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# EUDO CITIZENSHIP OBSERVATORY

## *REPORT ON CITIZENSHIP LAW:* **CANADA**

Elke Winter

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European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Citizenship Law:  
Canada***

**Elke Winter**

December 2015

EUDO Citizenship Observatory  
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# Citizenship Law

## Canada

*Elke Winter*<sup>1</sup>

### 1. Introduction

As two-thirds of Canada's population growth comes through immigration (Statistics Canada, 2012), the laws and processes governing citizenship acquisition are extremely important. As a settler society and British outpost in North America, Canadian citizenship policy was not always free from cultural chauvinism and racist ideology. Quite the contrary: before the institution of citizenship and even in its early years, much was done – if not always in law than in practice – ‘to keep Canada “White”’ (Joshee, 2004: 131) (see also Dua, 1999). However, as a settler society that depended on immigration for economic reasons, and as a country with an at least threefold ethnocultural composition – Aboriginal French- and English-Canadian – that never had the demographic power to culturally assimilate its minorities, Canada had no other option than elaborating over time a citizenship regime that would not only place ‘Canadians by birth’ and ‘Canadians by choice’ on an equal legal footing, but that also avoided any ‘discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability’ (Canadian Charter of Rights and Freedoms, , section 15.1)

As such, -- out of a combination of economic/political need and multicultural ideology – Canada became one of the early champions of dual citizenship (Macklin and Crépeau, 2010) and a world leader with respect to naturalisation (Bloemraad, 2006). Today, with 85 per cent of eligible permanent residents becoming citizens, Canada has one of the highest naturalisation rates in the world (85.6 per cent in 2011, see Statistics Canada, 2011). Graph1 below provides the number of new citizens from 1947 to 2013 and illustrates the changes in naturalisation over time.

In contrast to many European countries who have tried to remedy labour needs through short-term *Gastarbeiter* (guest worker) migration, Canada is recognised for its immigration regime combining (short term) economic expediency with long-term nation-building goals (Kelley and Trebilcock, 2010; Knowles, 2007). In recent years, this

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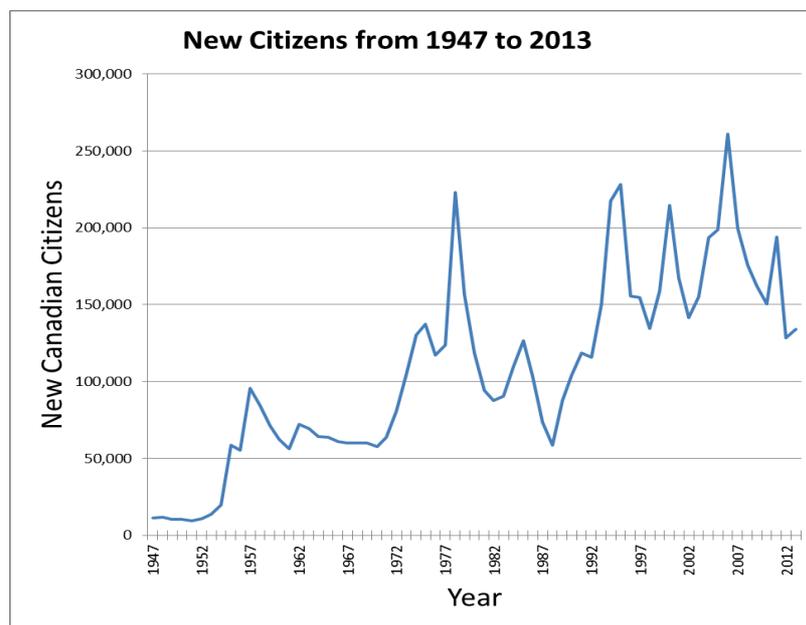
longstanding practice of Canadian immigration and citizenship policies has come under attack.

Between 2006 and 2015, Stephen Harper's Conservatives have implemented policies affecting immigration, temporary entry to Canada and naturalisation not only at an 'unprecedented pace and scope'(Alboim and Cohl, 2012b: iv), but also based on new principles, such short-term labour market needs, a retreat from traditional democratic processes, less emphasis on a welcoming environment for immigrants and refugees, as well as increased ministerial powers and a lack of evidence-based policy-making (Abu-Laban, 2014; Alboim and Cohl, 2012b). Changes to the (temporary) migration and immigration regime are dramatic and obviously impact citizenship policy, specifically with respect to naturalisation.

Taking stock of all these developments is beyond the scope of this report. Rather, my objectives here are twofold: I trace the changes in Canadian citizenship policy from the inception of the first Citizenship Act in 1947 until the present day. I interpret and discuss these changes against the backdrop of Canada's ethnoculturally diverse immigrant population and its multicultural ethos.

The report is divided in two parts. I first provide an overview of Canadian citizenship rule in the past. I then examine in more detail the recent changes (since 2008). The interpretation of these changes is embedded within the text. Hence there is no additional 'discussion' section, only a concluding statement at the end.

### Graph 1: New Citizens from 1947 to 2013



Sources:

Data source 1: For calendar years 1947 to 1951 from a previous response (source tbc). For calendar years 1952 to 1996 from the annual publications. For calendar years 2004 to 2008 from GCMS-CIT 9.9 of Feb 18-2009: Requestor: Lisa Croner-Gabel. Data compiled by: OMC-Stats. Compiled: February 27-2009. Request# OMC-2009-2271;

Data source 2: For calendar years 2009-2013 from GCMS as of February 04, 2014: Requestor: James Simpson. Data compiled by: OPS-Stats (OPS-2014-0324). RDIMS #3437349<sup>2</sup>.

<sup>2</sup> Information presented in graphs and tables in this document was obtained through requests under the Access to

## 2. Historical background

### 2.1. The Beginnings of Canadian Citizenship

Before the implementation of the first Canadian Citizenship Act in 1947, citizenship in Canada was determined by three statutes regulating naturalisation, immigration, deportation, and acquisition of the status of British subjects, namely the Immigration Act of 1910, the Naturalisation Act of 1914, and the Canadian Nationals Act of 1921. At Confederation in 1867, strictly speaking, Canadian citizenship did not exist. Residents of the new territory were either British subjects, immigrants or ‘Indians’ (Brodie, 2002). The surge of (other than British) immigration at the beginning of the 20<sup>th</sup> century<sup>3</sup> led to the creation of the first *Immigration Act* in 1910 (Act respecting Immigration S.C. 1910 c. 27). Under this law, authorities could prohibit particular categories of immigrant from settling in Canada according to their origin, social class, occupation, physical condition, or for possessing ‘poor morals’. It enabled authorities to preserve the ethnic composition of Canada, creating in essence a ‘White Canada’ (Joshee, 2004: 131).

The Naturalisation Act of 1914 (Naturalisation Act S.C. 1914 c.44) allowed British immigrants and members of the Commonwealth to settle freely on Canadian soil. Other immigrants had to reside in Canada for three years and demonstrate the qualities associated with all ‘good citizens’ before becoming naturalized (Kelley and Trebilcock, 2010: 161)<sup>4</sup>. The new law also allowed the revocation of naturalized persons’ citizenship if the Secretary of State considers that said citizenship was obtained through fraud or false representation (Anderson, 2006).

Both the First and Second World Wars played key roles in the ways in which Canadian citizenship policies evolved. As for the First World War, it spurred a new and more intense nationalism in the country. As a consequence, at the end of the war in 1919, Parliament strengthened the 1910 Immigration Act criteria by assessing a person’s ability to become assimilated into Canadian culture<sup>5</sup>. Since this ability was denied to African

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Information Act. The documents provided by Citizenship and Immigration Canada did not always identify all data sources.

<sup>3</sup> According to a report published by Statistics Canada (2006), the immigration growth rate between 1900 and 1914 is the highest in the country’s history; the peak reached in 1914 is still unequalled. Indeed, according to Fauteux (2004), a change from fewer than 100,000 immigrants in Canada in 1900 to 400,870 in 1914 represents over a decade of spectacular growth. ‘This demonstrates the success of the Sifton Immigration Policy, adopted by the federal government in 1902. Half of the 3 million immigrants who arrived after its adoption settled in Western Canada, whose population the federal government wished to increase’ (Fauteux, 2004).

<sup>4</sup> According to Library and Archives Canada (2005), the length of residence required to become eligible for naturalisation varied over time:

- May 22, 1868, to May 4, 1910: 2 years
- May 5, 1910, to June 6, 1919: 3 years
- June 7, 1919, to February 14, 1977: 5 years
- February 15, 1977, to [June 2014]: 3 years

<sup>5</sup> Most notably, paragraph c of article 38 was modified to indicate that authorities may ‘(c) prohibit or limit in number for a stated period or permanently the landing in Canada, or the landing at any specified port or ports of entry in Canada, of immigrants belonging to any nationality or race or of immigrants of any specified class or occupation, by reason of any economic, industrial or other condition temporarily existing in Canada or because such immigrants are deemed unsuitable having regard to the climatic, industrial, social, educational, labour or other conditions or requirements of Canada or because such immigrants are deemed undesirable owing to their peculiar customs, habits, modes of life and methods of holding property, and because of their probable inability

Americans and potential immigrants from Asia, ‘this legislation worked to keep Canada “White”’ (Joshee, 2004: 131). Furthermore, the number of Canadian citizenships revoked increased in the years following the First World War due to the presence and desired departure of categories of people perceived as ‘harmful’ to Canada’s social peace, specifically, naturalized Canadians from First World War enemy countries, foreign-born activists, and immigrants accused of criminal activities (2006). Consequently, new revocation procedures were introduced in 1919 and 1920 (Anderson, 2006)<sup>6</sup>.

In 1921, the Canadian Nationals Act, the third and last immigration law predating the Canadian Citizenship Act of 1947, came into effect (Canadian Nationals Act S.C. 1921 c.4). This law, whose aim was to ‘define the phrase “Canadian National” and rule on the renunciation of Canadian citizenship’ (Thomas, 2010), replaced the phrase ‘British subjects’ with ‘Canadian Nationals’. It introduces new guidelines for the renunciation and granting of citizenship related to marital status, particularly for women. Until 1932, women assumed their husbands’ citizenship, which meant that a Canadian woman who married a foreign-born man would lose her Canadian citizenship (unless he was a British subject). This rule, among others, spurred the phenomenon of the *Lost Canadians*, which will be discussed further below<sup>7</sup>.

The Second World War constitutes a turning point in immigration history in Canada. Already in 1940, despite various restrictions on immigration, nearly 20 per cent of the Canadian population was of neither French nor English origin. This was caused, to a large extent, by the construction of the Trans-Canada railroad, a project that necessitated employing many foreign-born workers in order to make up for the shortfall in Canadian labour. Faced with the conflict that erupted first in Europe and then spread quickly across the planet, Canada, ever loyal to the British Crown, wanted all of its citizens, whatever their origin, to contribute to the war effort. Certain citizenship rights previously limited to specific groups (such as the right to vote or to run for public office) became now guaranteed to those who participated in the war. ‘Those willing to sacrifice their lives for their country, to embrace the ultimate obligation of citizenship, so the argument went, certainly deserved to enjoy the privileges of citizenship as well’ (Brodie, 2002: 48).

These normative shifts first became apparent at the bureaucratic level. In 1945, the Secretary of State changed the name of the ‘Nationalities Branch’ to the ‘Citizenship Branch’ (Richet, 2007). The overtones of ethnic nationhood implied in the term nationality were thus replaced by the more modern and democratic notion of citizenship<sup>8</sup>. One of the Citizenship Branch’s goals was to promote Canadian citizenship as distinct from British citizenship,

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to become readily assimilated or to assume the duties and responsibilities of Canadian citizenship within a reasonable time after their entry’ (Act to Amend the Immigration Act S.C. 1919 c.25).

<sup>6</sup> The citizenship revocation procedure introduced in 1919 stipulated that a person could have their citizenship revoked not only for fraud or false representation, but also for being ‘disaffected or disloyal to His Majesty’ (cited in Anderson, 2006: 6), being convicted of poor morals or of communicating or exchanging information for the benefit of enemy countries, having resided outside the British dominions for seven years or longer, or being a citizen of a country at war with the United Kingdom. In 1920, another clause was added allowing the revocation of citizenship of individuals sentenced for serious crimes after naturalisation. Revocations were not decided upon by the courts, but by the government, specifically, the Secretary of State (Anderson, 2006).

<sup>7</sup> Conversely, a foreign-born woman who married a Canadian man became a Canadian citizen (Thomas, 2010). Although the data required to determine how many Canadians lost their nationality between 1921 and 1941 either through marriage or for other reasons mentioned above, is not available, it is clear that the number of women living in Canada and born in Canada or in Great Britain who were not considered Canadian citizens far surpasses the number of men in the same situation, which suggests that many women married foreign-born men during this period (Thomas, 2010).

<sup>8</sup> An investigation into how exactly this shift was justified in internal government documents would be fascinating. Thanks to one of the external reviewers for pointing this out.

especially to newcomers. A year later, the Canadian Council of Education for Citizenship sponsored the publication of a book, compiled by a private citizen, whose objective was the presentation of the essence of Canada to newcomers. The document was more than 400 pages long and included prose, poetry, official speeches, and statistics, as well as information on Canada's geography and politics (Chapnick, 2011).

At the international level, Canada's participation in these wars and in the defence of England led to greater independence from Great Britain, particularly after the Second World War. Furthermore, government authorities privileged a discourse in clear opposition to that of the Nazis: a propaganda advocating openness and tolerance of ethnic minorities. In light of this new conception of Canadian diversity, Parliament started to work on new citizenship legislation in 1945, and the new law was enacted two years later, in 1947 (Kaplan, 1993).

## 2.2. The Canadian Citizenship Act of 1947

Canadian citizenship was introduced in 1947. One of the primary objectives of the 1947 Citizenship Act was to address the difference between Canadians 'by birth' and Canadians 'by choice', that is, naturalized citizens (Garcea, 2003). In addition, the Act conferred equal status on both men and women in regards to Canadian citizenship and the rights and duties implied therein. Specifically, the Act stipulated that marriage would no longer have any effect on the citizenship status of a married woman, 'neither for Canadian women marrying foreigners nor for foreign women marrying Canadian citizens' (Vonk, 2014: 107).

The law also established new rules and clarified existing ones concerning the granting of citizenship to individuals born outside the country (of Canadian descent), naturalisation, and conditions related to the revocation of citizenship. Under the Canadian Citizenship Act, the foreign-born wives and children of foreign-born Canadian soldiers living in Canada as of January 1, 1947, could become Canadian citizens. Canadians born or having resided outside the country for six years or more were required to apply for citizenship through official channels before the age of 21 (the age limit was later increased to 24 years, cf. Harder and Zhyznomirska, 2012).

Dual citizenship was restricted although not prohibited. The Act provided that Canadian citizenship could only be inherited from the father (except in cases of children born outside of marriage, in which case it could be inherited from the mother). It would be lost if one voluntarily acquired citizenship in another country (Galloway, 2000: 99).

Immigrants wishing to become Canadian citizens could do so as long as they met the criteria indicated in the Act: a minimum age of 21, a minimum residence of five years, possession of good character, adequate knowledge of either the French or the English language, adequate knowledge of the responsibilities and privileges of Canadian citizenship, and the intention to reside in Canada (cf. Garcea, 2003: 2; Government of Canada, 1987: 7). Candidates meeting these criteria were required to stand before a citizenship judge who would decide whether or not they were suitable for naturalisation. Citizenship judges are public servants appointed by the Governor General on the recommendation of the Minister of Citizenship and Immigration. Although not judges in the classic sense, they must have some training in law (i.e. they must make decisions on complex issues within a legal framework and then be able to defend their decisions) and excellent communication skills. Until May 2015, decisions by citizenship judges were legally binding and could only be challenged in court (for details on the recent changes see section 3.2.3 below).

To help them perform in the interview, candidates had access to the booklet *How to Become a Canadian*, the first document produced on Canadian citizenship specifically for

immigrants (Chapnick, 2011). The document contains a variety of historical, geographic, and cultural information. The *Act* also called for the introduction of citizenship ceremonies, the first of which took place on January 3, 1947 (Brodie, 2002; Chapnick, 2011).

Procedures for the revocation of citizenship remained unchanged under the Canadian Citizenship Act. However, certain criteria were slightly modified or amended, while others were added (Anderson, 2006). Specifically, the clause under which naturalized Canadians convicted of a serious crime had their citizenship revoked was removed, while a clause stating the revocation of the citizenship of persons convicted of treason was added. In addition, any citizen residing outside the country for more than six years would lose their citizenship. According to Anderson (2006), between 1947 and 1949, 457 naturalized Canadian citizens had their citizenship revoked.

Overall, despite a some steps towards more openness in matters of naturalisation, during the two decades following the implementation of the 1947 Citizenship Act, the framing of ‘good citizenship’ remained essentially White and British (Brodie, 2002; Joshee, 2004).

### 2.3. The Citizenship Act of 1977

After the Canadian Citizenship Act was adopted in 1947, a few bureaucratic changes took place. First, The Citizenship Branch was brought under the direction of the new Department of Citizenship and Immigration, a move attesting to the government’s recognition of the importance of establishing direct links between its citizenship and immigration policies (Richet, 2007). Second, from 1950 until 1966, immigration policy and ‘Indian affairs’ both fell under Citizenship and Immigration’s authority in the hopes of creating a uniform expression of citizenship (Bohaker and Iacovetta, 2009). Third, in 1958, a new policy was adopted concerning revocation: henceforth, it would only be possible in cases of treason and of citizenship fraudulently obtained (Anderson, 2006).

The years following the end of the Second World War were particularly significant for the country’s economic and industrial development, and the pressure exerted on the labour force was keenly felt. From the 1960s onward, Canada welcomed many refugees and adopted policies to facilitate their settlement. Policies associated with economic immigration and welcoming refugees strongly influenced the ethno-cultural composition of immigrants to Canada. In 1966, 87 per cent of immigrants were of European origin, while a mere four years later, in 1970, 50 per cent of immigrants were from other parts of the world, most notably the West Indies, Guyana, Haiti, Hong King, India, the Philippines, and Indochina (Knowles, 2000).

Restrictions on immigration based on race and ethnicity would remain in place until 1967, when Canada implemented a point system to evaluate potential immigrants according to their contribution to the Canadian economy (Galloway, 2000). Through this system, seemingly more ‘objective’ criteria, such as education, occupation, and language ability, would be used to determine who would be permitted to settle in Canada. ‘Ostensibly, these were non-racial criteria for immigration, but occupational preferences, levels of education, and language requirements still tend to favour immigration from Europe’ (Brodie, 2002: 47).

In 1967, Lester B. Pearson’s Liberal government produced a document outlining the significance and evolution of citizenship in Canada. This document, *What it Means to Become a Canadian Citizen*, as well as others, such as *A Guide to Canadian Citizenship* and *Introduction to Canada*, were created to help immigrants prepare for citizenship (Chapnick,

2011). All procedures and conditions regulating access to citizenship laid out in the 1947 *Act* remained in effect.

In the 1960s, the federal government also faced an unprecedented rise of Quebec nationalism to which it responded by creating, in 1963, the Royal Commission on Bilingualism and Biculturalism, charged with the mandate to determine the state of linguistic and cultural diversity in Canada. The Commission's conclusions would lead Pierre Elliott Trudeau's Liberal government to introduce a Canadian multicultural policy in 1971. The adoption of this policy led to an understanding of cultural diversity as the very essence of Canadian identity. Trudeau wished to replace the idea of cultural identity, on which were based many of Quebec nationalists' claims, with liberal principles of liberty and human rights.

In 1977, the Canadian government identified two objectives that explained its desire to transform citizenship policy: to facilitate access to citizenship, and to ensure the equitable treatment of all (Government of Canada, 1987). As a consequence, the *Citizenship Act* of 1977 (1) reaffirmed that naturalized and native-born Canadians had the same rights and responsibilities and eliminated the clause conferring special citizenship status to British nationals (Government of Canada, 1987). (2) The new law also changed several clauses related to naturalisation in order to make Canadian citizenship more accessible. As such, the length of residence required before applying for Canadian citizenship was reduced from five years to three (Richet, 2007). (3) The new law emphasized the importance of the equitable treatment of men and women (Government of Canada, 1998). As of 1977, Citizenship can be inherited from either the father or the mother, but this policy is not retroactive. (4) With apparently little debate in Parliament and scant attention in the media, the restriction that the voluntary acquisition of another country's citizenship would lead to the loss of Canadian citizenship was removed. Dual or multiple citizenship was thus permitted unreservedly (Galloway, 2000), but this policy is not retroactive. (5) The Act also modified policies regulating the automatic granting of citizenship to children born to Canadian parents living abroad. Second-generation children born abroad who wish to become Canadian citizens must claim citizenship before their 28<sup>th</sup> birthday.

Although the new law made very few changes regarding the revocation of citizenship<sup>9</sup>, several points remain unclear. Garcea (2006) notes that the Citizenship Act does not distinguish between nullifying citizenship (if fraudulently obtained, for example) and revoking it. Furthermore, even though the Act states that naturalized citizens and those born in Canada enjoy the same rights and have the same responsibilities, Anderson (2006) observes that only naturalized citizens can lose their citizenship. This inevitably creates two classes of citizen: those for whom citizenship is a right, and those for whom it is a privilege.

It was also during this period that the government published the first version of its citizenship guide, *A Look at Canada*, republished in 1981, 1983, and 1991 (Chapnick, 2011; Sobel, 2015). In its original format, however, the booklet was used as a guidebook for citizenship judges.

#### **2.4. Toward a New Naturalisation Process in the 1990s**

At the beginning of the 1980s, Canadian perspectives on the protection of fundamental rights were similar to those that had characterized the 1970s. This is clearly seen in the repatriation

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<sup>9</sup> Anderson (2006) observes that only the procedure changed: the Governor in Council must henceforth make decisions based on reports presented by the appropriate department.

of the Canadian Constitution in 1982 and the creation of the Canadian Charter of Rights and Freedoms, in which multicultural policy and the principles of equality and social justice are especially evident (Joshee, 2004)<sup>10</sup>. The Charter also provides a better understanding of what is meant by ‘Canadian citizen’, indicating that every Canadian citizen has the right to vote in federal elections and stand for public office, as well as enter, reside in, and leave Canada (cf. Anderson, 2006; Canadian Charter of Rights and Freedoms, sections 3, 6.1, 6.2).

Brian Mulroney’s Conservatives’ rise to power did little to change the government’s concern with the issue of equality, quite the opposite, in fact. In 1986, the Conservatives adopted the Employment Equity Act, which encouraged affirmative action in the employment of underrepresented groups<sup>11</sup> (women, ‘visible minorities’, members of First Nations, and persons with disabilities) in federal governmental organizations<sup>12</sup>.

In June of 1987, the federal government decided that it was time to bring the Citizenship Act up to date. Garcea (2006) identifies the following three principles guiding the Conservatives’ reforms:

- to eliminate and revise criteria creating obstacles to attainment, revocation or refusal of citizenship;
- to bring the Citizenship Act more closely in line with the principles declared in the Canadian Charter of Rights and Freedoms adopted in 1982;
- to create a stronger sense of unity and of national identity in Canada.

Nonetheless, the Citizenship Act would retain less of the Conservatives’ interest than Canada’s multiculturalism policy. In 1988, the Mulroney government adopted the Canadian Multiculturalism Act, giving the concept an even larger place in the management of intercultural relations among Canadians of different origins. According to Garcea (2006), the Conservatives privileged multiculturalism over the reformation of the *Citizenship Act* for primarily administrative reasons (the adoption of the Multiculturalism Act required fewer constitutional, legal, and political modifications), but also as a means to retaliate the Liberal government’s ‘pro-multiculturalism’ reputation.

The Conservatives’ priority was not to preserve newcomers’ cultures, but to promote their integration (Houle, 2004). Following this logic, in 1992, the federal government created the LINC (Language Instruction for Newcomers) program, whose English instruction is focused on basic language skills to facilitate newcomers’ integration (Richet, 2007). However, with this program, the state also relegated its obligation to provide such training to third parties. ‘A hallmark of this program is the transfer of responsibility for the education and promotion of citizenship values, rights and responsibilities from the federal government to the local and voluntary sectors, particularly language teachers. As far as citizenship education is concerned, the federal government has focused its attention primarily on processing newcomers expeditiously, and has limited its role to producing and distributing

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<sup>10</sup> Section 15 of the Charter, commonly known as the Equality Rights clause, states that discrimination is expressly forbidden on the basis of race, religion, ethnic or national origin, and several other social categories.

<sup>11</sup> This law is of particular significance because it became a reference for the understanding and definition of the term ‘visible minorities’. Statistics Canada, for example, follows the definition provided in the Employment Equity Act. The Act itself is based on a report published in 1984 by Judge Rosalie Abella (Abella, 1984), entitled ‘Equality in Employment: The Report of the Commission on Equality in Employment’. In it, the term ‘visible minorities’ is already present. The questionnaire sent by the Royal Commission indicates that the phrase ‘visible minorities’ refers to all individuals who are ‘not White’.

<sup>12</sup> Later, the law would be extended to include all organizations employed by the federal government for contracts of more than \$200,000 (Joshee, 2004: 133).

educational study materials such as *A Look at Canada*, which is required reading for all of those interested in becoming a Canadian citizen' (Richet, 2007: 20).

In 1989, one year after the adoption of the *Multiculturalism Act*, the Conservative government's Throne Speech suggested the possibility of reforming the *Citizenship Act*, but such reforms never took place (Garcea, 2006). The only concrete action the Conservatives undertook was to create, in 1985, an informational document intended for newcomers, *The Canadian Citizen*, whose purpose was to provide information on the rights and responsibilities associated with Canadian citizenship, and to present a series of facts concerning Canada's history and political system. The goal of this particular document was 'to prepare the applicant for a variety of questions that would be put to them during their interview with a citizenship court judge' (Richet, 2007: 31).

The question of reforming the Citizenship Act therefore fell to the new Liberal government elected in 1993. Soon after their election, Chrétien's Liberals demonstrated an interest in the citizenship issue by asking a committee to formulate recommendations on modifying the 1977 Citizenship Act. 'In June 1994, just nine months after the Liberal election victory, the House of Commons committee produced the report *Canadian Citizenship: A Sense of Belonging*, which contained several recommendations for statutory amendments that would prove very influential in the framing of three successive bills designed to reform the citizenship act between 1998 and 2004' (Garcea, 2006: 202). Most of the recommendations involve statutory amendments to the Act.

The implementation of these modifications took some time, however. This was due, in part, to the uncertainty created by the referendum on Quebec sovereignty in 1995. Between 1998 and 2003, the Chrétien government presented three bills to reform the 1977 *Act*, but none succeeded (for a presentation of the three bills, see Garcea, 2006).

Despite its failure to significantly modify the Citizenship Act, Chrétien's government did succeed in making several administrative changes to citizenship policy, specifically, to the naturalisation process. As Richet (2007) indicates, the necessity of an interview with a citizenship judge was called into question in the middle of the 1990s, primarily due to the costs and delays encountered (in particular, the problem of delays in processing requests had to be addressed). To replace the interview, the Liberals introduced, in 1995, a standard 20-question, multiple choice citizenship test and its guidebook, *A Look at Canada*, a revised version of the 1985 *The Canadian Citizen* (Richet, 2007). The document was 47 pages long and included various information on Canada's regions, peoples, economy, geography, climate, history, democratic institutions, and judicial system (Citizenship and Immigration Canada, 2005b).

In order to be invited to take the test, candidates had to be permanent residents who had lived in Canada for at least three years. They had to study the citizenship guide, pass the test (by correctly answering 12 of 20 questions), and swear allegiance to Canada and the Queen during a citizenship ceremony (Richet, 2007). Certain questions, such as those concerning the right to vote, the possibility of running for public office, and inclusion in voter lists, however, had to be answered correctly (Citizenship and Immigration Canada, 2010b). Only individuals between the ages of 17 and 59 were required to write the test. Those who did not pass were interviewed by a citizenship judge who would decide on the candidate's suitability for Canadian citizenship (Chapnick, 2011). With a pass rate of over 90 per cent, according to Paquet (2012), the Canadian citizenship test was essentially symbolic.

As for citizenship revocation, the Liberal government demonstrated a particular interest in Nazi war criminals, evidenced by two dozen cases brought before the court during

the 1990s (Anderson, 2006). However, the revocation procedure itself remained unchanged and citizenship was still fairly rarely revoked (see Table 1 below; please note that information for some years is missing). In 2000, then Minister Elinor Caplan observed that, since 1977, Canadian citizenship had been granted to more than three million people and had only been revoked on 37 occasions. Thus the process of revoking citizenship granted to Nazi war criminals suffered from bureaucratic delays (Anderson, 2006).

**Table 1: Citizenship Revocations by Country of Birth from 1988-2013 in Persons**

Citizenship Revocations* by Country of Birth from 1988-2013 in Persons																					
Country of Birth	1988	1989	1990	1991	1992	1994	1995	1998	1999	2001	2002	2003	2006	2007	2008	2009	2010	2011	2012	2013	Grand Total
Argentina																			1		1
Cambodia															1						1
Cameroon, Republic of																		1			1
China, People's Republic of								1						1							2
Colombia														1							1
Cuba						1															1
Egypt																			2		2
El Salvador								1			1										2
France								1													1
Ghana																			1	1	2
Greece			1																		1
Guyana	1								1												2
Haiti		1					1				1										3
Hong Kong					1					1											2
India			1					2	1					1		1			1		7
Iran				1							2										3
Italy			1																		1
Jamaica			2					1			1		1					1	1		7
Lebanon								1											8	9	18
Liberia										1											1
Morocco																1					1
Nigeria										1											1
Pakistan																1	2				5
Palestinian Autho. Gaza/W Bank																			1		1
Philippines					1	1		2													4
Poland										2				1					1		4
Portugal								1													1
Saudi Arabia																		1			1
Serbia And Montenegro																			1	1	2
Somali Republic						1															1
Sri Lanka																		1			1
Sudan, Republic of																	1				1
Syria																1					1
Taiwan	1																				1
Trinidad & Tobago, Republic of				2										1							2
Union Of Soviet Socialist Rep																					1
United Arab Emirates																				4	4
United Kingdom And Colonies	1							2													3
Unknown				1																	1
Vietnam, Socialist Republic of											1		1						1		3
Yugoslavia								1													1
Zambia												1									1
<b>Grand Total</b>		3	2	4	4	2	3	1	13	2	5	6	1	2	5	1	4	3	4	20	154

Data source: GCMS as of February 04, 2014 as of Data compiled by: OPS-Stats(OPS-2014-0324) RDIMS #3437349  
Please note that data more recent than September 30, 2013 have not been publicly released.

Although the 1977 Citizenship Act remained intact, the bases for Canadian citizenship were challenged on several occasions by court decisions. In 1997, in the case of *Benner v. Canada*, the Supreme Court of Canada ruled it unconstitutional that citizenship was not automatically granted to children born outside Canada to a Canadian mother (as opposed to a Canadian father) before 1977<sup>13</sup>. According to Anderson (Anderson, 2006: 14), in May 1998, efforts to deport a non-citizen from Canada were halted when an Ontario court ruled that the

<sup>13</sup> Please see ('Benner v. Canada (Secretary of State) 1 S.C.R. 358,' 1997).

government had not taken into consideration the interests of her Canadian-born children. This case would finally be resolved in the woman's favour by the Supreme Court on July 9, 1999 in *Baker v. Canada*<sup>14</sup>. In 2004, the judgment rendered in *Augier v. Canada*<sup>15</sup> confirmed the unconstitutionality of the clause automatically granting citizenship to individuals born out of wedlock to mothers who were Canadian citizens before February 15, 1977, but not to Canadian fathers. In this case, the plaintiff claimed the right to Canadian citizenship, having been born outside Canada to a Canadian father and foreign-born mother in 1966. These court challenges underlined the need for a review of the Citizenship Act.

### 3. Current citizenship regime

#### 3.1. The 2008 Amendments to the Canadian Citizenship Act

##### 3.1.1. The Repatriation Clause

At the turn of the 21<sup>st</sup> century, the need to address the issue of citizenship reemerged in the wake of the 2007 adoption of the Western Hemisphere Travel Initiative. The latter made the possession of a Canadian passport mandatory in order for a Canadian to cross the American border. Upon applying for their passports, many individuals discovered, to their surprise, that they were not Canadian citizens. These people, victims of obscure Canadian citizenship laws have become known as the 'Lost Canadians' (Harder, 2010; Harder and Zhyznomirska, 2012; Winter, 2014b). Lost Canadians are individuals who were born in Canada, and/or have a Canadian parent, but who lack or have lost citizenship due to provisions of the 1947 Citizenship Act that were overhauled in the 1977 Citizenship Act, but not rectified retroactively<sup>16</sup>.

In 2008, Stephen Harper's Conservative government (2006-2015), amended the Citizenship Act with two changes coming into effect in 2009. First, until this point, access to citizenship had been determined by an individual's place of birth before January 1, 1947, between January 1, 1947, and February 15, 1977, and after February 15, 1977. The amendments redefine the category of people born between 1947 and 1977 and cover all individuals born between 1947 and June 1, 2009. Because the new law is retroactive, citizens born between 1947 and 1977 who lost their citizenship can now reclaim it (repatriation clause), even if that implies that they acquire dual or multiple citizenship (see Macklin and Crépeau, 2010 on dual citizenship in the Canadian context).

By contrast, individuals born outside Canada on or after April 17, 2009, and whose

<sup>14</sup> Please see ('*Baker v. Canada (Minister of Citizenship and Immigration)*, 2 SCR 817,' 1999).

<sup>15</sup> Please see ('*Augier v. Canada (Minister of Citizenship and Immigration)* FC 613,' 2004).

<sup>16</sup> 'To be more precise, there are at least four distinct legal categories of Lost Canadians: (1) people naturalized to Canada who subsequently lived outside the country for more than 10 years prior to 1967. (2) People born abroad to a Canadian parent before the current Citizenship Act came into effect on 15 February 1977 and who were either not registered or not correctly registered at birth, who did not apply for the retention of Canadian citizenship by their 24<sup>th</sup> birthday and who were born abroad in wedlock by a Canadian mother (and foreign father) or out of wedlock by a Canadian father (and foreign mother). (3) People who lost their citizenship between 1 January 1947 and 14 February 1977 because they or their parent acquired the nationality or citizenship of another country. (4) Second- and subsequent-generation Canadians born abroad since the current Citizenship Act came into effect on 15 February 1977 and who failed to apply for the retention of Canadian citizenship by their 28<sup>th</sup> birthday (for specific provisions and exceptions, see Becklumb 2008, pp. 1–5)' (Winter, 2014b: 51).

Canadian parents were also born outside Canada, are no longer automatically granted Canadian citizenship (first generation limitation clause, discussed below). For foreign-born Canadians, the law indicates, in sum:

- Citizenship is not granted to second generations born outside Canada (unless the child would otherwise be stateless);
- Citizenship is granted to all persons born in Canada since January 1, 1947 (even if they were granted citizenship from another state before 1977);
- Citizenship is granted to all persons born since 1947 to a Canadian parent, regardless of parental marital status or sex of the parent from whom citizenship is inherited<sup>17</sup>.

How are we to evaluate these recent amendments to the Canadian Citizenship Act? Should they be interpreted as a prolongation of the human rights revolution and progressive liberalism that motivated, at least partially, the 1971 Multiculturalism Policy, the 1977 Citizenship Act, and the 1982 Charter of Rights and Freedoms?

On the one hand, the amendments to the Canadian Citizenship Act allowing for repatriation can be seen as a means to compensate for past inequalities in citizenship acquisition ‘mostly based on female gender, age (in the case of minors), anachronistic marriage rules, and multiple citizenships’ (Winter, 2014b: 52). In order to bring the Citizenship Act into accordance with the Constitution, as well as with the Charter of Rights and Freedoms, which had come into force in 1982, the introduction of the repatriation clause was seen as an absolute necessity. This becomes particularly apparent when examining issues related to wedlock, as well as to war brides and minors. Prior to 1977 children of Canadian women who were born in wedlock and outside of Canada were not granted Canadian citizenship. Although the new Act in 1977 introduced a provision which allowed individuals affected by the previous rules to apply for Canadian citizenship, this compensatory action was only valid for a limited amount of time and, furthermore, did not guarantee citizenship automatically to everyone who applied. Many of the so-called war brides -- European women who married Canadians stationed in Europe after World War II -- eventually lost their Canadian citizenship, as the 1947 Citizenship Act stated that latest after ten years of living abroad, citizenship would be revoked from those Canadian citizens who were not born on Canadian soil. Moreover, minor children automatically lost their Canadian citizenship, if their Canadian parent took up the citizenship of another country. While the 1977 Act introduced dual citizenship, minors who had previously lost their Canadian citizenship were only able to reclaim their citizenship status between the age of 21 and 22. Since many of them failed to take advantage of this provision, there was a high number of individuals who lost their legal status in Canada forever.

This reading of the repatriation clause seems to suggest that it was meant to eliminate the influence of patriarchy and ethnocentrism on citizenship acquisition, inheritance and loss. Moreover, the Canadian government’s concern ‘that citizens [must] have a real connection to this country’ (former Immigration Minister Diane Finley, cited in Foot, 2008) could also suggest the introduction of a principle similar to what scholars have called *ius connexio* (Shachar, 2002: 29) or ‘stakeholder citizenship’ (Bauböck, 2009: 488), namely the idea that citizenship should not (only) be based on the ‘accident of birth’, inherent to both *ius soli* and

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<sup>17</sup> Thus, while the amendment rectifies the rules established by the 1947 Act, it does not address citizenship loss prior to 1947, neither does it compensate citizenship loss for those individuals who were not able to reclaim their Canadian citizenship by the age of 28 under the 1977 Citizenship Act. This is in contrast to individuals who were born abroad in the second or subsequent generation but had not reached the age of 28 by 17 April 2009; these individuals were able to maintain their Canadian citizenship without having to apply for it.

ius sanguinis, but on a tangible or ‘genuine connection’ between the individual and the state (Shachar, 2002). This is because in a self-governing polity, each individual member has a stake in the future of that polity, and this in a double sense: the well-being of the individual depends to a large degree upon the political decisions by the collective, and the well-being of the collective also depends upon the commitment and involvement of its individual members (Bauböck, 2009). As such, in the case of citizens living outside of their country, conditions for citizenship should be ‘grounded in the individual’s circumstances of life, rather than merely a subjective preference for membership in a particular polity’ (Bauböck, 2009: 479.)

On the other hand, this interpretation of the ‘repatriation clause’ as an ethnically neutral, purely human-rights-motivated adjustment of Canadian citizenship law, loses some of its plausibility if we take into consideration three factors: a) the demographic characteristics of the population at stake, b) the way ‘repatriation’ for this population was justified in public and political discourse, and c) the way the previous two factors compare to the stipulations of ‘first generation limitation clause’. I will discuss points a) and b) in the paragraphs below; point c) will be discussed in the next section.

**a)** When analysing the demographic characteristics of the individuals who were affected by the repatriation clause it becomes obvious that most of them were white, protestant Europeans (of whom a significant number originated from the UK), or at least individuals of European ethnic background. This can be explained by the fact that Canada up until the mid-1970s promoted a migration policy that was predominantly targeted towards individuals from Northern Europe. As a result of this, the repatriation clause, even if not originally intended, addresses a very specific group of the population with regard to socio-demographic status, ethnic or national, linguistic, and religious background. This is not least underlined by the large number of Canadians – around 240,000 – who lost their Canadian citizenship between 1947 and 1977 as a result of taking up citizenship in the United States (Dvorak, 2009). In 2008, the Canadian government therefore released a video on *YouTube*. This video, according to the *Wall Street Journal*, alerted ‘hundreds of thousands of unsuspecting foreigners, most of them Americans’ to a genuine ‘citizenship bonanza’ (Dvorak, 2009). Knowing that ‘the majority of persons who will be restored or given citizenship under Bill C-37 currently live in the United States’ (Canada, 2009c) has likely eased the debates about their ‘repatriation’. While the fears that have become common in Western immigrant-receiving countries after the events of 9/11 2001 and the ‘war on terror’ - related to security, sociocultural integration, continuous presence in the country, dual citizenship and adaptation to Western democratic values -- are not foreign to Canadian politics, they were strangely absent from the debate on the Lost Canadians.

**b)** Furthermore, examining the arguments that were used in public discourse to justify Lost Canadians’ ‘repatriation’, Lois Harder (2010) finds that the right to citizenship was overwhelmingly viewed as an inherited birthright, where it is not the acts or commitments of the current generation that are referred to as establishing a Lost Canadian’s ‘real’ connection to the country, but the military service and family trees of the fathers. Not only does this form of inherited connection conflate kinship, ethnicity, and Whiteness (2010: 211), it was also seen as leading to a ‘more authentic’ form of Canadianness and belonging to the ‘Canadian national family’ than citizenship granted through the naturalisation processes (2010: 204). Such a double standard is troublesome since the status of ‘Canadians by birth’ and ‘Canadians by choice’ were to be valued equally both from a legal and a symbolic point of view since the onset of Canadian citizenship legislations.

In fact, the new amendment did establish a differentiation between individuals belonging to the group of the Lost Canadians and those, who have naturalized in Canada.

Through the repatriation clause, Lost Canadians now have the possibility to retroactively reclaim their Canadian citizenship, as well as passing this status on to their children, even if these are born in the second generation abroad<sup>18</sup>. Thus, it seems that descent is in fact seen as the determining factor for individuals' connection to Canada. This is a new development in Canadian citizenship legislation which resulted from the introduction of the repatriation clause, as Lost Canadians would not have been able to confer their newly acquired Canadian citizenship to their children, had they been required to follow the 'normal' immigration and naturalisation processes in order to reclaim their Canadian citizenship. In this case, rather than receiving Canadian citizenship automatically, adult children would have been obligated to take action on their own in order to qualify for receiving citizenship status. Moreover, the new legislation does not require Lost Canadians to either reside in, or relocate to Canada. This provision stands in stark contrast to the very same government's efforts to make 'physical presence in the country' a mandatory requirement for naturalisation, an effort that was achieved, after several failed attempts with the passing of the *Strengthening Canadian Citizenship Act* in June 2014 (see further below).

### 3.1.2. The First Generation Limitation Clause

In order 'to protect the value of Canadian citizenship for the future', the second clause of the 2008 amendment, 'limits – with a few exceptions<sup>19</sup> – citizenship by descent to one generation born outside Canada' (Citizenship and Immigration Canada, 2009b). Thus, the right to pass down citizenship to children born abroad is only granted to Canadian born citizens or individuals who have naturalized in Canada, whereas individuals who themselves were born abroad and have received Canadian citizenship through inheritance, are excluded from this right.

The first generation limitation clause seems to underline Canada's leading position as a country that values and adheres the human rights of every individual, as well as promotes interethnic relations. However, this statement needs careful evaluation, as will be shown below. To start with the most important factor, the amendment, does not make any differentiation between 'citizens by choice' – individuals who have naturalized in Canada – and 'citizens by birth' – individuals born on Canadian soil.

Secondly, the amendment attempts to place a higher value on an individuals' actual connection to Canada, as compared to them solely being connected to the country by having inherited citizenship from their parents. This attempt can be interpreted in terms of *ius connexio* and 'stakeholder' principles, which were discussed earlier. However, this is only partly true, as the case of Lost Canadians has demonstrated that ethnicity after all seems to have at least some influence on determining the definition of what it means to be truly Canadian. Moreover, even under the previous legislation it was not possible to pass down citizenship 'to endless generations born outside Canada' (Citizenship and Immigration Canada, 2009b), as it was mandatory for individuals born outside of Canada in the second or subsequent generation to apply for the retention of their Canadian citizenship. Thus, before turning 28, foreign-born Canadians, who had received citizenship either through their Canadian-born parents, or parents who had been naturalized in Canada, were required to 'renew' their citizenship status by proving proof that they were residing in Canada, or that they had important connections to Canada. The new amendment removes the possibility of

<sup>18</sup> As long as the children were born before 17 April 2009.

<sup>19</sup> Exceptions are made for children of parents working abroad with the Canadian Armed Forces, as federal public servants or in the service of a province.

discretion in favour of a clear decision a definite second generation cut off at birth abroad) which may come at the cost of fairness and common sense.

Third, the first generation limitation clearly reduces the extent of Canadian citizenship's *ius sanguinis* provision (Winter, 2014b). This is a progressive change, since, as Shachar (2002: 5) puts it: 'We reject heredity as a determining factor in almost any other admission criteria (such as those concerning competitive job offers or selective university programs). However, family ties and birthright entitlements still dominate our imagination and our laws when it comes to articulating principles for allotting membership in a state'. Placing the ascription of citizenship rights on the principles of *ius sanguinis* results in a negative discourse around immigrants, as it establishes boundaries between the majority population who are perceived as belonging, and immigrants, who are perceived as outsiders, who do not fully belong. This differentiation persists even in the second and subsequent generation of immigrants. In this regard, the first generation limitation clause can be interpreted as an attempt to counteract such boundary drawing as it emphasises the de-ethnicisation of citizenship, as well as the strengthening of individual human rights.

However, it could also be argued that the first generation limitation clause is not enough, as it merely changes *ius sanguinis* principles, while leaving *ius soli* principles intact, resulting in the fact that children's life chances are still determined by a 'birthright lottery' the accident of where a child is born (Shachar, 2002: 4)<sup>20</sup>. The scenario that children may 'accidentally' and 'unfairly' lose Canadian citizenship because their parents are temporarily studying or working abroad was indeed one of the major concerns raised in parliament. It was feared that the first generation limitation has the potential of creating 'a whole slew of new Lost Canadians' and this even though their parents embrace Canadian values and might potentially return to Canada soon after having given birth to a non-Canadian (Winter, 2014c: 312).

The notion that the value of Canadian citizenship needs to be 'protected' and 'strengthened' became a recurrent theme in the government's discourse (Canada, 2009b, 2010). Let us take a closer look how this resonates in the context of the 2008 amendment. In fact, the introduction of the first generation limitation widely viewed as a swift 'political move in response to the outcry during the 2006 Lebanon crisis' (Chianello, 2009), when roughly 15,000 Canadian evacuees from Lebanon were brought to Canada on ships, chartered commercial flights, and Canadian Forces aircrafts at a total cost estimated to be between CAD 75-76 million. After the evacuation, it was alleged that many of the Canadian evacuees were dual citizen of Canada and Lebanon and that many had never lived in or even visited Canada. In stark contrast to the debate surrounding the Lost Canadians – most of whom were living abroad and were to become dual citizens – 'there was a widespread assumption that [*these*] dual citizens had a thin allegiance to Canada, and yet they imposed a heavy burden on the Canadian government and taxpayer when they made rights claims about protection' (Nyers, 2010: 54).

As a result of these assumptions, the debate around the evacuation 'crisis' in Lebanon was dominated by discourses around the notion of 'citizens of convenience' – naturalized Canadians and their offspring living abroad who only hold Canadian citizenship in order to take advantage of this status e.g. in times of economic or political crisis, or, to exploit social welfare benefits and profit from economic opportunities (Worthington, 2006). This fed into the perception that Canada is in need of protection from individuals who use this country as a

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<sup>20</sup> One should not forget, however, that *ius sanguinis* serves as a principle that safeguards against both statelessness and unequal legal status of those deemed less desirable. For a discussion of the pros and cons of birthright citizenship in the United States, see Bloemraad (2013).

‘hotel’ into which they can check in and out at their leisure (Kent, 2008) without having a ‘real connection’ to the country.

This brings me to point **c)** mentioned above: a comparison of both clauses and their surrounding debates. Both the debate around the Lebanon evacuation and the case of the Lost Canadians highlight some of the contradictions of Canada’s citizenship legislation with regard to the perception of the different populations affected by the rules. Let us start with the different connotations that the questions of residency and return migration received in both debates. In the case of the Lost Canadians, it was not questioned that their children – often born and raised in the US – would receive Canadian citizenship. Furthermore, the fact that some of these Lost Canadians actually had been living in Canada for a certain amount of time was seen as a positive factor, underlining their right to obtain citizenship (Canadian Broadcasting Corporation, 2007). This is in contrast to the Lebanese-Canadians, as in their case it was highlighted that rather than being loyal to Canada, they had decided to return to their homeland, from where potentially ‘old world’ conflicts could swap over to Canada (Granatstein, 2007). In the public debate, it was completely ignored that first generation Lebanese-Canadians actually had resided and worked in Canada for a substantial amount of time. In the case of the Lost Canadians, by contrast, the years spent (by themselves or their fathers) were used to underline a ‘close connection’ to the country.

Second, in the case of the Lost Canadians, financial issues were never raised. Thus, neither their duty to pay taxes in Canada as citizens living abroad, nor the financial obligation the Canadian state has towards them, were raised during the discussion. On the one hand, this can be explained by the fact that American-Canadians generally are financially well off, and as a result of this are perceived as an asset for the country not a burden. On the other hand, it can be argued that the likelihood of a costly evacuation of large numbers of American-Canadians seems unrealistic considering the circumstances in the US. However, in the case of the Lebanese-Canadians, both factors were perceived negatively, and especially the high cost of the evacuation resulted in severe criticism. This is surprising, as such a point of view does not take into consideration the profits, both in financial and political terms, that the country makes from the transnational activities of Canadians living abroad (for an exception, see DeVortez and Woo (2006)).

Third, the question of dual citizenship was never critically examined in the case of the Lost Canadians. They were granted dual citizenship without any controversial debate and, in contrast to the Lebanese-Canadians, who were accused of having taken up Canadian citizenship only for strategic reasons, the citizenship acquisition of Lost Canadians was justified with their assumed patriotic feelings towards Canada (Canadian Broadcast Corporation, 2007). Hence, while the Lost Canadians were portrait as individuals who deserved to receive Canadian citizenship because of their ‘close’ connection to the country and because they perfectly fit into the expectations of what a Canadian should look like, the Lebanese-Canadians were not perceived as ‘real’ Canadians and, thus, not seen as deserving to be rescued from the dangerous situation in Lebanon. This highlights that the dual citizenship status of some is given more value than the one of others.

Fourth and finally, in the case of the Lost Canadians a high emphasis was given to kinship, thus, the blood relation that Lost Canadians and their offspring have to Canada, legitimating their right to obtain citizenship, while this factor was hardly mentioned in the case of the Lebanese-Canadians. Although, issues concerning race, culture and religion were not openly taken up in either debate, the above discussion shows that they overshadow the issues currently debated around citizenship acquisition. This turn in the Canadian citizenship debates might be the result of the increasing numbers of immigrants to Canada who originate

from Asia and the Middle East (60 per cent), and no longer predominantly from Europe (16 per cent) (Statistics Canada, 2009). These individuals usually hold dual citizenship and either live in their country of origin on a temporary or permanent basis, or regularly move back and forth between both countries<sup>21</sup>.

**Table 2: New Citizens by Country of Birth from 2003 - 2014 in Persons**

Top 20 Source Countries- New Canadian Citizen in Persons 2003-2014													
Country of Birth	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Grand Total
India	8,653	22,736	22,897	35,040	26,546	21,240	17,660	19,258	22,587	13,755	15,570	2,079	228,021
China, People's Republic of	12,527	26,063	26,513	35,508	25,012	21,534	16,425	13,870	16,486	11,600	10,453	2,061	218,052
Philippines	5,125	9,371	11,366	15,961	12,444	11,866	11,255	11,791	16,437	10,849	14,908	2,984	134,357
Pakistan	3,745	11,034	12,772	17,593	11,905	9,624	8,015	8,280	10,314	5,987	5,372	734	105,375
United States of America	3,426	6,339	5,855	5,981	5,210	5,220	4,935	5,260	7,659	6,172	5,102	595	61,754
Korea, Republic Of (South)	3,149	6,413	5,805	8,081	6,210	5,506	4,011	3,277	4,311	3,419	3,296	512	53,990
Iran	2,967	4,815	5,148	8,328	5,464	5,090	3,909	3,619	5,026	3,620	3,393	806	52,185
England	2,644	5,706	5,259	4,985	4,084	3,783	3,518	3,751	5,142	4,045	4,016	548	47,481
Sri Lanka	1,951	5,341	4,752	5,803	4,809	3,758	3,235	2,955	3,405	2,041	2,466	466	40,982
Romania	1,913	3,395	4,584	5,989	4,755	4,448	4,451	3,119	3,760	1,855	1,941	301	40,511
Colombia	570	1,565	2,166	3,217	3,873	4,747	4,353	3,868	4,130	2,600	3,388	450	34,927
Russia	1,847	3,972	4,229	4,761	3,762	3,399	2,765	2,410	3,035	1,784	1,763	387	34,114
Jamaica	1,764	4,715	4,128	5,013	3,499	2,495	1,899	1,890	2,386	1,603	1,774	271	31,437
Ukraine	1,236	2,947	3,030	4,199	2,918	2,562	1,919	1,697	2,248	1,384	1,613	312	26,065
Algeria	1,095	1,574	2,202	3,417	2,612	2,191	3,221	2,488	3,376	1,635	1,862	282	25,955
Morocco	923	1,252	2,425	3,987	2,820	2,270	3,434	2,084	2,852	1,646	1,944	315	25,952
Taiwan	2,463	3,416	2,924	3,459	2,232	1,899	1,541	1,488	2,311	2,132	1,415	223	25,503
Afghanistan	1,256	2,511	3,010	4,395	3,401	2,674	2,230	1,577	1,671	1,229	1,175	235	25,364
France	1,464	1,804	2,430	2,757	2,243	1,950	2,762	2,071	2,923	1,728	2,154	259	24,545
Bangladesh	922	2,133	2,940	3,492	2,057	1,905	2,175	2,317	2,947	1,526	1,701	358	24,473
<b>Grand Total</b>	<b>59,640</b>	<b>127,102</b>	<b>134,435</b>	<b>181,966</b>	<b>135,856</b>	<b>118,161</b>	<b>103,713</b>	<b>97,070</b>	<b>123,006</b>	<b>80,610</b>	<b>85,306</b>	<b>14,178</b>	<b>1,261,043</b>

Data source: GCMS as of February 04, 2014 as of Data compiled by: OPS-Stats(OPS-2014-0324); RDIMS #3437349

Please note that data more recent than September 30, 2013 have not been publicly released.

For example, in 2008, the year the amendments were passed, 54 per cent of new citizens were of Indian, Chinese, Philippine and Pakistani origin, 4.4 per cent indicated the United States as their birth country (see Table 2 above). 1.8 per cent of new citizens were born in Lebanon<sup>22</sup>. It does not appear to be pure coincidence that the two seemingly contradictory stipulations of the recent amendments to the Canadian Citizenship Act were introduced with very different populations in mind: Lost Canadians from the United States on the one hand and ‘citizens of convenience’ from Lebanon on the other. To summarize the 2008 amendment provocatively, as I have done elsewhere (Winter, 2014b: 57):

If you happen to be an individual of White Protestant background, born to a World War II war hero who can trace his/her Canadian ancestry back several generations, you are entitled to making a living abroad and you can still claim your birthright entitlement to Canadian citizenship and pass it on to your children and grandchildren (even if the latter are born abroad). By contrast, if you happen to be a first, second or third generation Muslim immigrant from Lebanon, to be a deserving citizen, you must ‘make up’ for your ‘flaws’ by living, paying taxes, and giving birth to your children on Canadian soil.

Furthermore, in media discourse, this pejorative depiction of the Lebanese-Canadian dual national (along with portrayals of real or alleged Muslim terrorists) is being used to cast a generalized doubt upon the values and loyalty of (prospective) Canadian citizens of

<sup>21</sup> There are no official statistics on the number of Canadians living abroad, the Asia Pacific Foundation of Canada (Asia Pacific Foundation of Canada, 2006: 1) estimates that their number is about 2.7 million, or 9 per cent of the total domestic population. Furthermore, it is estimated that approximately one-third of immigrants to Canada return to their countries of origin after becoming Canadian citizens (Bramham, 2009).

<sup>22</sup> Source : Citizenship and Immigration Canada operational data; For calendar years 2004 to 2013 from GCMS.iS of 27/06/2014. Data compiled by OPS-Stats (2014-1812) RDIMS #3520995.

Arab/Muslim/Middle Eastern background (Winter and Presivic, 2015). Contradicting this widespread prejudice, Winter et al. (2015) find that it is mostly the highly-skilled from Western countries, who entertain plans of return and tend to view the acquisition of Canadian citizenship in slightly instrumental terms.

### 3.2. The Strengthening Canadian Citizenship Act of June 2014

The 2008 Citizenship Act amendment marked the beginning of a new era in the Canadian government's interpretation of citizenship and immigration (for a general overview, see Alboim and Cohl, 2012a; Alboim and Cohl, 2012b). In 2009-2010, Citizenship and Immigration Canada introduced the Citizenship Action Plan, a set of integrated initiatives designed 'to strengthen the integrity of the Citizenship Program.' The action plan was also to 'enhance the value and meaning of Canadian citizenship by strengthening civic memory, civic participation and sense of belonging to Canada' (Citizenship and Immigration Canada, 2010c; see specifically footnote 37 on p. 23). As a consequence, a number of administrative changes were made that rendered the naturalisation process more selective (Winter, 2014a).

The administrative changes between 2009 and 2012 were complemented by the implementation of a new Citizenship Act in June 2014<sup>23</sup>. Many sections of bill C-24, the *Strengthening Canadian Citizenship Act* are critically received and/or rejected by the Canadian Bar Association (2014). Furthermore, in an open letter to the Prime Minister of Canada, 60 scholars and prominent Canadians express concerns 'that Canada's commitment to rights protection and its international reputation as a human rights leader will be threatened by the passage of Bill C-24' (*Open Letter to The Right Honourable Stephen Harper, P.C., M.P.*, 2014). Indeed, it seems fair to say that both represent a shift towards a more nationalist citizenship regime (Winter and Sauvageau, 2015)<sup>24</sup>.

Specifically, the *Strengthening Canadian Citizenship Act* introduces reforms that fall under three broad categories: a) tightening of the requirements for citizenship acquisition, b) combating citizenship fraud and increasing security, and c) amending the processes by which citizenship may be revoked. In order to increase clarity and avoid overlap, in what follows, I will discuss both legal and administrative changes according to these three categories.

At the time of writing, not all of the Act's stipulations have been implemented (Canada, 2014). The first couple of provisions entered into force on 19 June (Citizenship and Immigration Canada, 2014b), others on 1 August (Government of Canada, 2014), yet others were left open for the government to decide on<sup>25</sup>. Here, I do not distinguish between implemented and to be implemented stipulations. For details see Nakache (forthcoming: 72).

<sup>23</sup> Bill C-24, *An Act to amend the Citizenship Act and to make consequential amendments to other Acts (Bill C-24, An Act to amend the Citizenship Act and to make consequential amendments to other Acts, 2014)* was tabled in February 2014, rushed through Parliament and granted Royal Assent without any amendments on 19 June, 2014.

<sup>24</sup> Hampshire (2010) links a nationalist view of citizenship to a longer mandatory residence period, required better mandatory language skills and mandatory testing, and less tolerance towards multiple citizenship. In Winter and Sauvageau (2015), we argue that the renationalization of Canadian citizenship also involves a return to traditional British values and those that predate the introduction of multiculturalism in Canada.

<sup>25</sup> This implementation in stages is possible since the Governor in Council can use its discretion on when to implement the legislation once it has received royal assent. This allows both specificity (e.g.: this act comes into force 6 months after it has received royal assent), and vagueness (e.g.: this act comes into force on a day to be fixed by an order in council). In the case of the 2014 Act, both elements are present. While not all acts are implemented in stages, it is common practice. Each timeline is motivated by specific reasons behind each

## ***Tightening the requirements for citizenship acquisition***

### *a) A Longer Residence Period and Mandatory Physical Presence in the Country*

In order to take up Canadian citizenship, immigrants must hold permanent resident status and have no criminal convictions in (now) the previous four years. The 2014 Citizenship Act increased the residency requirement from three out of the four previous years (1,095 days) to four out of the six previous years (1,460 days). Furthermore, the new law requires an individual to be *physically* present 183 days per year. In order to prove this, adult permanent residents are now required to file Canadian income tax returns as a part of their application packages. Time spent as a non-permanent resident no longer counts towards the residence requirement. A new ‘intent to reside’ provision requires citizenship candidates to declare an intention to settle and live in Canada. Under the new rules, citizenship candidates aged 14 to 64 years (rather than 18 to 54 years) are required to pass both a citizenship and a language test. Finally, citizenship candidates are also required to attend a citizenship ceremony and take a citizenship oath. The costs associated with the naturalisation process have been increased from 100 CAD in January 2014 to 530 CAD in 2015 (not including the fee for standardized language testing).

In this section, I will discuss the tightening of the residence requirements, specifically the requirement of ‘physical presence’ in the country. In fact, under the previous Citizenship Act, citizenship candidates were merely required to have lawfully resided in Canada (for then three out of four years). In fact, the 1977 Citizenship Act did ‘not define residence as physical presence, and the Federal Court has made various decisions on this issue over the years. It is the responsibility of the citizenship judge to determine if an applicant meets the residence requirement despite absences from Canada’ (Citizenship and Immigration Canada, 2009c: 8). As such, each case of potential fraud had to be considered individually, and only a citizenship judge possessed the legal authority to rule against individuals attempting to obtain Canadian citizenship without having been physically present in the country.

Having been in disaccord, in various instances, with the rulings issued by citizenship judges<sup>26</sup>, over the past couple of years, the Conservative government (2006-2015) has made various attempts to both reduce the role and power of said judges and legislate the physical presence requirement<sup>27</sup>. Ultimately, they succeeded at both (for the reduced role of citizenship judges, see sections 3.2.1.e. and 3.2.3).

With respect to the residence requirements, a rigorous new ‘residence questionnaire’ was introduced in May of 2012 (Citizenship and Immigration Canada, 2012c). This questionnaire was being sent to some applicants<sup>28</sup> in order to establish proof that they’ve actually been present in Canada (Citizenship and Immigration Canada, 2012d). ‘Applicants

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timeline: political, financial, legal (e.g.: if a given section is waiting on another bill to receive royal assent first), etc. – Special thanks to Ghaith H. El-Mohtar for researching this information.

<sup>26</sup> See, for example, (*Canada (Citizenship and Immigration) v. Naveen -- 2013 FC 972*, 2013).

<sup>27</sup> For example, proposed in June 2010, bill C-37, entitled the *Strengthening the Value of Canadian Citizenship Act*, would have tightened citizenship residence requirements by ‘specify[ing] in the law that people applying for citizenship would have to be physically present in Canada for three of the previous four years’ (Citizenship and Immigration Canada, 2010f). However, bill C-37 never got past the first reading. Preoccupied with the election on May 2, 2011, the government did not find the time to adopt the law.

<sup>28</sup> The new residence questionnaire is not sent to all citizenship candidates (Alboim and Cohl, 2012b: 2-3). Citizenship and Immigration Canada does not provide information on this issue. In stark contrast to all other immigration and citizenship forms, the residence questionnaire is not available on Citizenship and Immigration Canada’s website. It was obtained by means of Canada’s Access to Information Act.

were told the detailed four-page forms — which must be accompanied by proof such as tax returns, pay stubs, and airline tickets to document even brief absences — would take 15 months to process’ (Keung, 2013). However, the actual processing time was considerably longer. Citizenship applications that once took eight to twelve months from submission to the granting of citizenship would take up to two years or more under the new inquiry process (Chu, 2012). In other words, the government achieved through bureaucratic measures what was not yet legally feasible, namely to ensure that that a candidate’s required residence in Canada at the time citizenship uptake was considerably longer than three years and involved his or her physical presence in the country.

The long delays and the anonymity of the process – it is almost impossible to speak to an agent as all telephone numbers lead to pre-recorded tapes -- have raised questions about frustration, political apathy and alienation exacerbated or even caused by the citizenship application process (Winter, 2014a). After having first blamed the backlog not on bureaucratic malfunctioning but on those who ‘don’t bother showing up to their citizenship test, interview, or who don’t respond to a residence questionnaire’ (Andrea Khanjin, a spokeswoman for Immigration Minister Chris Alexander, cited in Cohen, 2013)<sup>29</sup>, the government has now invested CAD 44 million over two years to improve citizenship processing and made a ‘soft commitment’ of processing citizenship applications within one year (Citizenship and Immigration Canada, 2013).

While this may be a step in the right direction, in its submission to the Standing Committee on Citizenship and Immigration, the Canadian Bar Association (2014: 10) regrets the decision to define ‘residence’ as ‘physical’ residence, because this ‘lacks flexibility to recognize many deserving potential citizens’ who are required to spend time abroad for work, study or family reasons. The Association also suggests that the requirement that an applicant to have ‘physically presence in Canada for at least 183 days during each of the four calendar years ... before the date of application adds an unnecessary layer of complexity’ (2014: 13). It doubts the ethics and potential impact of requesting to include tax returns within the citizenship application (2014: 14). Finally, the Association questions the constitutionality of requesting citizenship candidates to declare their intent to reside in Canada as it ‘would distinguish between naturalized and other Canadian citizens, and would violate mobility rights’ (2014: 14).

### *b) Stricter Language Rules*

Adequate knowledge of one of Canada’s official languages has always been required to obtain Canadian citizenship. Until recently, potential citizens’ language skills were verified by the citizenship exam and through their interaction with Citizenship and Immigration Canada representatives. Under the new rules, citizenship candidates (aged 14 to 64 years rather than 18 to 54 years) must attain level 4 of the Canadian Language Benchmark in oral comprehension and expression. The types of documents accepted as proof of competency include ‘the results of a CIC-approved third-party test; or the evidence of completion of secondary or post-secondary education in English or French; or the evidence of achieving the appropriate language level in certain government-funded language training programs’ (Citizenship and Immigration Canada, 2012b). Already since November 1, 2012, this proof is

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<sup>29</sup> This argument is hard to believe: after years of waiting, citizenship candidates are only given a short and unpredictable notice for attending the citizenship test (roughly four weeks) and the ceremony (roughly two weeks). Furthermore, they have only a very short time span — 45 days, plus a maximum grace period of another 30 days —for compiling the extensive documentation required for the residence questionnaire.

to be submitted as part of the citizenship application and constitutes a requirement for the acceptance and evaluation of all citizenship requests.

In order to put the proof of language competency as a requirement for naturalisation into context two things must be noted. First, in June 2010, standardized language tests – the International English Language Testing System (IELTS) and the *Test d'évaluation de français* (TEF) – were made mandatory for all immigrants applying under the federal skilled work programme (Government of Canada, 2010a). These requirements also apply to native English and French speakers (Keung, 2010). Research found that the new citizenship provisions one-sidedly target refugees, low-skilled immigrants, women and accompanying family members, as well as immigrants from non-European countries (Alboim and Cohl, 2012b; Griffith, 2013, 2015).

Second, the Canadian government offers language classes -- basic skills in English or in French -- to permanent residents through the Language Instruction for Newcomers to Canada (LINC) program (Service Canada, 2012)<sup>30</sup>. These classes are free of charge. However, the number of newcomers who participate in the program is not as high as one might expect, even though the government has more than tripled its financing since 2006 (Citizenship and Immigration Canada, 2011h). Refugees and family class immigrants still tend to only attend courses for beginners while qualified workers are generally more likely to register for higher level courses (Dempsey *et al.*, 2009a). In other words, stratification is reinforced not broken up by language classes. In addition, only one in three immigrants enrolled in LINC training completes the course. 'Completion rates also vary by immigration category with skilled workers noting the highest completion rates (in the 40 per cent range) and lower rates recorded for family class immigrants and refugees (in the 30 per cent range)' (Dempsey *et al.*, 2009b: 4).

### *c) A Longer and Culturally Explicit Citizenship Study Guide*

In November 2009, *Discover Canada: The Rights and Responsibilities of Citizenship*, a new Canadian citizenship guide was launched. The guide is intended for permanent residents preparing for the Canadian citizenship test. It is considerably longer than its precursor, contains more prescriptive and normative language, insists on the importance of respecting 'Canadian values', and denounces 'barbaric cultural practices' such as honour killings, female genital mutilation, and forced marriage (Citizenship and Immigration Canada, 2011a). It also places greater emphasis on Canadian history generally, and specifically on military history and the place of the British monarchy in Canada (Citizenship and Immigration Canada, 2009a; for a longer examination, see Winter, 2013). A new edition of *Discover Canada*, published in 2011, refers to the rights of homosexuals, including the right to same-sex marriage and the prohibition of all forms of discrimination based on sexual orientation (Citizenship and Immigration Canada, 2011f). Also included are additions regarding Canadian democratic principles, certain historical events (notably the War of 1812), and the prohibition of forced marriage (Citizenship and Immigration Canada, 2011f).

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<sup>30</sup> Although LINC is a national program, three provinces administer their own newcomer settlement and language programs: British Columbia, Manitoba, and Quebec (Service Canada, 2012). The LINC program is offered in partnership with service providers that receive funding for three components of the program: 'linguistic eligibility determination and related services; language training; and delivery assistance' (Citizenship and Immigration Canada, 2005a). Service providers include school boards, community colleges, and immigrant-serving organizations (Citizenship and Immigration Canada, 2012e). The program offers seven levels of instruction.

Both editions were generally received well by the Canadian media, both English- and French-speaking (Winter and Sauvageau, 2012). However, academic assessment is divided: while some commentators warn that the new guide engages in a conservative rebranding of Canada – fixing core values, requesting loyalty, highlighting commitment to the Monarchy and the military -- (Blake, 2013; Jones and Perry, 2011; Sobel, 2015), others argue that, in essence, the new guide ‘restored ideas [about national identity] first expressed by the Liberal governments’ in the 1940s and 1970s (Chapnick 2011 (Chapnick, 2011: 32). Yet others suggest that the Conservatives maintained the neoliberal interpretation of citizenship first introduced under Jean Chrétien Liberals in the 1990s, while adding socially conservative and British(-Canadian) nationalist overtones (Winter and Sauvageau, 2015).

#### *d) A More Difficult Citizenship Test*

Under Jean Chrétien’s Liberal government, Canada had prided itself on high naturalisation rights. However, a citizenship test success at almost 96 per cent was being interpreted by the Harper Conservatives as a sign that the citizenship test was too easy. Consistent with the citizenship guide’s new content, the government created a new citizenship test that came into effect on March 15, 2010 (Citizenship and Immigration Canada, 2010d). As with the previous version of the test, the new exam consists of 20 multiple-choice questions to be answered within 30 minutes. The score required to pass, however, was raised from 60 per cent to 75 per cent (Citizenship and Immigration Canada, 2011f). ‘Conceptual’ questions were added to the existing fact-based ones, and the new test places considerably more emphasis on the rights and responsibilities of citizenship than its predecessor (Government of Canada, 2010b).

A few months after the new test’s introduction, the media reported a marked increase in the failure rate from between 4 per cent to 8 per cent for the old test to nearly 30 per cent for the new one (Presse Canadienne, 2010). A review of the text its degree of difficulty (adjustments to question wording and the removal of mandatory questions) in October 2010 allowed the target pass rate of 80-85 per cent to be achieved (Presse Canadienne, 2010).

However, failure rates do not seem to be consistent across the board. In 2011, for example, the success rate for candidates from Western countries was generally over 80 per cent, while those from the Dominican Republic, Guinea-Bissau, Equatorial Guinea, Somalia, Afghanistan, Myanmar, Vietnam, Laos, and Cambodia had the lowest success rate, at less than 60 per cent (Globe and Mail, 2012)<sup>31</sup>. More recent Citizenship and Immigration Canada operational data confirms this trend. Griffith (2015: 8) suggests that the citizenship pass rates for members of racial and religious minorities are in decline (e.g. about or over 15 per cent for immigrants from the Caribbean, South Asia, Sub-Saharan and East Africa, as well as West Asia and the Middle East between the periods of 2010-13 and 2005-09), while those of Northern Europeans and have actually risen (by roughly 1 per cent in 2010-13 compared to 2005-09).

Since these regions comprise the primary source countries for Canadian immigration (Statistics Canada, 2013)<sup>32</sup>, these findings are troublesome and should continue to be

<sup>31</sup> Such comparisons must be made with care, however, since these data do not take into consideration important differences in the number of candidates from each country who take the test (for example, only 14 candidates from Guinea-Bissau wrote the test in 2011, compared to 2385 from Afghanistan and 3309 from the United States).

<sup>32</sup> In 2013, Asia was the largest source of immigrants (approximately 60 per cent) followed by Europe (approximately 15 per cent), Caribbean, Central and South America and Africa (each continent representing nearly 11.5 per cent).

monitored closely in the future. Citizenship tests like other exams ‘test’ for more than knowledge of content. Test results are also dependent on literacy, English/French language skills, the level of education, including the ability, the habit and the ‘leisure’ to study/memorize, as well as to perform under pressure. In addition to raising the hurdle for citizenship update for the less educated, low-income earners and former refugees, falling naturalisation rates may also divide families as accompanying family members and (female) spouses have been reported to do less well than primary applicants in the skilled worker category (McKie, 2013). This may bar them from finding work in their profession, better jobs, higher wages (Bevelander and Pendakur, 2012a, b; DeVoretz and Pivnenko, 2008), the ability to vote (and to be elected for office), travel by means of a Canadian passport, a certain security from deportation (but see point 3.2.3.), a certain legal independence from (potentially abusive) spouses, and overall, an emotionally more active participation in society, and a sense of belonging (Winter *et al.*, 2015).

#### *e) A Militarized and Culturally Polarizing Citizenship Ceremony*

After passing the citizenship test, candidates have to attend a mandatory citizenship ceremony, where they must pledge allegiance to the Queen<sup>33</sup> and to Canada. This tradition dates back to the first citizenship ceremony in 1947. In 2011, two new regulations changed the tone of this ritual.

First, since April 15, 2011, Citizenship and Immigration Canada employees must ensure the presence of at least one past or present member of the Canadian Forces during every ceremony (Citizenship and Immigration Canada, 2011g). The citizenship judge or ceremony president must recognize this person while discussing the importance of active citizenship through military service or in times of war. Furthermore, ‘the CF [Canadian Forces] member or veteran in attendance should also be officially recognised and thanked for their service and dedication to Canada’ (Citizenship and Immigration Canada, 2011g). Members of the Canadian Forces or veterans must always be among the platform guests; they should also enter and exit with the citizenship judge or president of the ceremony. Other than that, several roles are suggested: they may be seated in a reserved section, may stand when recognised by the judge, may congratulate new citizens as part of the receiving line, and may distribute items such as flags or pins. They may also present a short speech. Furthermore, since October 2011, members of the Order of Military Merit may also act as honorary ceremony presidents and thus preside over citizenship ceremonies (Citizenship and Immigration Canada, 2011d), a role that was usually reserved to citizenship judges. These stipulations confirm the Canadian Forces’ newly-established importance in the formal attribution of citizenship.

Second, in December 2011, the former Minister for Immigration, Citizenship and Multiculturalism Jason Kenney, requested that citizenship certificates will only be awarded to those who swear allegiance with their faces uncovered. The official reason for this regulation is to allow citizenship judges to confirm that the person is actually reciting the oath, insisting on the public nature of the act and the necessity that new citizens’ allegiance to their new country be clearly visible and understandable. For the Minister, covering one’s face during the oath of allegiance goes against the principle of social cohesion represented by the acquisition of Canadian citizenship (Kenney, 2011). Although never specifically mentioned by the government, the move was unequivocally interpreted as targeting Muslim women

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<sup>33</sup> The pledge of allegiance to the Queen was reviewed during Jean Chrétien’s Liberal government in the mid-1990s but no changes were made (Whyld, 2013).

wearing the niqab or burqa (Winter, 2014a). The banning of face coverings at citizenship ceremonies must also be interpreted against the backdrop of the new citizenship guide, which uses the word ‘barbaric’ to qualify ‘spousal abuse, ‘honour killings’, female genital mutilation, forced marriage or other gender-based violence’ (Citizenship and Immigration Canada, 2011a: 9). While few Canadians, including many Muslims, condone these practices, many take offense at a discourse, which fails to shed a critical light on on-going gender inequality in the West and falsely identifies Muslim culture and religion as un-Canadian. Commentators felt that the requirement to take the oath without a face cover created the impression that Canada is not accommodating of cultural differences, and that it would discourage permanent residents, especially women, from certain cultures from pursuing citizenship (Alboim and Cohl, 2012b)<sup>34</sup>. Indeed, when in early 2015 a federal judge ruled that the niqab ban during citizenship ceremonies was unlawful, Prime Minister Steven Harper told the press that his government would appeal the decision since ‘this is not how we do things here’ (Douglas, 2015)<sup>35</sup>. If re-elected in fall 2015, his party would bring in legislation in order to entrench the no-face-cover policy into law. Arguably, it was this political move that brought an end to the Conservative era on 22 October 2015. Although this stance was popular with a certain segment of the Conservative’s constituency, many Canadians were appalled by the attempt to turn ‘the niqab question’ into an election issue. The incoming Trudeau Liberals (as well as the defeated New Democratic Party of Canada) had strongly opposed the Conservative’s position.

In addition, as Griffith (2013: 22) reminds us, at citizenship ceremonies, ‘the Canadian Charter of Rights and Freedoms [is] no longer distributed to new citizens; the ceremony guide folder *Our Citizenship* highlight[s] a picture of the Queen, and 50 per cent of the content of the insert *Becoming a Canadian Citizen* pertain[s] to the Crown and allegiance to the Queen’. While core political freedoms of religion, thought, peaceful assembly, and association are underlined, the equality provision of the Charter is no longer mentioned. Instead, serving the country through the military is given much praise. Highlighting the military and the monarchy in the study guide and at citizenship ceremonies is a point of contention for many critics (Jones and Perry, 2011; Winter and Sauvageau, 2012).

### ***Combating Citizenship Fraud and Increasing Security***

The new Citizenship Act also sets out to combat citizenship fraud and to increase the safety of Canadians. Specifically, it introduces a regulatory body that monitors citizenship consultants in order to identify ‘crooked’ citizenship consultants (Citizenship and Immigration Canada, 2014a). It implements new offences resulting in the refusal of citizenship, such as making a material misrepresentation or withholding material facts (e.g. relating to citizenship eligibility). Furthermore, it increases the penalties for citizenship fraud committed by an individual, e.g. from a fine of \$1,000 and/or up to one year in prison to a fine of up to \$100,000 and/or five years in prison.

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<sup>34</sup> Even more important was the fact that the policy has been introduced on the basis of anecdote and not of evidence: since we do not know how many applicants actually attended citizenship ceremonies with their faces covered before the policy was put into place, it may well be that this policy was needlessly politicizing ethno-religious differences.

<sup>35</sup> While the appeal process is still underway, a second Muslim woman is challenging the no-face-cover policy before the Canadian Human Rights Tribunal (Quan, 2015).

The act thereby reacts to longstanding concerns expressed by the Conservative government that Canadian citizenship might be acquired through fraudulent means. According to a Citizenship and Immigration Canada press release, ‘in typical cases, permanent residents will use the services of an unscrupulous immigration consultant to establish evidence of residence in Canada while living abroad most, if not all, of the time. This fraud is perpetrated so that individuals can maintain their permanent residence status and later apply for citizenship’ (Citizenship and Immigration Canada, 2011b). Hence, previous measures targeted specifically fraudulent immigration consultants (Citizenship and Immigration Canada, 2011c), as well as individuals involved in so-called marriages of convenience.

In 2010, Citizenship and Immigration Canada held an extensive online consultation and two town hall meetings in Montreal and Vancouver to ‘gather input on the magnitude of the problem [of marriage primarily used to facilitate the acquisition of Canadian citizenship] as well as opinions and ideas on how best to address it’ (Citizenship and Immigration Canada, 2010e). Shortly thereafter, the relevant laws were made more stringent: Previously, article 4 of the *Immigration and Refugee Protection Regulations* (Citizenship and Immigration Canada, 2010a) had required the presence of two elements in order to deem a marriage ‘in bad faith’: lack of genuineness and a union whose main objective was the acquisition of Canadian citizenship. While the previous version of the regulation required the presence of both elements to consider a marriage ‘in bad faith’, the new clauses require only one or the other. Admittedly, this represents a tightening of the criteria for immigration applications from spouses. However, Satzewich (2014: 2) finds that, at the same time, ‘there is a structural incentive for [Canadian overseas] visa officers to accept rather than reject applications’ in order to meet targets<sup>36</sup>. Hence, more research is necessary what impact these legal changes have ‘on the ground’.

Furthermore, on 8 September 2011, a ‘citizenship tip line’ was installed, allowing the public to report suspected cases of citizenship fraud. Canadians are invited to contact Citizenship and Immigration Canada’s call centre if they suspect someone of coming an offence (Citizenship and Immigration Canada, 2011e). The website offers the following instructions: ‘How do I report citizenship fraud? You can report a person who: pretended to live in Canada to become a citizen or hid information about their case’ (Citizenship and Immigration Canada, 2014c).

Citizenship and Immigration Canada’s fraud investigations continued over several years. In September 2012, for example, it was reported that close to 11,000 people could be involved in the government’s investigation of citizenship and permanent residence requirements (Citizenship and Immigration Canada, 2012a)<sup>37</sup>. Later, however, the department was forced to acknowledge that out of several thousands alleged fraudsters, only 286 individuals have actually been given formal notice of their citizenship revocation (Canadian Press, 2013).

The government briefly turned its attention to so-called birth tourism, which consists of women or couples who visit Canada to give birth to children who will automatically become Canadian citizens. This is also done, it is thought, in the hope that these children will

<sup>36</sup> In 2012, for example, 39,533 spouses and partners admitted, which represented 61 percent of the Family Class, the second-largest component of Canada’s overall immigration program (Satzewich, 2014: 7).

<sup>37</sup> As an example, in 2012, CIC did not only discover 300 individuals who all had indicated the same address in Canada on their papers (Rosella, 2012), but they also received information about another 5000 individuals, who despite the fact that they were registered as permanent residents, lived outside of Canada, and would directly be addressed upon entering the country or trying to acquire citizenship, as a result of their false status (Chu, 2012).

someday be able to sponsor their parents' citizenship in return<sup>38</sup>. The issue was taken up in the media after a CBC interview with Minister Kenney, who stated that he wanted to modify current *ius soli* regulations in Canada that automatically grant citizenship to children born on Canadian soil (Yelaja, 2012). At the time of writing, however, such legislative measure has neither been proposed nor passed.

*Grosso modo*, increasing the oversight of immigration consultants' work has not been met with strong resistance. There is obviously a need to maintain – or reinstall – the integrity of the immigration and naturalisation processes, as well as to protect those vulnerable to be the victims of illegal practices. Concerns have been raised, however, about the tendency to represent immigrants and prospective citizens as typically mischievous and fraudulent, about the risks associated with the denunciation and defamation of (prospective) compatriots (via, for example, a citizenship tip line), and about the distrustful, accusatory and punitive tone in citizenship discourse (Abu-Laban, 2013; Alboim and Cohl, 2012b; Winter, 2014a).

### ***New Ministerial Powers and Processes by Which Citizenship May Be Revoked***

The most disputed provisions of the 2014 Citizenship Act relate to the processes by which citizenship may be revoked: The Minister of Citizenship and Immigration has received considerable new authority that once belonged to the Governor in Council. The Minister's office can now revoke citizenship (mostly for fraud) or grant it under non-routine circumstances (e.g. honorary citizenship). I will first sketch out the new ministerial powers, and then discuss the new rules for revoking Canadian citizenship.

Even after the introduction of the written citizenship test in 1995, independent citizenship judges remained entirely responsible for final approval of citizenship<sup>39</sup>. Under certain circumstances, judges still interviewed candidates, such as those who had failed the test or were older than 54 years. Under the current Act, citizenship judges have been eliminated from the citizenship process (Nakache, forthcoming: 72). From now on, naturalisation is primarily a ministerial or departmental process, where the authority to grant citizenship is delegated to individual officers and, in the last instance, the Minister<sup>40</sup>. According to Nakache, the possibilities for judicial review or control of ministerial discretion, by contrast, has been greatly reduced.

Hence, a single officer will potentially decide what constitutes a material misrepresentation in the case of filed tax returns. He or she may also take the decision to reject a candidate's application because of he or she questions the latter's intention to reside

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<sup>38</sup> The issue of 'birth tourism' has been discussed in tandem with that of 'satellite babies': Faced with the administrative weight of the immigration and citizenship processes, the stress caused by these procedures, and the difficulties in finding employment, lodging, and childcare, parents may choose to leave their children behind or send them back, for a period of time, to their country of origin where they are cared for by other members of the family (grandparents, for example). According to Keung (2012), this situation can be extremely difficult for both parents and children, and can also slow the children's adaptation and integration once they do immigrate.

<sup>39</sup> The function of the Canadian citizenship judge has been explained in section 2.2, and the reduced role of citizenship judges was alluded to in sections 3.2.1.a. and e.). In fact, under the Conservative Government, in the years leading up to the new Citizenship Act of 2014, decisions by citizenship judges were regularly and increasingly appealed by Citizenship and Immigration Canada.

<sup>40</sup> This elimination of the authority of citizenship judges over much of citizenship process is to be done progressively; it includes the elimination of the judge's authority to advise the Minister whether or not to use discretion to grant citizenship for humanitarian reasons, since this discretionary power now solely resides with the Minister (Nakache, forthcoming: 72). If in doubt about the fulfillment of residence requirements, the Minister may, however, request legal advice on a specific file. In this case, the judge is given 60 days to decide.

in Canada. The increase of bureaucratic control over citizenship decision-making and the reduction of judicial oversight are further highlighted by the facts that a) only applications deemed ‘complete’ will be accepted, and b) the removal of a right of appeal to the Federal Court of Canada for refused citizenship candidates. These issues have raised concerns over due process (*Open Letter to The Right Honourable Stephen Harper, P.C., M.P.*, 2014) and prompted the Canadian Bar Association (2014: 16) to insist: ‘Decisions about who is entitled to become a Canadian citizen are at the foundation of our democracy, and should be exercised by independent decision-makers. This independence should not be sacrificed in the name of cost saving or administrative expedience.’

Regarding the new stipulations governing the revocation of citizenship and the possibility of fast-tracking naturalisation, the 2014 Citizenship Act closely follows a private member’s bill proposed by the Conservative Member of Parliament Devinder Shory (Calgary Northeast) in May 2012. The first part of bill C-425, an *Act to amend the Citizenship Act (honouring the Canadian Armed Forces)* (C-425, An Act to amend the Citizenship Act (honouring the Canadian Armed Forces), 2012), proposed reducing the citizenship residence requirement by one year for permanent residents of Canada who are members of the Canadian Forces, signed a minimum three-year contract and completed the basic training. The second part of the bill proposed to amend section 9 of the Canadian Citizenship Act to provide that individuals who engage in ‘an act of war’ against the Canadian Armed Forces will be considered having made an application for the renunciation of their Canadian citizenship or, if they are permanent residents, having withdrawn their application for Canadian citizenship (Parliament of Canada, 2012).

Shory’s private member’s bill gained new traction in early February 2013, when, in the wake of reports Canadians were involved in bomb attacks in Bulgaria and Algeria, the responsible Minister at the time, Jason Kenney, announced that the federal government was considering ‘stripping dual citizens of their Canadian citizenship if they commit acts of terror abroad’ (Cohen and Hill, 2013). He credited the bill with the ability ‘to protect the value of Canadian citizenship, as it would enhance our ability to take it away from those who undermine our national security and who threaten the fundamental values on which Canadian citizenship is grounded’ (Kenney, cited in Standing Committee on Citizenship and Immigration, 2013). The proposed law was unlikely to impact many individuals, but according to the Minister its passage would ‘deliver a strong message that Canadian citizenship is not a flag of convenience to be waved whenever it serves people’s interest, particularly when they’re committing some of the most terrible crimes conceivable’ (Kenney, cited in Standing Committee on Citizenship and Immigration, 2013). Furthermore, the proposed bill would treat all people alike, whether they are naturalized citizens or born in Canada, and ‘only those with dual citizenship would be deemed to have renounced their Canadian citizenship’ in order for Canada to abide to the 1961 Convention on the Reduction of Statelessness. The vague term ‘act of war’ was to be replaced with other ones, such as terrorism and treason, which are more clearly defined in law. Bill C-425 received near-unanimous support in the House of Commons on 27 February, but was ultimately discarded when Parliament was dissolved in August 2013 in view of an upcoming election.

The current Citizenship Act contains very similar stipulations to those originally proposed in bill C-425. The fast-tracking of citizenship acquisition for members of the Canadian Armed Forces has received little public scrutiny.<sup>41</sup> However, the revocation of Canadian citizenship is highly contentious.

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<sup>41</sup> Only very few individuals would be eligible. In fact, one must be a Canadian citizen to join the armed forces, although permanent residents can become reservists. However, permanent residents can join the regular forces

Specifically, the Minister's office can now revoke the citizenship of dual citizens who are engaged in actions contrary to the national interests of Canada (e.g. high treason, terrorism, espionage) and if they are charged outside of Canada with an offence that, if committed in Canada, would be considered a serious criminal offence.

This provision one-sidedly targets dual citizens, even those who are born on Canadian soil, and threatens them with banishment and exile. Consider the following distinction: trying for treason says 'you have turned your back against your country'. By contrast, the revocation of citizenship says 'this is not your country'<sup>42</sup>. While single-citizenship Canadians could only be tried for the former, dual-citizenship Canadians are threatened by the latter. This distinction exemplifies the incontestable belonging of single-citizenship Canadians and the peripheral belonging of dual citizens. According to Macklin (2014: 1), it also creates 'an unconstitutional regime that violates multiple sections of the Canadian Charter of Rights and Freedoms.' According to the Canadian Bar Association (CBA), the current legislation 'creates four classes of citizens:

- a) Canadian born who do not have another nationality. These 'true' citizens would be most secure in their status. There is no mechanism proposed for revoking their citizenship, even if they commit the most egregious crimes against Canada or its people.
- b) Naturalized citizens without another nationality. These would be the equivalent of all naturalized citizens under the current legislation. The only way they could risk losing their citizenship is if it was originally obtained by misrepresentation.
- c) Canadian born citizens with another nationality. Apart from misrepresentation (that would rarely apply to this group), the full range of revocation provisions would apply, including those that might be proposed in the future.
- d) Naturalized citizens with another nationality. These truly 'third class' citizens would face the full range of retrospective revocation provisions being proposed, including those that might be proposed in the future' (Canadian Bar Association, 2014: 19).

At a symbolic level, the provision calls into question the authenticity and loyalty of all dual nationals. However, the revocation stipulation does not only target individuals. Rather, depending on the citizenship laws the country of ancestry, 'entire ethnic or national communities would either be subject to the provisions or not'. This, according to the CBA, 'results in differential treatment based on ethnicity or national origin', and was therefore deemed unconstitutional (2014: 19). Indeed, specifically in public discourse, the citizenship revocation provision is overwhelmingly identified as being in place for 'radicals', 'terrorists' and 'jihadists' who are said to be dual Canadians of Muslim, Arab, and/or Middle Eastern origin (Winter and Presivic, 2015).

The constitutionality of the new provision had been challenged before the courts. In June 2014, lawyer Rocco Galati sued the federal government over the citizenship revocation provision of Bill C-24, but only as it pertains to the loss of citizenship of the Canadian-born<sup>43</sup>. On January 22, 2015, federal court judge Donald J. Rennie rejected Galati's

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in exceptional circumstances when the military has need of their skill and the position cannot be filled by a Canadian citizen (Elayadathusseril, 2011). E.g. a laid-off British fighter pilot might immigrate to Canada and have his citizenship application fast-tracked as his/her qualification would be greatly sought after by the Canadian Armed Forces.

<sup>42</sup> I owe this wording to Ghaith H. El-Mohtar; I could not have put it more eloquently.

<sup>43</sup> Please see ('Galati v. Canada (Minister of Citizenship & Immigration), Legal Challenge, T-1474-14,' 2014).

challenge, ruling that citizenship is not an inalienable right<sup>44</sup>. Galati has since appealed the decision<sup>45</sup>. In August 2014, the Canadian Association of Refugee Lawyers (2015) and the British Columbia Civil Liberties Association (2015) launched a constitutional challenge arguing that the Act creates second class citizenship. The law came nevertheless into effect on 29 May 2015. Hence, the government can now revoke the Canadian citizenship of dual citizens who are engaged in actions contrary to the national interests of Canada, such as high treason, terrorism, espionage. At the end of June 2015, Hiva Alizadeh, a dual citizen of Canada and Iran who is serving a prison sentence in Edmonton for terrorist offences, became the first individual to be threatened by the Canadian government with the revocation of his Canadian citizenship (Bell, 2015; White, 2015). At the time of revising this report, Saad Khalid, imprisoned for his role in the so-called Toronto 18 plot to bomb the city's downtown in 2006, is still fighting the revocation of his Canadian citizenship. Even though the incoming Trudeau Liberals promised to repeal the law, this may come too late for those who have already had their Canadian citizenship revoked, such as Toronto 18 leader Zakaria Amar.

## 4. Conclusions

In this report, I have provided a history of the changes in Canadian citizenship policy and evaluated them against the backdrop of the country's ethnoculturally diverse immigrant population and its multicultural ethos. Summarizing my discussion, I would like to point to five phases in the development of Canada's current citizenship regime.

First, although shifting the emphasis from 'British subjects' to 'Canadian Nationals', Canada's first naturalisation and nationality laws at the beginning of the 20<sup>th</sup> century basically operated to keep the country White and Anglophone. Second, as I have already argued elsewhere (Winter, 2013), the period from the implementation of Canada's first Citizenship Act in 1947 until the mid-1960s was characterized by the nationalization of citizenship with legislation aiming to establish an independent Canadian citizenship which was distinct from that of the United Kingdom. Third, between the mid-1960s and the late 1980s, Canadian citizenship underwent a period of de-ethnicisation and progressive liberalization recognizing the need for an expanded labour immigration and subscribing to a human rights regime and social citizenship. International peacekeeping, multiculturalism policy, universal health care and the (unreserved) toleration of dual citizenship in the Canadian Citizenship Act of 1977 were expressions of this trend. In the late 1980s and 1990s, a period of neo-liberalization set in. This fourth phase of Canadian citizenship was characterized by the marketization of multiculturalism and (individual) cultural competences, the celebration of active citizenship, and – with respect to naturalisation procedures – the shift from testing through individual interviews with a citizenship judge to a standardized pencil-and-paper citizenship exam.

Starting with a change in government at the federal level from Liberal to Conservative in 2006, a fifth phase of citizenship legislation set. Based on the analysis of administrative changes to the naturalisation process from 2009 to 2012, Winter and Sauvageau (2015) have characterized this phase as a period of renationalization. In October 2015, a new Liberal government was elected under the leadership of Justin Trudeau. Hence, it is too early to determine in which direction Canada's citizenship regime will heading in the coming years.

<sup>44</sup> Please see ('Galati v. Canada (Governor General), Court Decision, 2015 FC 91,' 2015).

<sup>45</sup> Please see ('Rocco Galati et al v. His Excellency the Right Honourable Governor General, Appeal Court File No. A-52-15,' 2015).

In this report, I have reiterated my earlier argument that the 2008/09 ‘repatriation clause’ (to accommodate Lost Canadians) and the ‘first generation limitation clause’ (to reduce the number of so-called citizens of convenience) are based upon an ethnicised interpretation of two different types of population, predominantly White Americans on the one hand, and Canadians from more recent (non-Western) source countries on the other (Winter, 2014b). Furthermore, I maintain that the Citizenship Action Plan implemented in 2009/10, and the *Strengthening Canadian Citizenship Act* from 2014 risk taking Canadian citizenship in a direction that does no longer reflect earlier efforts to build a nation based on diversity, equality, and unity.

The Citizenship Action Plan, rather than conceptualizing naturalisation as a stepping-stone on the long road to becoming a citizen, erroneously situates naturalisation as the end point of the integration process (Winter, 2014a). Furthermore, it nourishes a suspicious view of new and prospective citizens as potential free riders and fraudsters. The *Strengthening Canadian Citizenship Act* correctly aims to uphold the integrity of the citizenship process. However, it makes citizenship considerably more difficult to obtain and easier to lose, and this specifically for already vulnerable populations: refugees, unskilled workers, accompanying (female) family members, members of racialised and/or religious minorities. In addition, the clause allowing for the revocation of Canadian citizenship in the case of dual citizens reintroduces a double standard that had been overcome forty years ago: the idea that those who were born Canadian without another nationality are more ‘true’, deserving and trustworthy citizens than those who become Canadian through naturalisation while also holding another citizenship. This evolution of Canadian citizenship raises questions about how egalitarian membership in a multicultural settler society should be conceptualized in the future.

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