TABLE OF CONTENTS

Acknowledgments .................................................................................. iii

INTRODUCTION .......................................................................................... 1

CHAPTER 1 — ACQUISITION OF CITIZENSHIP

1.1 Citizenship by birth ............................................................................. 12

1.1.1 Jus soli (citizenship by birth on the territory) ......................... 13

1.1.1.1 The meaning of “Canada” for the acquisition of citizenship ................................................................. 13

1.1.1.1.2 Persons born on a Canadian ship or plane ............... 14

1.1.1.2 Born in Canada on or after February 15, 1977 .............. 15

1.1.1.3 Born in Canada before February 15, 1977 ............... 15

1.1.1.4 Inapplicability to children of foreign representatives or employees of foreign governments and international organizations .................................................................................. 16

1.1.1.5 Correcting injustices of the past: reacquiring citizenship on the basis of jus soli ...................................................................................... 39

1.1.1.6 Question-debate: reassessing the jus soli principle? ....... 44

1.1.2 Jus sanguinis (citizenship by descent) ....................................... 46

1.1.2.1 Scope of jus sanguinis: born outside Canada through assisted human reproduction ................................................................. 46

1.1.2.2 Born abroad on or after February 15, 1977 ............... 61

1.1.2.3 Born abroad before February 15, 1977 .................... 62

1.1.2.3.1 Already a citizen before February 15, 1977 ............ 62

1.1.2.3.2 Correcting the injustices of the past: reacquiring citizenship on the basis of jus sanguinis ................................. 64

1.1.2.3.2.1 Born abroad between January 1, 1947 and February 14, 1977 ................................................................. 65

1.1.2.3.2.1.1 Born abroad from a foreign mother married to a Canadian father or from an unmarried Canadian mother and not registered or failed to retain citizenship — paragraphs 3 (1) (e), 3 (1) (g) and 3 (1) (h) ................................................................. 65

1.1.2.3.2.1.2 Born abroad from a Canadian mother married to a foreign father — paragraphs 3 (1) (g) and 3 (1) (h) ................. 68

1.1.2.3.2.1.3 Born abroad from a foreign mother and an unmarried Canadian father - paragraphs 3 (1)(g) and 3(1)(h) ................. 80

1.1.2.3.2.2 Born abroad before January 1, 1947 ............... 83
1.1.2.4 Citizenship by descent limited to the first generation .......... 90
1.1.2.4.1 The rule................................................................................................................. 90
1.1.2.4.1.1 Consequences of first generation limit for the second or subsequent generation born outside Canada on or before April 17, 2009 and that was already Canadian citizen on that date.. 92
1.1.2.4.1.2 Consequences of first generation limit for the second or subsequent generation born outside Canada on or before April 17, 2009 and that was not already Canadian citizen on that date. ................................................................................................................. 93
1.1.2.4.2 The exceptions to the first generation rule .................100
1.1.2.4.3 Reasons given for the rule’s adoption and problems encountered during its application ......................................................102
1.1.2.4.3.1 The rational for the rule ..............................................102
1.1.2.4.3.2 The concerns with the rule..........................................103
1.1.2.4.3.2.1 Unequal tranmission of citizenship to children in the same family.........................................................................................103
1.1.2.4.3.2.2 Citizenship/statelessness ............................................103
1.1.2.4.4 Question-debate .............................................................105
1.2 Citizenship by naturalization (acquisition or grant)..............105
1.2.1 From permanent residence to citizenship .............................106
1.2.1.1 Requirements for naturalization.......................................106
1.2.1.1.1 Application for naturalization .......................................108
1.2.1.1.2 Status as permanent resident .........................................109
1.2.1.1.3 Residency requirements ...................................................111
1.2.1.1.3.1 The rule ...........................................................................111
1.2.1.1.3.2 Exceptions to the rule...................................................116
1.2.1.1.3.2.1 Time spent outside Canada in or with the Canadian Armed Forces or as public servant...............................................116
1.2.1.1.3.2.2 Waiver on compassionate grounds for a minor applying under subs. 5(1) of the Act ...................................................118
1.2.1.1.3.3 Question-debate .............................................................118
1.2.1.1.4 Filing under the Income Tax Act .................................118
1.2.1.1.4.1 Question-debate .............................................................119
1.2.1.1.5 Adequate knowledge of Canada and of one official language (only for applicants 18-54 years).................................119
1.2.1.1.5.1 Language requirements ...............................................119
1.2.1.1.5.2 Knowledge requirements .............................................120
1.2.1.1.5.3 Citizenship test...............................................................121
1.2.1.1.5.4 Waiver on compassionate grounds............................127
1.2.1.1.5.5 Question-Debate ............................................................129
1.2.1.2 Prohibitions resulting in citizenship ineligibility ...........130
1.2.1.2.1 Applicant subject of a declaration by the Governor in Council made pursuant to s. 20 of the Act..........................130
1.2.1.2.2 Applicant subject to a removal order .........................132
1.2.1.2.3 Applicant subject to a prohibition under section 22 of the Act ........................................................................133
1.2.1.2.3.1 Permanent bar from applying for citizenship .........136
1.2.1.2.3.2 Temporary bar from applying for citizenship............137
1.2.1.2.3.2.1 Bar for a number of years .....................................137
1.2.1.2.3.2.2 Bar until the end of the prohibition .....................141
1.2.1.2.3.2.3 Question-debate.....................................................142
1.2.1.3 Application process for naturalization............................142
1.2.1.3.1 Application form and submission...............................143
1.2.1.3.2 Incomplete application ...............................................145
1.2.1.3.3 Withdrawal of application........................................146
1.2.1.3.4 Abandoned application...............................................147
1.2.1.3.5 Suspended application ...............................................149
1.2.1.3.6 Decision-making authority ......................................155
1.2.1.3.7 Taking of the Oath.......................................................157
1.2.1.3.7.1 General rule...............................................................157
1.2.1.3.7.2 Exceptions.................................................................159
1.2.1.3.7.3 Prohibitions...............................................................160
1.2.1.3.7.4 Text of the Oath........................................................160
1.2.1.3.7.5 Applicants wearing full or partial face coverings .....171
1.2.1.4 Number of permanent residents who became new citizens (2017-2020) ........................................................................176
1.2.2 From adoption to citizenship — subs. 3 (c.1) and s. 5.1...........177
1.2.2.1 Direct grant of Canadian citizenship to persons born outside Canada and adopted as minors or adults .....................178
1.2.2.2 The application of the first generation rule to citizenship through adoption .............................................................192
1.2.2.3 Immigration process for persons adopted by Canadian parents who cannot pass on citizenship to their children because of the first generation cut-off rule ....................................193
1.2.2.4 Number of adopted persons who became citizens (2017-2020) ................................................................................193
1.2.3 Ministerial discretion to grant citizenship ..........................194
1.2.3.1 Number of applicants granted citizenship under subsection 5(4) (2017-2020).........................................................202
### TABLE OF CONTENTS

1.2.3.2 Extraordinary grant of citizenship is not honorary citizenship................................................................. 202
1.3 Resuming citizenship................................................................................................................. 203
1.4 Citizenship certificate ........................................................................................................... 207
1.4.1 Issuance of citizenship certificate ...................................................................................... 207
1.4.2 Refusal or Cancellation of citizenship certificate .............................................................. 208
1.5 Judicial review on matters of citizenship.............................................................................. 222

## CHAPTER 2 - LOSS OF CITIZENSHIP

2.1 Renunciation of citizenship ................................................................................................. 225
2.1.1 Requirements for renunciation of citizenship and exemptions ........................................ 226
2.1.1.1 Requirements and exemptions under subsection 9(1) of the Act .................................. 226
2.1.1.2 Requirements and exemptions under section 7.1 of the 1993 Regulations ................. 227
2.1.2 Ineligible persons ........................................................................................................ 228
2.1.3 Decision-making process and judicial review ............................................................... 229
2.1.4 Consequences of renunciation .................................................................................... 231
2.1.5 Revocation of renunciation ....................................................................................... 232
2.2 Revocation ..................................................................................................................... 232
2.2.1 Ground for revocation ................................................................................................. 233
2.2.1.1 Revocation for false representation, fraud, or knowingly concealing material circumstances ........................................ 233
2.2.1.1.1 Intent ................................................................................... 234
2.2.1.1.2 Materiality .......................................................................... 245
2.2.1.1.3 Misrepresentation with regard to war crimes or crimes against humanity .............. 248
2.2.1.1.4 Charter challenges ............................................................ 275
2.2.1.1.5 Question-debate ............................................................... 276
2.2.1.2 Other grounds for revocation of citizenship in the recent past .................................... 278
2.2.2 Procedure to revoke citizenship ................................................................................. 279
2.2.2.1 Previous procedure .............................................................................................. 279
2.2.2.2 Current procedure ............................................................................................... 291
2.2.2.2.1 Notice of intent to revoke citizenship and response ........................................... 291
2.2.2.2.2 Decision to revoke by the Minister ............................................... 298
2.2.2.2.3 Declaration to revoke by the Federal Court ..................................................... 302
2.2.2.4 Declaration on both revocation and inadmissibility by the Federal Court ................................................................. 304
2.2.3 Status in Canada after the revocation of citizenship .......... 306
2.2.4 Consequence of revocation of citizenship for a subsequent citizenship application ...................................................... 309
2.2.5 Number of revocations of citizenship and number of cancellations of certificate of citizenship “(2016-2020)” after “citizenship” ........................................................................................................ 310
2.2.6 Question on revocation and statelessness .......................... 310

CHAPTER 3 — RIGHTS AND RESPONSIBILITIES OF CANADIAN CITIZENS

3.1 Responsibilities of Canadian citizens .................................... 312
3.2 Rights of Canadian citizens .................................................. 314
3.2.1 Mobility rights ................................................................. 315
3.2.1.1 Right to remain in Canada ............................................. 317
3.2.1.1.1 A protection against removal .................................... 317
3.2.1.1.2 Limits to the right to remain in Canada: extradition..... .............................................................. 327
3.2.1.1.3 Mobility rights within Canada: the right to remain or the right to move? .............................................. 347
3.2.1.2 The Right to leave Canada ............................................ 367
3.2.1.2.1 Mobility right and passports ................................... 368
3.2.1.2.1.1 Eligibility and procedure to apply for a passport under the Canadian Passport Order (CPO) .................................................. 370
3.2.1.2.1.2 Grounds for refusal, revocation or cancellation of passport under the CPO .................................................. 371
3.2.1.2.1.2.1 Incomplete application or information ............. 373
3.2.1.2.1.2.2 Prevention of, commission of or conviction for a criminal offence .................................................. 373
3.2.1.2.1.2.3.1 Prevention of commission of a terrorism offence, protection of national security of Canada or another state ....... 376
3.2.1.2.1.2.4 Facilitating use of a passport by another person .... 388
3.2.1.2.1.2.5 False information .............................................. 388
3.2.1.2.1.2.6 Debt owed to the Crown ................................... 388
3.2.1.2.1.2.7 Existing passport still valid ................................ 388
3.2.1.2.1.2.8 Loss of citizenship .............................................. 388
3.2.1.2.1.2.9 Children under 16 years of age ......................... 389
3.2.1.2.1.2.10 Grounds for cancellation of passport ............... 389
3.2.1.2.1.3 Procedure for refusal, revocation and cancellation of passport under the *Canadian Passport Order* (CPO) .................. 390
3.2.1.2.1.4 Refusal or suspension of passport under the *Family Orders and Agreements Enforcement Assistance Act* (FOAEAA) ............ 397
3.2.1.2.1.5 Length of time passport services can be refused under the *Canadian Passport Order* ........................................................... 404
3.2.1.2.1.6 Question-debate: the Executive’s power with regard to passport’s refusal and revocation .................................................. 419
3.2.1.2.1.7 Provincial legislation regarding delivery of passport to the Court ........................................................................................................ 420
3.2.1.2.1.8 Order, under the *Criminal Code of Canada*, to deposit a passport ............................................................................................... 421
3.2.1.2.2 Legislation prohibiting citizens from leaving Canada.................. 423
3.2.1.2.2.1 *Emergencies Act* (R.S.C., 1985, c. 22 (4th Supp.)) ........... 423
3.2.1.2.2.2 *Criminal Code*: intent to participate in terrorist activities ........................................................................................................ 424
3.2.1.3 The right to enter Canada ............................................................................................................................... 426
3.2.1.3.1 No right to repatriation ............................................................................................................................... 426
3.2.1.3.2 Obligation on the government not to interfere with the right to enter ........................................................................................................ 440
3.2.1.3.2.1 Denial of an emergency passport........................................ 441
3.2.1.3.2.2 Restrictions affecting Canadian citizens returning to Canada during the COVID-19 pandemic ............................................... 453
3.2.1.3.2.2.1 COVID-19 quarantine and testing requirements...... 455
3.2.1.3.2.2.2 COVID-19 requirements imposed on air carriers...... 461
3.2.1.3.2.3 No right to enter for citizens imprisoned abroad .... 468
3.2.1.4 Consular services for Canadians abroad .................. 481
3.2.1.4.1 Legal Framework for consular services.......................... 484
3.2.1.4.1.1 Agreements with other countries on consular cooperation ........................................................................................................ 484
3.2.1.4.1.2 Agreements with other countries on the transfer of offenders ........................................................................................................ 497
3.2.1.4.1.3 Most relevant Canadian laws ........................................ 498
3.2.1.4.2 Royal prerogative and the power of the executive on foreign affairs matters ............................................................... 499
3.2.1.4.2.1 Request for clemency .................................................... 499
3.2.1.4.2.2 Question-debate: the Royal Prerogative in consular matters ......................................................................................... 508
3.2.2 The right to vote and to stand for election .................. 509
3.2.2.1 Canadian prisoners’ right to vote ........................................ 512
### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2.2.2 Residence and the right to vote for citizens abroad</td>
<td>520</td>
</tr>
<tr>
<td>3.2.2.3 Question-debate</td>
<td>547</td>
</tr>
<tr>
<td>3.2.3 The educational right of the official language minorities</td>
<td>548</td>
</tr>
<tr>
<td>3.2.4 Citizenship preferences and discrimination</td>
<td>591</td>
</tr>
<tr>
<td>3.2.4.1 Citizenship as a prohibited ground of discrimination under the Charter</td>
<td>592</td>
</tr>
<tr>
<td>3.2.4.2 Citizenship as a prohibited ground of discrimination under Human Rights Codes</td>
<td>615</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>619</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>623</td>
</tr>
<tr>
<td>Index</td>
<td>671</td>
</tr>
</tbody>
</table>