

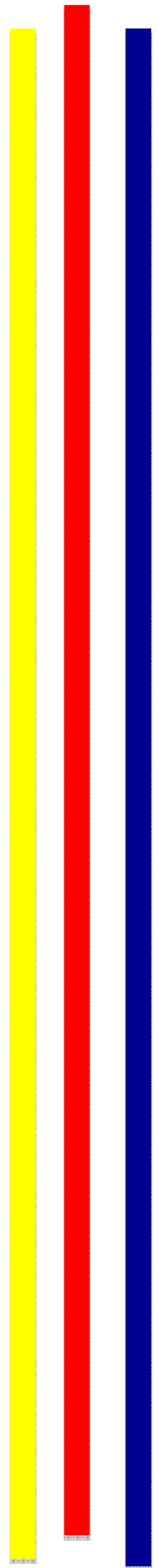
2008 WORKING PAPERS

How to Give Meaning to Canadian Citizenship

Tom Kent
School of Policy Studies, Queen's University

**Institute of Intergovernmental Relations
School of Policy Studies, Queen's University**

Working Paper 2008 - 08



It was in 1947 that “Canadian citizen” replaced “British subject” as the legal description of a voting participant in this democratic society. One might think that by now the transition would be complete, the concept of our citizenship mature. It is not. It has not kept up with changes in the world around us. Canadian law on citizenship and immigration is in need of another radical revision. The need has two parts.

First, we now select immigrants to live in Canada; whether they become citizens is, subject to some minimal conditions, their choice. Instead, we should select immigrants with the purpose of their becoming, within a few years, citizens; or, if by then they prefer, to leave. Staying without citizenship would not be an option.

Second, we now make much of the rights and freedoms of citizens, less of their obligations. In particular, we neglect one that is fundamental and enforceable. It is to pay, as a condition of maintaining citizenship, a due share of the taxes that maintain Canada; to pay them wherever the citizen chooses to live.

Much has already changed since 1947. Certainly we have shed the attitude to immigration that Mackenzie King then skilfully articulated. Canadians, he believed, would not accept immigration that made any “fundamental alteration in the character of our population” as it then was. Today most of us are proud to belong to a nation welcoming diverse peoples and accepting their cultures.

Yet our silences betray awareness that racial toleration is everywhere still fragile. Polite political discussion pays minimal attention to immigration. The unspoken disposition is to let well alone, lest any opening be to trouble. Evasion, however, is also risky. The truth is that our success in absorbing immigrants is owed in large part to our requiring little of them. Present law permits, even encourages, confusion of loyalties and plurality of citizenship.

The gradual but inevitable consequence is growing plainer. As we have fewer babies and grow older, and thereby become increasingly dependent on immigration, the sense of a Canadian identity is increasingly diluted.

The desperation of the 1930s apart, and even despite the fluctuating Quebec divide since the 1970s, Canadians have hitherto succeeded rather well in satisfying the diversity of our continent-wide needs and aspirations. Today, however, there is an unmistakable sense of political inadequacy. In face of the crucial economic, environmental and social challenges of the time, our collective action has become faltering. Clear national needs are neglected, not from lack of awareness but because no coherent national will is directed to them.

There is much that we could do better, a good deal that no doubt we will correct. But how much, how soon, depends greatly on what is most fundamental to common action, on our citizenship. No democratic political unit, nation or province or city, thrives without some widely shared sense of community, of some things done differently because they are done together. Without that, action for the common good is submerged in conflicts of interest and differences of opinion.

In the beginning, in the 1867 escape from colonies to nation, what it meant to be Canadian was plain. It was to be different from American. As the United States emerged from its bloody civil war, and found purpose in the manifest destiny of rolling west and potentially north, determination to have no part of it was equally strong in the British and the French.

The BNA Act was soon supported by the Macdonald National Policy of tariffs and the railroad. That was not enough, however, to build an economy from sea to sea. Farmers from a cold climate were needed to break the Prairie sod. It was immigration from central Europe that made it possible for Quebec and the old British colonies to grow into a nation state.

The peopling of the West also created, however, a society more like the United States than Toronto and Quebec had been. Canada started soon on the path of diminishing economic differences that technology has since so greatly accelerated. And we remained a dynamic economy. In the mid-twentieth century, particularly, remarkable and diversified growth called for many new workers. At first they came from Britain, north-western Europe, the Mediterranean, but trans-Atlantic prosperity soon diminished those sources of entrepreneurial and managerial talents as well as of professional and skilled workers. The temper of the 1960s in any case called for openness to all peoples, who have since come especially from south and east Asia.

It is, however, a new imperative that drives their numbers. Canadians have become much less productive of offspring. Our fertility rate is barely two-thirds of the population replacement level. It is economic stability, not growth, that now calls for a lot of immigrants.

Canadians are, of course, far from unique in their low fertility. But our population is already slight in relation to our resources. Smaller numbers would damagingly increase the burden of infrastructure overheads imposed by our geography. They would reduce the economies of scale possible for an economy whose manufacturing and service sectors are already challenged by the development of countries such as Brazil, China, India. Much as the world as a whole will eventually benefit from lower birth rates, it will be a long time before both economic and social pressures cease to call for migration to Canada, migration substantial in relation to our otherwise declining population.

Our problem is that economic need now brings an internal social strain. It does not have to do so, but it will as long as we fail to reinforce our faltering sense of common purpose.

We are a North American society, sharing many characteristics with our neighbour. But we have combined them with a stronger sense of community concerns. One aspect of this was brought home to me by the stellar Canadian in world affairs. Reminiscing over an after-work Scotch, L.B. Pearson once told me that in all his international dealings, and unilingual though he was, the people with whom he felt most at home were neither American nor British, but northern Europeans.

That was close to fifty years ago, in a different world. But an essential strand remains. While Canada takes second place to none in the value it places on individual freedom and enterprise, we strive to do so within an equitable and equable society that combats inequalities of opportunity. Such is the community spirit of French Canadians as much as British, of most newer as well as earlier immigrants. It is the spirit that has guided our sometimes significant

contribution to world affairs. We want immigrants who will in their diversity contribute to the development of that Canadianism. We do not want immigrants who dilute it by leaving their hearts elsewhere. We want immigrants who shift their loyalties and their involvements to the country that welcomes them.

Canadianism can neither be bred by preaching nor be enforced by law. It can be encouraged or not. At present it is not. Canada's national interest requires, first, a major change in the legal terms on which migrants come.

Family members and refugees apart, we now admit people according to an official judgement (in varying degrees accurate) of their ability to earn a good living in Canada. On that basis they become residents. After three years they may, if they wish and satisfy a minimal test, become citizens. But if not, their permission to reside and work here continues. So does access, for them and for their dependants, to the hospitality of our multiculturalism. Legally, we minimize the meaning and responsibilities of citizenship.

In part, there is in this a healthy absence of chauvinism, as well as some surviving sense of superiority to assertive Americanism. But there is also substance to the jibe that, by making so light of being Canadian, we are the hotel among countries: a place to which you come and go at your convenience, in escape from the obligations of a household.

We used to think of immigrants as people who have identified themselves with a new land. A rather different reality was illustrated during the sudden war in Lebanon two years ago. The danger overwhelmed our embassy with a rush of thousands of Canadians living in Lebanon but expecting to be rescued by Canadian government action at Canadian taxpayers' expense; even the Prime Minister thought it appropriate to divert himself and his special aircraft to help in the job.

In a fluid world, Canadians and their offspring can easily spend much of their time elsewhere. Immediate communication tempts recent comers, whether residents or legally citizens, to remain more emotionally identified with relatives and friends whence they came, with that country's welfare and politics and conflicts, than with the people and affairs of Canada. When citizenship can be dual or more, a Canadian passport may be little more than a flag of convenience.

It can be argued that this is the inevitable, even desirable, way of the emerging world, that to let it matter is small-minded. But for most of us, in Canada and everywhere, it does matter. Our community is where our strongest loyalty belongs, where our citizenship should be. That is the norm with which law and policy should fit.

That would be easier if dual citizenship could be prohibited, but such a reform is not in our control. In its absence, we should make the two related changes, to immigration and to taxation, summarised at the start of this article.

First, the law should set a term to residence without citizenship. In effect, the present provision would be reversed. Immigration should depend on the intent to become Canadian. It would give the right to live here for three years. A few people would no doubt change their minds and leave. Others, all who wished, could apply to become citizens within the three years.

The terms of entry would be clearly stated and acknowledged by the immigrant's signature. The permit would spell out the modest language and knowledge requirements for citizenship, and require the immigrant to recognise that a review panel would have final authority to determine whether he or she satisfied the requirements. There would be no provision either for making exceptions by ministerial permit or for appeals. The rare immigrant who after three years could not meet the requirements must leave Canada, or otherwise be deported.

In the unlikely event that this procedure were to be challenged before the Supreme Court, Parliament should use the "notwithstanding" provision of the Constitution to uphold its law against the arrogance of lawyers. A free and equitable society needs rules that deal fairly both with all the people who can enter the country and with those who cannot. That is possible only if government provides the direction, organisation and personnel necessary for firmly prompt deportation of the few who enter, or attempt to stay, illegally. They would be many fewer than now, if the terms of entry and of citizenship were properly defined.

True, deportation is almost always regrettable and controversial. Some public sympathy is naturally enlisted on behalf of anyone who has built associations here. But a sense of proportion is necessary. Humanitarians should know that there are countless people, including tragic victims of conflict and deprivation, on whom we do not confer the opportunity, or who lack the means, to come here. People who have enjoyed that opportunity, but are nevertheless offenders against Canadian law they have explicitly acknowledged in the terms of their entry, do not rank more highly among our responsibilities than those who could not come.

There is indeed neglected humanitarianism that citizenship reform should underline. We should be doing more to help the people we admit to settle here amicably and successfully. A good deal of money is now spent in the name of multiculturalism. Some of it is constructive recognition of our diversity, but a good deal amounts to little more than the buying of political favour with organisations that promote delineation, not mingling, of cultures. Yet the federal government does sadly little to help immigrants improve their language skills, to learn more about their new country, about its history and its public affairs. Ottawa could and should do more to assist the voluntary agencies that are ready and willing to do such work, as well as to fund citizenship classes, both day and evening, in public schools.

If and when that effort is yielding significant results, it may be possible to raise the standards of literacy and knowledge required for citizenship. But that is for a future fairer society, not for today. What should be done immediately is to modernise the citizenship oath. It is well over forty years since we gave ourselves our own flag. Surely we can now do the same with words to express the essence of citizenship for all Canadians.

There could be other changes later, and they might well include an important exception to the three-year period for immigrant residence. We may move to a less short-sighted immigration policy. Internationally, it will be increasingly hard to defend an immigrant selection process devoted to taking mature, well-qualified people away from the countries that have educated them. And in our own national interest it is young people we most need. They, not the middle-aged and older, will sustain not just our total population but the size and creative quality of our active work force. The change will be gradual, no doubt, but surely we will in time make the rational move to admitting more minors, best of all orphan refugees of conflict and disaster. Some will be adopted by individual Canadians, others may be the wards of services such as SOS

Children's Villages. They should all be welcome residents until the age of majority qualifies them for citizenship.

Also, there must continue to be special residence permission for students. Workers with unique qualifications should have permits to do a specific job for an appropriate period. And since genuine refugees are unlikely to wish or to be able to return to their homeland, they might well be allowed an extended residence period in which to decide whether to become Canadian citizens or seek another country. For some the alternative may be impossible, there being after Canada no "safe country" that will by international agreement accept them. However much our procedures are improved, we will always live with some refugees who would not be priorities by humanitarian standards but who, having once got here, have to stay.

No such provisions, however, would alter the basic rule for citizenship: after a defined period, normally short, become Canadian or leave. This legal change would not, of course, apply retroactively to immigrants previously admitted to Canada. If they wish, they can remain residents without becoming citizens. It seems likely, however, that most would be moved to make the change. In any event, new citizenship provisions and tax requirements for citizens would apply equally to any previously established residents who sought to return to Canada after a period elsewhere.

Good citizenship is not enforceable. It could be more effectively encouraged. And for citizens there are obligations that can be enforced. They include a fundamental obligation that present Canadian law neglects to establish. It is the duty to pay taxes. It should be inherent in citizenship. Where the citizen chooses from time to time to live is irrelevant. The obligation is to the state that provides the rights of citizenship. Taxation is the price you pay to have those rights. But not, at present, if you are Canadian. Live in Barbados, or wherever, and you are Canadian free of charge.

We are in that no different from the nationals of most countries. But there is a massive difference in the politics of citizenship. Elsewhere citizens are almost entirely people born in the country. Even now in Europe, identity is hardly at issue. We are close to unique in the proportion of us who owe to the state the grant of our citizenship; and, unfortunately, in the proportion for whom easy communications keep the old loyalties more present than the new.

Our legal failure to link citizenship and tax invites the alienation that increasingly weakens our national politics, that among some newcomers encourages indifference to public affairs except those that impinge on countries of origin and minority interests in Canada. Making tax the same for citizens in and out of the country will not, of course, in itself work any magic. But it is a crucial reinforcement to the primary reform that makes citizenship, not convenience, the condition for staying here. It will help to give meaning to the rights and obligations of belonging with a true north that matters.

And as legal changes go, it is easy. There is an excellent precedent to hand. American citizens living outside their country do not thereby escape liability for American tax.

Canadian law should similarly provide that every citizen, irrespective of where he or she is residing at any time, is required to file a return of income from all sources, and then to pay the assessed Canadian tax. If the country of residence has a tax treaty with Canada, the assessment

will of course reflect an appropriate allocation of tax between jurisdictions. But if it is a haven or country of uncertain tax administration, then the liability will be for the full amount of Canadian tax.

How effectively the tax can be collected will vary with the country involved as well as with the citizen's assets in Canada and need or wish to return here. An immediate penalty for tax delinquency would be international notice that the offender's passport has become invalid. That would apply equally to citizens by birth and by naturalization. After a fair notice, this would be followed by cancellation of a citizenship acquired by naturalization. Citizenship by birth cannot be so thrown aside (except, of course, on the initiative of someone who values it less than a foreign rank), but the delinquency is reason to refuse a passport in all cases. A tax offender who nevertheless presented herself or himself for return to Canada would be required to pay what was due, with interest and penalties, or be admitted into detention.

A province can tax only its own residents. The suggested legislation, it should therefore be noted, would relate directly only to federal taxation. However, it should not be difficult to get provincial agreement that, for non-resident citizens, the federal law would add a supplementary tax of about the average level of provincial taxes. The total for an absentee would then be much the same as is paid by a citizen living anywhere in Canada.

Equitable tax reform would not only strengthen the meaning of citizenship and the sense of Canadian identity. It would facilitate an onslaught against the rapidly growing evasion through external havens of both personal and corporate taxation. That international inefficiency is not only an infringement of the fairness on which the stability of informed societies depends. It increasingly impairs the vigour of the older enterprise that is under challenge from emerging economies.

Our special Canadian problem, however, is our identity. The more complex and interdependent the world becomes, the more the bigger nations enlarge their economies and establish their distinctive roles, the more important for smaller nations is the sense of community needed to empower their particular policies. Our diversity and our location combine to make adherence to a place and a purpose in the world especially challenging and of some special importance. To foster Canadian citizenship is part of the way to strengthen our contribution to an equitable and equable global society.

Tom Kent has had practical experience of the issues involved in Canadian citizenship, both 54 years ago as an immigrant himself and later as the Deputy Minister of Citizenship and Immigration.