

QP Note

CITIZENSHIP – BIRTH ON SOIL

ISSUE: Following media reports indicating that foreign parents are coming to Canada in order to take advantage of Canada's citizenship by birth on soil policy, the Minister has indicated that Canada's citizenship by birth on soil policy is under review.

PROPOSED RESPONSE:

- **Under current legislation, anyone born on Canadian soil is automatically a Canadian citizen, with the exception of children of foreign diplomats.**
- **This means that children born in Canada to parents on a temporary stay are Canadian. These are citizens with no long-term attachment to Canada, but who have the rights of Canadian citizens and full access to benefits.**
- **Generally, other countries do not give automatic citizenship by birth on soil to those whose parents who are temporarily in their country.**
- **Canadian citizenship is valuable. The government works hard to safeguard the value of Canadian citizenship.**
- **For example, we introduced a first generation limit to citizenship. We also introduced the new citizenship study guide *Discover Canada* and a**

new citizenship test with a greater focus on Canadian history and values.

- **The Government is currently reviewing its policy with regard to citizenship by birth on soil.**
- **The Department is aware of crooked consultants who encourage pregnant women to travel to Canada to give birth, secure Canadian citizenship for their child and gain access to Canada's considerable benefits – all without having a connection to Canada. We condemn this practice.**

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BACKGROUND:

Birth on soil in the media

- In the past few years, several media articles have appeared about the practice of pregnant foreign national women coming to Canada to give birth in Canada so that their children can acquire Canadian citizenship and be eligible for many federal and provincial or territorial benefits and services. There is little data available on the incidence of foreign women travelling to Canada in order to give birth, given that there is currently no requirement to collect such data.
- In March 2012, the Minister publicly indicated that the Government is reviewing its citizenship by birth on soil policy.

Citizenship by birth on soil in Canada

- Restricting birth on soil would involve changes to the *Citizenship Act*.
- Automatic acquisition of citizenship by a child born in Canada to a foreign national parent does not give citizenship or immigration status to the parent. However, once such a child turns 18, they would be eligible to sponsor their parents for immigration to Canada.
- Under the *Immigration and Refugee Protection Act*, a person is not inadmissible nor can they be denied a visa solely on the grounds that they are pregnant or that they may give birth in Canada.

Rationale for reviewing Canada's citizenship by birth on soil in Canada

- Canada's citizenship by birth on soil policy has been in place since the first *Canadian Citizenship Act* in 1947. Migration flows and international travel have significantly changed since then, resulting in more foreign nationals travelling to Canada for temporary purposes.
- There is a lack of a clear rationale for maintaining the policy of automatic citizenship for children whose parents are temporarily in Canada, such as visitors, students or temporary workers.
- Other countries do not extend automatic citizenship in this way, except for the US, which, like Canada, is not in line with international practice in this

area. Australia, New Zealand, and all European countries have moved in recent years to restrict citizenship by birth on soil to deter abuse.

- In other areas of citizenship law, a strong connection to Canada is required:
 - In order to be granted citizenship, an applicant must meet several requirements such as a residence requirement, knowledge of an official language, knowledge of the rights and responsibilities of citizenship, etc.
 - Likewise, since 2009, citizenship by descent is only available to children born outside Canada to a Canadian parent who was born or naturalized in Canada (one generation limit).

Discussions with Provinces and Territories:

- Citizenship is the sole jurisdiction of the federal government. However, the proposed changes to the *Citizenship Act* would impact provincial and territorial processes related to birth certificates and the collection of vital statistics. Other areas may also be impacted, such as access to education and health services.

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BIRTH ON SOIL

ISSUE: Media reports indicate that foreign parents are coming to Canada in order to give birth so that their child will automatically receive Canadian citizenship and the associated benefits.

PROPOSED RESPONSE:

- **The Department is aware of crooked consultants who encourage pregnant women to travel to Canada to give birth, secure Canadian citizenship for their child and gain access to Canada's considerable benefits – all without having a connection to Canada. We condemn this practice.**
- **Misrepresentation, which includes providing false information or withholding information directly related to decisions made under the *Immigration and Refugee Protection Act*, is a form of immigration fraud and it is a crime.**
- **Currently, anyone born on Canadian soil is automatically a Canadian citizen, with the exception of children of foreign diplomats.**
- **Canadian citizenship is incredibly valuable. The government has been working hard to maintain the integrity of the system and to safeguard the value of Canadian citizenship.**
- **The Government is reviewing citizenship policy with regard to this issue.**

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BACKGROUND:

- Over the past few weeks, several media articles have appeared about the practice of pregnant foreign national women coming to Canada for the purpose of giving birth in Canada so their children can acquire Canadian citizenship.
- Some of these articles have suggested that unscrupulous immigration agents abroad may be encouraging foreign national women to come to Canada as visitors to give birth. These cases are referred to as “passport babies” as these Canadian-born children automatically acquire Canadian citizenship and are thereby eligible for many federal and provincial or territorial benefits and services.
- Some articles have reported on the existence of “lodging houses” in Canada intended specifically for foreign national women coming to Canada to give birth.
- Canada is one of the few developed countries that has unrestricted citizenship by birth on soil. Australia, New Zealand, and all European countries have moved in recent years to restrict citizenship by birth on soil to deter abuse.
- Although like Canada, the United States also has unrestricted citizenship by birth on soil, there has been ongoing debate regarding limiting citizenship by birth on soil. However, US “birthright citizenship” is embedded in its Constitution.
- Some of the articles have pointed to a lack of data about the extent of the problem. It is true that there is little data available on the incidence of foreign women travelling to Canada in order to give birth to their child. While Statistics Canada has some data on parents who indicate a permanent address outside Canada, as this is based on self-declaration, it likely under-reports the issue. Provinces and territories have no need to collect information on the immigration status of a child’s parents in the birth registration process. CIC missions don’t see all applicants for a temporary resident visa. However, CIC missions have anecdotal information, which suggests the passport-baby phenomenon is of concern.
- Restricting birth on soil would involve changes to the *Citizenship Act*.
- Some of the articles have suggested that changing the law in this way would have a significant impact on the way all Canadians born in Canada prove their citizenship. Currently, persons born in Canada can use their provincial/territorial birth certificate in order to demonstrate their eligibility for a range of federal, provincial and territorial services. Were Canada’s citizenship by birth on soil law changed such that some individuals born in Canada would no longer be eligible for citizenship, the birth certificate in its current form would no longer be sufficient to prove citizenship.
- Canadian citizenship can be acquired in the following ways:

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- By birth in Canada, regardless of the parents' immigration or citizenship status (except children born in Canada to foreign diplomats);
 - By birth outside Canada to a Canadian parent who was either born in Canada or was granted Canadian citizenship by way of the naturalization process before the birth;
 - By being adopted outside Canada by a Canadian parent who was either born in Canada or was granted Canadian citizenship by way of the naturalization process before the adoption; and
 - By way of the naturalization process (by becoming a permanent resident and subsequently being granted citizenship).
- Automatic acquisition of citizenship by a child born in Canada to a foreign national parent does not give citizenship or immigration status to the parent. However, once such a child turns 18, they would be eligible to sponsor their parents for immigration to Canada.
 - Under the *Immigration and Refugee Protection Act*, a person is not inadmissible nor can they be denied a visa solely on the grounds that they are pregnant or that they may give birth in Canada.

NOTE POUR LA PÉRIODE DE QUESTIONS

Date : 12 mars 2012
Classification :
Organisme : CIC

Note PQ
NAISSANCE EN SOL CANADIEN
OBJET : Selon les médias, des étrangers viennent donner naissance au Canada pour que leur enfant reçoive automatiquement la citoyenneté canadienne et bénéficie des avantages connexes.
RÉPONSE SUGGÉRÉE :
<ul style="list-style-type: none">● Le Ministère sait que des consultants véreux encouragent des femmes enceintes à se rendre au Canada pour donner naissance, garantir à leur enfant la citoyenneté canadienne et jouir ainsi des avantages considérables qu'offre le Canada, même si elles n'ont aucun lien avec notre pays. Nous condamnons cette pratique.● Les fausses déclarations, qui comprennent la présentation de faux renseignements ou la dissimulation d'information influant directement sur une décision en vertu de la <i>Loi sur</i>

l'immigration et la protection des réfugiés, constituent une fraude en matière d'immigration et un crime.

- **Actuellement, toute personne née en sol canadien est automatiquement citoyenne canadienne, sauf les enfants de diplomates étrangers.**
- **La citoyenneté canadienne est extrêmement précieuse. Le gouvernement déploie des efforts considérables pour maintenir l'intégrité du système et pour préserver la valeur de la citoyenneté canadienne.**
- **Le gouvernement examine la politique de citoyenneté en la matière.**

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