

**Submission on
Bill C24 - Strengthening Canadian
Citizenship Act**

Submitted by:

OCASI

Ontario Council of Agencies Serving Immigrants

To:

Standing Committee on Citizenship and Immigration

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Introduction

The Bill was introduced by the federal government on February 6, 2014. The Minister of Citizenship and Immigration has said that Bill is meant to reduce citizenship fraud, increase efficiency of the system and reduce backlogs.

OCASI believes that the Bill is likely to exclude more people from citizenship by making the process more difficult. We are especially concerned that the Bill diminishes the value of Canadian citizenship by treating differently those who have dual citizenship and those who don't, between Canadian born citizens and naturalized citizens, and between immigrants who do not work in the Canadian armed forces and those who do. The Bill gives more power to the Minister to revoke citizenship and reduced judicial oversight.

We are particularly concerned about the impact on racialized immigrants and refugees, and on immigrant and refugee women and children.

This year marks the 100th anniversary of the Komagata Maru and the 75th anniversary of the SS St Louis – a reminder of Canada's history of shamefully racist immigration policies. Changes to the Citizenship Act must work to undo the racist policies of the past by welcoming newcomers, bearing in mind that the majority of new immigrants and refugees today are people who 75 or 100 years ago would have been deliberately excluded from Canada.

About OCASI

OCASI – Ontario Council of Agencies Serving Immigrants is the umbrella organization for the immigrant and refugee-serving sector in Ontario. The Council was formed in 1978 to act as a collective voice for immigrant serving agencies and to coordinate responses to shared needs and concerns. OCASI is a registered charity governed by a volunteer board of directors. We have more than 200 member agencies across Ontario.

Citizenship

The Citizenship Act lays out citizenship rules, and thus defines who is Canadian and who we are as a country. This important legislation must therefore incorporate the following principles:

- a) Respect the principle that all citizens are equal.
- b) Respect the principle that citizenship is a status from which rights derive, and is thus similar to our status as human beings. It is not something that can be lost through bad behaviour.
- c) Be clear about who acquires or loses citizenship. Individuals should have access to a fair hearing before an independent decision-maker.
- d) Invest in nation-building by encouraging and allowing permanent residents to quickly become full participating members of our society.
- e) Ensure that the legislation is consistent with the Best Interests of the Child.
- f) Recognize that some permanent residents face systemic barriers to full participation, including refugees who have suffered persecution and long years of deprivation.

A. Longer periods of residence in Canada before applying

Bill C-24 would require applicants for citizenship to have lived 4 of the last 6 years in Canada, compared to 3 of last 4 years under the current law. It will no longer allow applicants to count time in Canada before becoming a permanent resident.

- The change will result in making people wait longer before they can qualify to apply for citizenship, undermining Canada's stated commitment to integrate newcomers.
- Becoming a citizen is particularly important for refugees who have no other country they can turn to. Until they are citizens, they have a sense of insecurity and face practical problems, such as difficulty travelling without a passport.
- Certain permanent residents will be disproportionately affected, such as refugees and live-in-caregivers. Racialized women are over-represented among live-in caregivers, and many typically endure years of exploitative working conditions. Not being allowed to count time spent working in Canada to qualify for permanent resident status will further disadvantage these individuals.
- Other permanent residents such as those who qualify for Canadian Experience Class, and foreign students will also be disproportionately impacted by this change.

RECOMMENDATION:

1. Keep period of residence to 3 out of last 4 years.
2. Keep the rule allowing applicants to count at least one year in Canada before becoming a Permanent Resident.

B. Intention to reside in Canada

Bill C-24 includes a requirement that applicants for citizenship have an intention to reside in Canada.

- The provision will apply only to naturalized citizens, thus creating a different and less inclusive category. Their mobility rights will be in jeopardy for fear that their citizenship might be revoked for misrepresentation or fraud, while those born in Canada will have the ability to travel freely and pursue education or work opportunities overseas.
- OCASI has heard that a growing number of immigrants return to their country of origin or travel to another country for employment because systemic barriers in the Canadian labour market have made it difficult to find suitable employment here. Many others have returned for a period of time to meet other obligations such as looking after aging parents – a practice that will likely increase as it becomes increasingly difficult to reunite with parents and grandparents in Canada. There is a serious risk that these Canadians would be seen as engaging in misrepresentation or fraud simply because they have to go elsewhere to make a living or to fulfil family obligations.

RECOMMENDATION:

3. Delete this new provision.

C. Language-knowledge requirement

The Bill greatly expands the group of individuals who must meet language and knowledge requirements in order to become citizens of Canada. Under the current law, individuals between the ages of 18 and 54 are required to meet these requirements in order to become Canadian

citizens. Bill C-24 will require applicants between the age of 14 and 64 to pass the citizenship test.

- Older refugees may be able to learn enough English or French to function but may nonetheless have difficulty passing the legislated language test (for which, in some cases, they have to pay).
- The proposed change will also have a disproportionate negative impact on those who come under the family class program, including women who came as sponsored spouses and people who are sponsored as parents and grandparents.
- Older permanent residents must be encouraged and supported in learning one of the official languages and acquiring knowledge about Canada. However given the greater difficulties in learning a new language at an older age and passing tests, expanding the requirements to those up to age 64 will result in excluding a significant number of individuals from citizenship. Older people are generally recognized as vulnerable members of our society. Creating more barriers to citizenship will make them more vulnerable.
- The rationale of extending the test requirements to applicants aged 14-18 is not clear. Youth at this age will be in high school, and must have been in Canadian schools for the past several years. If they do not speak English or French, or know about Canada, the fault surely lies with our schools. Furthermore, with respect to language testing it is not known what proof of language ability will be accepted. The proofs currently accepted will not work for youth: completion of high school or government-funded language classes, and there is no standardized documentation across school boards throughout Canada. The fear is that adolescents will face significant administrative hurdles to prove their language ability (or face the cost of an approved language test - \$175 + tax or more - a cost that may be beyond the capacity of the family). By adding new requirements for youth aged 14-18 we risk producing a new category of youth who have spent most of their formative years in Canada but are denied citizenship, and thus the possibility of participating fully in society.

RECOMMENDATION:

4. Keep language and knowledge test requirements to the existing age group (18-54 years).

D. Fee Increase

The government doubled citizenship application fees as of February 2014. The new fee is \$400 for an adult applicant and \$200 for a child. The government has put forward the notion that the increase is justified since taxpayers should not bear the administrative costs for processing citizenship applications.

- Permanent residents are taxpayers too. The Canadian Government should encourage more immigrants to take up Canadian citizenship, and not set up artificial barriers making it more difficult for permanent residents to become naturalized.
- The additional fees may represent a significant burden, especially for refugees and others who are over-represented among the working poor and those in chronic low-income circumstances. The growing racialization of poverty in Canada is well-documented, and racialized permanent residents are more likely to be negatively impacted by the change.

RECOMMENDATION:

5. Reverse the fee increase for citizenship application

D. New powers to strip citizenship from dual citizens

The Bill proposes new powers for the Minister to strip citizenship from dual citizens in cases of ‘treason’, or ‘terrorism’. The Minister, and in some cases, the Federal Court will be authorized to strip Canadian citizenship because a citizen with dual citizenship has been found guilty of treason or terrorism. That includes convictions outside of Canada. The provision will be applied retroactively.

- Treating dual citizens differently is discriminatory and violates the fundamental principle that all citizens are equal. Citizens should not face different consequences for committing the same crimes. Creating separate rules for dual citizens creates a two-tiered citizenship, with lesser rights for some citizens.
- It is wrong to use citizenship rules to punish people for wrong-doing. The criminal justice system is the appropriate way to deal with crimes. Stripping citizenship is a form of banishment – an outdated practice that is unacceptable in the modern age. Citizenship is a fundamental right and is not something that is earned.
- The provision applies even if the convictions are handed down by countries which do not obey the Rule of Law.
- We know from recent history that people can be wrongly accused of terrorism and subjected to unfair trials. Maher Arar was able to clear his name only after he returned to Canada and won a public inquiry into his case. A citizen who was unfairly convicted abroad and stripped of Canadian citizenship might never have a chance to return to Canada and plead their case in a Canadian court.
- The current predicament of Canadian journalist Mohamed Fahmy in Egypt is a further reminder of how ‘terrorism’ charges can be abused. An Al-Jazeera journalist, Mr Fahmy is facing terrorism-related charges. Although the process is internationally condemned as unjust, a conviction in such a case could, according to the Bill, lead to loss of Canadian citizenship.
- It is not always clear whether a person has another citizenship. The proposed amendment allows Canadian citizenship to be stripped if the Minister has ‘reasonable grounds to believe’ that the person has another citizenship. This could result in people becoming stateless because, contrary to the Minister’s belief, they do not in fact have citizenship in another country.
- These new powers are largely symbolic – it is unlikely many people would be affected. The message being sent however is very strong: the changes say that Canadians are not all equal, and that the loyalty of some citizens is in question. This negative message particularly affects certain Canadians, notably Muslims and Arabs, who have been unfairly and persistently associated with terrorism.

RECOMMENDATION:

6. Remove all new grounds on revocation of citizenship from dual citizens.
7. Remove all new powers given to the Minister of Citizenship and Immigration.

F. Access to Federal Court

The changes proposed in the Bill, especially changes such as new powers to the Minister to revoke citizenship, are significant and wide-ranging. Given the impact of the changes, it is

critical that there should be mechanisms for applicants to challenge decisions that affect them negatively.

- The Bill replaces the automatic right to appeal to the Federal Court with an application for judicial review, with leave from the Court. This will not only limit the access for many applicants to challenge a negative decision, but more importantly, it will reduce the judicial oversight of unreasonable decisions made by the Minister and the citizenship judge.
- The requirement will impose an additional cost, as applicants must hire a lawyer to do the leave application.

RECOMMENDATION:

8. Delete this new provision (i.e. continue to allow applications to the Federal Court for judicial review without a leave requirement).

E. Second generation born abroad

We welcome the measures to address the unfair exclusions from citizenship that have been allowed to go on for decades (“lost Canadians” - pre-1947 cases). However we regret that there are no measures to address the unfair situations created by the 2009 amendments. By denying citizenship to the second generation born abroad, Canada is creating a new set of “lost Canadians” and making some children born to Canadians stateless.

RECOMMENDATION:

9. Restore right to citizenship for second generation born abroad (pre-2009 rules). In the alternative, at least provide right of citizenship for those would be otherwise be stateless.