship on Rachel, even though only Patrick's father (Rachel's grandfather) was an Irish citizen.⁹³

This case draws into focus the fragility of state-sanctioned citizenship. Not all countries bestow citizenship based on the principle of *jus solis* and instead require *jus sanguinis* or even both. China is an example of a state where birth on Chinese soil does not guarantee citizenship. This situation hauntingly echoes the case of War-Brides and Canadian case-law where the marital situation of Canadians affected the citizenship of their children born abroad. The United States, by contrast, has a very liberal definition for who can be an American by birth. As long as one parent of a child born abroad is an American citizen, has resided in the US for five years or more and at least two of those years were after the age of 14, the child is an American citizen.⁹⁴

- **Gender Discrimination**

Some Canadian women told the Canadians Abroad research team that forcing mothers to leave their jobs and return to Canada to give birth is unfair. Pregnant women cannot fly after the fetus reaches a certain maturity without incurring risk. To ensure the safety of their unborn children, mothers would have to leave their jobs and homes abroad early enough to be able to fly to Canada to give birth. This can have very damaging effects for women pursuing careers

⁸⁹ "2008 Absentee Voting Information for Americans Abroad," *US Department of State* available online at http://travel.state.gov/law/info/info_2964.html.

⁹⁰ Issues of taxation and attachment are discussed more robustly in: DeVoretz, Don. "Treasury Implications of the Canadians Abroad" *Canadians Abroad Project*, publication pending, and Zhang, Kenny (2010). "Attached, Less Attached or Not Attached? Participation in Canada of Overseas Canadian Citizens," *Canadians Abroad Project* available online at www.canadiansabroad.ca.

⁹¹ "Elections: Voting While Abroad," *Foreign Affairs and International Trade* available online at http://www.voyage.gc.ca/faq/voting_vote-eng.asp.

⁹² Bramham, Dauphne. "Citizenship Act Creates a Stateless Child," *Vancouver Sun* September 25, 2009. Available online at <http://www2.canada.com/vancouver/columnists/story.html?id=c3a5560d-5170-4d4a-a318-a8675e759171&p=2>.

⁹³ *Ibid.*

⁹⁴ "Acquisition of Citizenship by a Child Born Abroad," *US Department of State* available online at http://travel.state.gov/law/info/info_609.html.

abroad, as well as imposing an extra cost and stress associated with childbirth – especially since the mother can then promptly return abroad with her Canadian child. The Standing Committee on Citizenship and Immigration’s review of the April 17, 2009 Citizenship Act amendment recommended:

...the Government of Canada to allow the transmission of citizenship by descent to children born abroad to a Canadian parent, provided that the Canadian parent resided in Canada for a specific period of time, as established through legislation, before the child was born.⁹⁵

This was presented to the Minister of Citizenship and Immigration Canada based on testimony from Canadian citizens on the basis of the provision did “not taking into consideration all the ties that parents may have with Canada.” The recommendation was rejected. However, revising this clause could prevent future challenges on the basis of both statelessness and gender discrimination.

- **How the government has created disincentives to show attachment to Canada**

The Standing Committee on Citizenship and Immigration noted in its report to Citizenship and Immigration that as a result of its hearings, Canadian law compels Canadians living abroad to show visibly their *detachment* to Canada. One example involves being a non-resident for taxation purposes. It is a myth that Canadians abroad do not pay taxes – in fact, those that do pay Canadian taxes pay higher taxes to Canada on average than Canadians living at home.⁹⁶ Though some Canadians abroad do not pay taxes directly to Canada, the Canadian government has tax treaties with many other governments and Canadians often pay the taxes in the country in which they reside. Canadians resident in Sweden, for example, will find themselves paying far more taxes than Canadians at home.⁹⁷

- **Plural Citizenship**

Loyalty to Canada has been a recurring issue since the 1977 push to formally recognize plural citizenship. Through the 1980s and 1990s, parliament considered revoking plural citizenship. A return to a mono-citizenship policy would mean Canadian-born citizens naturalizing elsewhere would lose their Canadian citizenship, and naturalizing Canadians would have to renounce their citizenship to other countries. This was the model governing citizenship from 1947 to 1977, though its effectiveness in preserving ‘loyalty’ is very difficult to measure. Since the most recent amendment to the Citizenship Act seeks simplicity and clarity, reverting to a mono-citizenship policy could re-introduce many of the loopholes the plural citizenship policy sought to address in 1977. In 1987, key issues raised spoke of taxation, military service abroad, and increased cost of consular service provision. Consular services, including emergency evacuations, are done

⁹⁵ Tilson, David. “Review of the Subject-Matter of Bill C-37, *An Act to Amend the Citizenship Act*, Enacted in Second Session of the 39th Parliament” *Report of the Standing Committee on Citizenship and Immigration* June, 2009. Available online at http://www2.parl.gc.ca/content/hoc/Committee/402/CIMM/Reports/RP3989008/402_CIMM_Rpt11/402_CIMM_Rpt11-e.pdf.

⁹⁶ Zhang, Kenny. “Attached, Less Attached or Not Attached? Participation in Canada of Overseas Canadian Citizens,” *Canadians Abroad Project* available online at www.canadiansabroad.ca.

⁹⁷ DeVoretz, Don. “Treasury Implications of the Canadians Abroad” *Canadians Abroad Project*, publication pending.

on a pay-per-use or cost-recovery basis, however, which essentially makes the excessive cost argument less of an issue.⁹⁸

The costs associated with administering a policy of mono-citizenship may exceed the benefit of dealing with conflicts of interest, such as military service abroad. As Zhang notes, loyalty to Canada can take many forms, and there are options available to deal with emergency evacuations, that would not require a return to the complexities of mono-citizenship. Nevertheless, there could also be benefits to a mono-citizenship policy from a security perspective. For example, if a child of two divorced parents is abducted and taken to a country where that child's father and the child are also citizens, it could be easier to trace their travel if they are travelling on a Canadian passport alone.

Many other countries face similar issues. In Norway, there is no explicit dual or plural citizenship allowance. Until 2006, a child had to be born of two Norwegian citizens in order to be considered Norwegian, following the principle of *jus sanguis*. However there are certain exceptions, normally related to a child born of parents with different nationalities.⁹⁹ The Netherlands moved from a strict policy of mono-citizenship to a policy that allowed for dual citizenship from 1994 to 1997, before reverting to mono-citizenship policy.¹⁰⁰ Within the Dutch parliament, dual citizenship and issues of loyalty almost led to a vote of no confidence. A compromise led to a policy of forcing children with two passports to give one of them up if they were resident in the Netherlands for five years. Sweden also had a policy of mono-citizenship where dual citizenship was allowed only if the country of origin did not allow its citizens to renounce citizenship or a child was born to parents of different nationality. After 2001, all extra requirements were dropped and Swedish citizens were free to naturalize elsewhere while retaining their citizenship, and immigrants were free to retain their citizenship while naturalizing. Though this policy was fiercely debated and over half the electorate did not support it, there has been little criticism of dual citizenship following the adoption of the practice in Sweden.¹⁰¹

- **Equity – tiers of citizens?**

The 1977 Citizenship Act was based on the principle of equity. However, behind the premise of equal access was the belief that the purpose of immigration and citizenship was to remain in Canada. This expectation is, arguably, unrealistic given the nature of our globalized and transnational world. Many have argued that creating separate rules for naturalized Canadians and Canadian-born Canadians creates two classes of citizens, thus undermining the principle of the 1977 Act and, perhaps, the spirit of the Charter of Rights and Freedoms. Interviews with Canadians abroad, as well as evidence heard before the Standing Committee on Citizenship and Immigration speaks to a desire to ensure that all Canadians have identical rights all of the time. While the Charter allows for the violation of some of its tenants on the basis that it is 'justifiable in a free and democratic society,' the courts have yet to weigh in.

- **Security concerns and Canadians abroad**

⁹⁸ Roué, Paul. *Consular Services and Emergency Management*, Selected Profiles of the Canadians Abroad Conference, Four Seasons Hotel, Vancouver BC: June 16, 2009.

⁹⁹ Hayfron, John E. "The Economics of Norwegian Citizenship" in DeVoretz, Don J. and Bevelander, Pieter (eds) *The Economics of Citizenship* (Malmo: Holmbergs, 2008), 94 -95.

¹⁰⁰ Bevelander, Pieter and Veenman, Justus. "Naturalization and Socioeconomic Integration: The Case of the Netherlands," in DeVoretz, Don J. and Bevelander, Pieter (eds), *The Economics of Citizenship* (Malmo: Holmbergs, 2008), 65 – 67.

¹⁰¹ Scott, 107-108.

Whenever there are crises abroad, the Canadian government plays an important role in protecting the security of its citizens abroad. Though this has been applied differently depending on the situation (i.e., a Canadian charged with a crime abroad as opposed to Canadians trapped under earthquake rubble in Haiti or the 2006 crisis in Lebanon), having Canadian citizens living abroad does imply a certain amount of service provision. This concern was well documented as early as the 1980s, and Consular Services operates under a model of cost-recovery assistance for Canadian citizens abroad.¹⁰² In the case of Lebanon, which has proven to be a catalyst for much debate about the Canadians abroad, the government decided not to recover funds from Canadians evacuated.

War, terrorism, and 'traditional' security concerns aside, there are also natural security concerns such as health epidemics (i.e. SARS, H1N1) and natural disasters (i.e. 2004 tsunami in Southeast Asia, earthquakes in Pakistan, China, Haiti) that have an impact on Canadians living abroad. Part of being a citizen of Canada is the 'right of return' meaning that a citizen cannot be stopped from entering Canada. In the event of epidemics, there are provisions regarding quarantine under the auspices of Health Canada. The security concerns associated with Canadians abroad need to be considered in future citizenship debates, and could be well placed under a Ministry of Canadians Abroad that would be tasked with bringing all pieces of the "Canadians Abroad" file under one federal branch.

Conclusions

This paper has sought to illustrate the complexity of managing citizenship, and how changes to the Citizenship Act can have very different implications depending on whether you are resident abroad or in Canada. In 1947, the first Citizenship Act sought to create a policy premised on the belief that to become a citizen was a privilege extended to those deemed to fit ethnically, ethically and economically within Canada. This first Act allowed for citizenship policies to be consolidated, offering Ottawa an opportunity to deal with some of the inequalities between Canadian-born and Canadian naturalized citizens. Naturalized Canadians of British origin were extended extra rights through loopholes and technicalities – particularly with respect to plural citizenship, voting rights and expedited citizenship processes. This reflects a history where to be Canadian meant to be British. A compromise emerged in the 1947 Act that allowed the state to continue a policy of favouring British immigrants while acknowledging that the future of Canadian nationalism had to be tied to Canada rather than to the colonial homeland.

The 1977 Act sought to remove all difference between naturalized and Canadian-born citizens. Alongside multiculturalism, the Citizenship Act of 1977 altered the philosophy of citizenship. Citizenship changed from being a privilege given to those who fit the existing cultural tapestry, to a right of all people who satisfied specific skills criteria. The adoption of plural citizenship and the lowering of the residency requirement along with the striking of the clause indicating that an aspiring citizen must intend to permanently reside in Canada had the effect of bringing in an incredibly diverse array of new Canadian citizens, and consequently, a diverse group of Canadians living abroad. Thirty-four years later, a host of problem remains with citizenship policy. The most important are the lack of discussion on multiculturalism, plural citizenship policy, and the residency requirement.

¹⁰² Ibid.

Each policy shift should be seen in the context of a transnational 21st century global society. In many ways, the latter two, as well as Bill C-37, are symptomatic of a not yet holistic engagement with multiculturalism. Citizenship policy is ultimately an interdependent blend of poetry and plumbing. The plumbing asks us to look at the details and empirical rationale for our policies, but the poetry demands that we get the foundations of why we have citizenship right. Broadening our understanding of what constitutes Canada to include the value of Canadian space outside of Canada helps us to understand how many Canadians abroad feel about their attachment to their country.

If Canada is limited to the boundaries delineated by the 1846 Oregon Treaty, then arguing that one cannot contribute to Canada while being resident abroad makes sense. The meaning and significance of political borders has changed considerably over the last 164 years, and thus the incentives Canadians are presented with have changed too. Technology has changed our conceptions of both “place” and “space” and we cannot ignore the trend of transnationalism that increasingly pushes Canadian “space” beyond Canada’s borders. Without criteria with which to quantify a person’s ties to Canada,¹⁰³ it is difficult to justify why Canadians who may be very active in Canadian spaces internationally should have different citizenship rights than Canadians within Canada.

If the objective is to attract new Canadians to Canada and to have them remain within the territory, we must know the rates of citizenship ascension and compare them to exit rates in order to paint a picture of how Canadians and aspiring Canadians are migrating (or circulating). Canada does not collect exit data. Not all source countries are the same – for example, immigrants from South Asia tend to stay in Canada while many immigrants from China tend to return.¹⁰⁴ Likewise, we cannot continue to construct the immigrant “other” as a citizen of convenience in the absence of data. Undoubtedly some are, just as Canadian-born citizens become citizens of convenience. However, the abuse of citizenship rights and privileges is not necessarily related to being located outside Canadian territory and policies exist to correct deficiencies where they are identified.

Canadians abroad, many of whom are citizens of Canada alone, do not have a way of communicating their political views to their parliament because the parliament elects its representatives based on geographically fixed constituencies. At a time when other countries (such as Italy) are creating members of parliament to provide a connection between their populations abroad and the homeland, or establishing whole Ministries for their populations abroad (for example, India), is it the best way forward to focus on disconnections rather than connections? It very well could be, for many reasons beyond the scope of this paper. The point is not to pass judgment, but rather to illustrate the complexity of issues arising from the population abroad that deserves the serious attention of legislators and bureaucrats.

Citizenship does not describe the relationship between aspiring citizens and the Canadian state; rather, it describes the relationship between all citizens and their state. The amended Citizenship Act that came into being in 2009 does not reflect a full-fledged review of the poetry and plumbing. In essence, it has fixed a ‘leak’ in the pipes with respect to the Lost Canadians. Though we have fixed a leak, we may have ruptured a much larger pipe in setting a precedent for simplicity over equity and choosing to enforce barriers between the Canadian homeland and its global population.

¹⁰³ Tilson, 6.

¹⁰⁴ Chen, Victor. *Outmigration of Foreign and Native Born Canadians 1996 – 2005: An Estimation Based on Canadian Census Data*, Selected Profiles of the Canadians Abroad Conference, Four Seasons Hotel, Vancouver BC: June 16, 2009.

Canada must come to terms with its dual role as an immigrant sending and receiving country. There is nothing new about Canadians living abroad – as a proportion of the total population, the percentage of Canadians living abroad has fallen fivefold since 1900. What is new is the global economy that has been encouraging a culture of transnationalism that parliamentarians detected as early as the 1980s. The collapsing of distances as a result of technology combine with the creation of internet-based Canadian spaces internationally, drawing into focus a need to revisit citizenship policy with every generation.

The imagined community of Canada has been constructed by pragmatic immigration policy based on prevailing practices that have influenced its direction in contradictory ways. Canadian nationalism in the 21st century can move beyond the limits of its geography, to extend to the spaces in which Canadians work, live and play. The eight policy issues arising from this study illustrate some plumbing issues that need attention, but the broader poetics of citizenship must engage with the need to interrogate the application of multiculturalism today if we are to deal with the pros and cons of Canada's "Secret Province" abroad.

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