

Summary

Canada's recognition of dual citizenship in 1978 followed earlier moves by the United Kingdom and France (among other countries). The forces of globalization validate the wisdom of this policy. Many individuals maintain meaningful connections to more than one state. The global trend toward acknowledging this reality through acceptance of multiple citizenship is both irreversible and salutary. At the same time, it is legitimate for the state to promote civic participation among its members and to encourage citizens to contribute to the social, economic and cultural enrichment of Canada. The role of legal citizenship as an incentive or guarantor of these objectives is important but narrow. Legal rules for acquiring, retaining and transmitting legal status (including multiple citizenship) are intrinsically limited in their capacity to identify, judge and reward "good" members or punish "bad" members.

We survey the sources of popular anxiety around multiple citizenship and focus on two recurrent objections regarding claims by dual citizens outside Canada to legal rights associated with citizenship. The first objection is that because nonresident citizens do not live in Canada, they do not demonstrate the appropriate degree of commitment to Canada. The second is that since nonresident citizens do not pay taxes, they are not entitled to claim the rights of citizenship. We respond to these claims as follows: First, very few legal rights attach to citizenship. Access to public health care, most social benefits and education all depend on provincial residence, not citizenship. Second, Canada already restricts the exercise of the franchise by Canadians abroad more than many other states. Third, consular assistance is, by definition, only sought by citizens abroad. For reasons of principle and practicality, we counsel against discriminating between mono- and dual or multiple citizens for purposes of extending consular assistance in what are often emergency situations. Finally, proposals to require nonresident citizens to pay tax as a precondition to maintaining the rights of citizenship are ill-conceived. The United States is the only country that requires nonresident citizens to pay tax on worldwide income, but in practice the law creates several exceptions to the requirement to pay and is both complicated and expensive to administer. It is not a model to emulate.

Citizenship law amendments in 2009 restrict the future acquisition of Canadian citizenship by descent, and thereby indirectly circumscribe the pool of future dual citizens. In our view, the 2009 amendments do little to advance the objective of ensuring a meaningful connection between Canada and its citizens, and risk creating unnecessary difficulties in a number of personal situations. However, we endorse a clarification to the current law to require three years of physical presence in Canada as a prerequisite for naturalization, which we believe may facilitate the development of a strong commitment to Canada among prospective citizens.