

Welcoming Canadians Home, Embracing Global Opportunities

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Introduction

Thank you for the opportunity to comment on Bill C-6, *An Act to amend the Citizenship Act and to make consequential amendments to another Act*, introduced in February, 2016.

Canadians who take their talents abroad are Canada's best ambassadors. They contribute to commercial, scientific, and humanitarian efforts that benefit Canada and the world.

But in 2009, Bill C-37 came into force with a provision that limits citizenship by descent to the first generation born abroad. For Canadians abroad, this means that their contributions to Canada and the world may come at the expense of their children's or grandchildren's citizenship.

We support the changes proposed in Bill C-6, but ask the committee to amend Bill C-6 to ensure that children born abroad have the same citizenship rights as children born in Canada. Specifically, we ask for the repeal of part I, section 3, subsection 3 of the *Citizenship Act*.

Recognizing Canadians' children as Canadian will relieve a top concern of Canadians abroad, and give every Canadian the assurance that we can seize any opportunity the world offers, and always be welcomed home.

Contributions of Canadians Abroad

Canadians living and working abroad are directly and indirectly responsible for billions of dollars in bilateral trade. They are exceptionally well educated, linguistically adept and culturally bilingual. They are cultural and economic ambassadors for Canada. The more we as a country engage them, the more Canada will prosper.

Thousands of Sons and Daughters of Canadians Lost

By the numbers, how big is this problem?

- 2.8 million Canadians live abroad (DeVoretz)
- The top destinations are the US (1 million), Hong Kong (300,000), and the UK (73,000) (DeVoretz)
- Roughly 50,000 Canadians are born abroad each year (see Appendix A)
- Approximately 4,000 to 57,000 sons and daughters of Canadians have been deprived of citizenship since Bill C-37 came into force (see Appendix B)

Put in perspective, the population of Canadians abroad, when compared to those of provinces, is closest to Alberta. Half live in just three countries, rich with cultural and economic ties, representing the lion's share of international trade with Canada. And just like Canadians at home, Canadians abroad have children whom they love, cherish, and identify as Canadian.

Now imagine a sold out crowd at the Air Canada Centre watching a Toronto Maple Leafs game. Falling midway in our estimate's range, this crowd gives a sense of the number of Canadians' sons and daughters who have been deprived of Canadian citizenship since Bill C-37 came into force. We share one of their stories here.

Daria Erro is 6 years old and lives in Hong Kong. Her two older sisters are Canadian, her mother Andrea Fessler is Canadian, and her grandparents Alfred and Agnes Fessler were Canadian. She loves to visit her mom's home town of Vancouver whenever she can, and she sometimes tells her that she would like to live there when she grows up. But when Daria comes to Canada with her family, she cannot stay for long, and she is never guaranteed entry.

When Daria's grandmother became pregnant with her mother, her grandparents were living in Montreal. Her grandfather was completing a long list of degrees at McGill University, culminating with an MD and a PhD. When the prestigious Weitzmann Institute in Rehovot, Israel, offered her grandfather a two year post-doctoral research fellowship, her grandparents seized the opportunity, and Daria's mother Andrea was born there three months later.

At the fellowship's completion, Daria's grandparents and her now two year old mother moved to Vancouver, where her grandfather became a professor in the Pharmacology Department of the University of British Columbia, putting his experience in Israel to use by training Canadian medical students, who in turn took their expertise as doctors to all parts of Canada. Daria's mother grew up in Vancouver, and went on to attend Carleton University in Ottawa, where she participated in the House of Commons Page Programme and later worked as a Member's Assistant for the Honourable Donald Johnston. After working on Parliament Hill, Daria's mother won a coveted place in the J.D. program at Harvard Law School, moved to the United States to attend, and launched a career as an international lawyer, a career that has taken her around the world.

Because Daria's grandfather participated in a post-doctoral research fellowship in Israel when her mother was born, and because her mother worked as an international lawyer outside Canada when Daria was born, the law deemed Daria unfit to be called Canadian. For the

citizenship umpire, Daria's mother's birth in Israel was the first strike, and Daria's birth abroad was the second -- two strikes, and she was out.

As parents, as citizens, we recoil. As Canadians, we have been taught to believe in opportunity, but also compassion. In the generational limit on citizenship, we find neither.

When we reach out to Canadians abroad, they tell us this is a leading concern. And independent polling confirms this feedback. In a 2010 study in Hong Kong, for example, Canadians held support for equal citizenship rights for children born abroad above support for any other issue polled (DeVoretz and Zhang).

Charter Rights

The Charter of Rights and Freedoms embodies our most cherished values, those that unite us as Canadians. Among those are mobility rights (section 6), the right to leave, and the right to come home; equality rights (section 15), the right to equal treatment under the law; and respect for multicultural heritage (section 27).

But we ask what these rights mean if we cannot leave Canada, have children, and return with a guarantee to bring them home with us, a guarantee provided only with citizenship.

Statelessness and Human Rights

We encourage the committee, when thinking about statelessness and children, to recognize a child's dependency on their parents. The barest minimum compliance with the 1961 Convention on Statelessness would ensure that no person is left without a nationality. But what would this mean for a minor child in a loving family that does not share the child's nationality?

Consistent with the UN Convention on the Rights of the Child and the universal value of family, we urge the committee to recognize that children belong with loving parents, and that as Canadians, the only way we guarantee this family unity is with citizenship for our own children.

We note that regarding statelessness, there are other problematic areas of the *Citizenship Act* and the *Immigration Refugee Protection Act* beyond the scope of our recommendations, but a repeal of part I, section 3, subsection 3 is an important step forward.

Arguments against Equal Citizenship Rights

Some have argued that Canadians abroad pay no taxes and should therefore have fewer citizenship rights, then suggested taxing citizens abroad the same way that the United States does and revoking citizenship if they do not file (Kent). Some go further, and suggest that Canadians abroad are not really citizens in the first place, but instead are “citizens of convenience” (Griffiths).

At different times of our lives, we all pay no taxes: as young children, students, stay at home parents, job seekers, or retirees. We think all Canadians would agree that we are no less Canadian during these intervals.

But on this point, each time a Canadian moves outside of Canada, they must pay a deemed disposition of property tax (Canada Revenue Agency). Many Canadians are familiar with the more common deemed disposition of property that occurs at death, commonly known as the inheritance tax.

In contrast, the United States requires US citizens abroad to file taxes every year. But the United States, like Canada, and indeed all countries that embrace foreign trade and investment, operates first on the principle that income is taxed where it is earned. Thus, while US citizens must file tax returns after they leave the United States, they pay tax where they earn income first, and most owe no US taxes because of offsetting foreign tax credits; in fact, taxes on US citizens abroad account for “as little as 0.2 percent of [US] federal tax revenue” (Bloomberg Editorial Board).

For Canada to tax Canadians abroad like the United States taxes US citizens abroad, Canada would lose deemed disposition of property tax revenue, and would incur a heavy cost to process very complex, but mostly zero liability returns. These costs would be weighed against a reasonable expectation of 0.2% increase in revenue. On balance, switching to a US styled tax of Canadians abroad might very well result in lower net financial gain to the Canadian government.

Reaffirming Canadian Values

To those labeling Canadians born, living, or having lived abroad as “Canadians of convenience,” comparing us to ships that carry “flags of convenience” we say first: we are persons. This phrase is dehumanizing; it is an affront to our identity, our history, our dignity, our charter rights, our human rights, and our shared Canadian values. It has no place in respectful political discourse.

As Canadian parents of Canadian children living in Canada, it pains us to explain to our children how the law sets them apart from their classmates. Because our children were born outside of Canada and not naturalized, they cannot pass on citizenship by descent. In this way, our children’s citizenship affords them fewer rights and freedoms than the citizenship of their classmates who were born or naturalized here.

No one in Canada should live as a second-class citizen. This is not who we are. When we hear, “a Canadian is a Canadian is a Canadian,” we take it as signal that we can look forward to a day when our children will be treated like anyone else. We hope the committee will reaffirm this Canadian value, and make our children whole in the eyes of the law.

Demonstrating Connectedness

This said, we recognize the importance of connectedness as Canadians go out in the world. Thankfully, in today’s increasingly integrated world, we can stay connected to Canadian family, friends, news, and events with the internet or a cell phone. But even so, we acknowledge that Canadians abroad may leave Canada with the intent never to return, or lose their connection over very long periods of time.

This is why we recommend that Canadians born abroad, or their parents (in the case of minors), demonstrate their interest and connectedness to Canada through the citizenship certificate application process. Only after completing the demonstration of interest and connectedness that this formal application affirms, should Canadians born abroad be granted a Canadian passport.

We note from personal experience that for a family with young children, applying for citizenship certificates and then passports can easily cost \$2,000 and span several years. For an average Canadian, these commitments alone make this a very serious undertaking.

Summary of Recommendations

1. Amend Bill C-6 to repeal of part I, section 3, subsection 3 of the *Citizenship Act*.
2. Retain the citizenship certificate application process as a formal means to demonstrate connectedness, interest, and an intent to return to Canada before granting passports to Canadians born abroad.

About the Authors

Randall Emery is Canadian citizen, born in Cape Breton, Nova Scotia. He returned to Canada in 2015 after several years in the United States. Randall lives in Ottawa with his wife and three children, and is a Master's student in the Clayton H. Riddell Graduate Program in Political Management at Carleton University.

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Appendix A – Canadian Births Abroad

The Asia Pacific Foundation has estimated there were 2.8 million Canadians abroad in 2010 (DeVoretz). Statistics Canada has provided a crude birth rate for 2010 varying between 9.4 and 25.2 per 1,000 population, with an overall average of 11.1 births per 1,000 population (Milan). These numbers were highest in provinces with younger populations. Assuming Canadians abroad have children at a rate similar to Canadians at home, between 26,320 and 70,560 and Canadian children were born abroad in 2010.

Further, in a review of Canadians who return from abroad, Statistics Canada also reports:

In 2006, as in previous census years, most returnees were young, with about one-half between the ages of 20 and 39 and three-quarters between the ages of 20 and 49.... The high rate of mobility among younger age groups is typically due to employment or educational opportunities abroad and fewer constraints, like spousal jobs or home ownership. (Frank and Hou)

Given this observation that Canadians who return do so before they become older Canadians abroad, we infer that the Canadian population abroad skews younger than the population in Canada.

Based on this inference, we assume that the birth rate of Canadians abroad to fall between the average birth rate of 11.1 (31,080 births) and highest provincial/territorial birth rate of 25.2 (70,560 births).

While lacking the precision of a detailed study, we present 50,000 as a reasonable approximation of the numbers of Canadians born abroad each year.

Appendix B – The Impact of the Generational Limit Provision

We summarize the outcomes of citizenship certificate applications below, from 2008 through 2015.

	2008	2009	2010	2011	2012	2013	2014	2015
Approved	41,500	75,173	69,714	66,389	45,995	53,633	45,321	55,586
Refused	56	242	626	417	1,526	1,275	291	604
Abandoned or withdrawn	204	291	202	178	175	134	507	769
Total	41,760	75,706	70,542	66,984	47,696	55,042	46,119	56,959

Note: Data for years 2008 and 2009 come from data published in 2014, while data for 2010 through 2015 come from data published in 2016 (Government of Canada).

Bill C-37 came into force on April 17, 2009 (Immigration, Refugees and Citizenship Canada), and the backlog on citizenship certificate applications at the time was 10-14 months (Citizenship and Immigration Canada).

We use 2008, 2009, and half of 2010 (based on the backlog above) as baseline years to get a first look at the numbers before and after Bill C-37 came into force. To do so, we take the average values of 2008 and 2009 and half of 2010 and compare it to half of 2010 and 2011 through 2015. This method yields the before and after Bill C-37 tables below:

Before Bill C-37

	2008	2009	2010 (half)	Average
Approved	41,500	75,173	34,857	60,612
Refused	56	242	313	244
Abandoned or withdrawn	204	291	101	238
Total	41,760	75,706	35,271	61,095

After Bill C-37

	2010 (half)	2011	2012	2013	2014	2015	Average
Approved	34,857	66,389	45,995	53,633	45,321	55,586	53,029
Refused	313	417	1,526	1,275	291	604	770
Abandoned or withdrawn	101	178	175	134	507	769	299
Total	35,271	66,984	47,696	55,042	46,119	56,959	54,098

In comparing averages before and after Bill C-37 came into force, we draw the following conclusions:

- The average number of approved applications dropped by 7,583 per year.
- The average number of refused applications increased by 526 per year.
- The average number of abandoned or withdrawn applications increased by 61 per year.

However, we should also take into account the spike in applications in 2009, 2010, and 2011, which could reasonably attributed to attention around Bill C-37. We therefore use the decrease in approved applications to estimate a maximum impact on of Bill C-37 on Canadians born abroad in the 7 years since it came into force, and exclude it completely to estimate a minimum impact.

We assume the increase in refused, withdrawn and abandoned applications, however, can be attributed solely to the generational limit provision. We do so because the other sections of Bill C-37 allowed more Canadians to reclaim Canadian citizenship.

We calculate the minimum and maximum impact of Bill C-37's generational limit on the people who applied without a successful outcome or would have applied for citizenship, as follows:

Minimum impact = refused increase + withdrawn or abandoned increase * 7 years

= 526/year + 61/year * 7 years = 587/year * 7 years

= 4,109

Maximum impact = approved decrease + refused increase + withdrawn or abandoned increase

$$= 7,583/\text{year} + 526/\text{year} + 61/\text{year} = 8,170/\text{year}$$

$$= 57,190$$

We acknowledge that the assumptions and data underlying these estimates can be improved.

We present these estimates to illustrate the scale of the problem only.

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