

House of Commons Select Standing Committee on
Citizenship and Immigration

Public Hearings

Bill C-18, The Citizenship of Canada Act

Submissions of MOSAIC

Submitted February 14, 2003

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Introduction

1. MOSAIC is among the largest organizations in British Columbia helping immigrants and refugees settle into their new Canadian homes. MOSAIC provides community counseling, family counseling, ESL classes, interpretations and translation services, and employment training to its numerous clients. MOSAIC also works with all levels of government to develop settlement and orientation policies and programs for immigrants and refugees.
2. MOSAIC last appeared before this Committee when it made written and oral submissions on Bill C-11, the new Immigration and Refugee Protection Act. It appreciates the opportunity to present its concerns about Bill C-18, the Citizenship Act (*C-18*).
3. As a member of the Canadian Council of Refugees, MOSAIC adopts and supports the Council's submissions on C-18. MOSAIC focuses its submissions on some of the practical consequences that will arise because of the changes to the citizenship regime proposed in C-18.
4. MOSAIC raises five specific concerns about C-18:
 - how the length of time within which a person must reside in Canada before he or she becomes eligible for citizenship is calculated;
 - the arbitrary removal of citizenship from citizens born of parents who acquired citizenship after naturalization;
 - the change from citizenship judges to Commissioners;
 - the vague definition of the circumstances under which the Minister may revoke a person's citizenship; and,
 - the practical consequences of government cutbacks have had on immigrants and refugees' ability to achieve the level of language and social knowledge proficiency required by the Act.

Summary of Recommendations

- delete s. 7(1)(b)(ii) and amend s. 7(1)(b)(i) by inserting the words “protected person, convention refugee, refugee claimant, and temporary resident, if that person was formerly a convention refugee” at the end of that clause
- delete s. 14
- amend s. 21 and other consequential amendments by defining more precisely the kinds of behaviours and actions that the Minister may consider when revoking membership; examples of such behaviours may include international conventions against war crimes, terrorism, and human rights violations
- enhance and protect funding to ensure that all immigrants and refugees, regardless of their ability to pay, have a substantively equal opportunity to receive education and training to meet the language and social knowledge requirements of citizenship

Length of Residency Requirements

5. MOSAIC supports the government's attempt to clarify how it will calculate the length of time that a person must reside in Canada before they can obtain citizenship. The current proposal in C-18 to require a person to reside in Canada 1,095 days in the previous six years is a fairer and more flexible requirement than that which exists in the current Act. However, MOSAIC raises two concerns how the proposed Act recognizes those days.
6. First, C-18 maintains the distinction existing in the current Act between a person who has acquired permanent resident status versus a refugee claimant, temporary resident, or protected person when one calculates the length of time that the claimant has resided in Canada. Specifically, a person is credited for only half a day for each day they are in Canada, up to a maximum of one year. This unprincipled distinction causes practical difficulties for people.
7. For example, the IRB has traditionally taken a long time to decide whether a person is a convention refugee. MOSAIC has dealt with clients who have waited for five years for their claim to be recognized. During this time, refugee claimants in B.C. are only eligible to receive hardship assistance, this is social assistance that is even less than income assistance. They have more limited opportunities to learn English, obtain job training, and work. For the whole period until they become permanent residents, those clients cannot travel in Canada to pursue job or educational opportunities and, they cannot leave Canada except with permission from CIC, or else CIC may deem those clients to have abandoned their claims. Even after those clients obtain their determinations as convention refugees, they can wait years before they obtain their permanent resident status.
8. For all of those years that our clients reside in Canada, they will only receive credit for one year for the entire time that they reside in Canada, even if by that time they will have acquired the language and social skills necessary for citizenship.
9. CIC will have determined a refugee's identity and potential threat to Canada when they grant that person refugee status. The claimant should receive full credit for each day that he or she resides in Canada, including the days that the applicant resides in Canada while they await determination as convention refugees and while they wait for their landed status. MOSAIC submits that crediting refugees, protected persons, and temporary residents with only half a day for every day they are in Canada unfairly penalizes them.
10. Further, no time limit should be placed on the credit that they can receive. Once a person is determined to be a legitimate refugee, then there is no principled reason why that person should not receive full credit for residency. In MOSAIC's example, even though the claimant had resided in Canada for over five years (and most likely more since they had to stay in Canada for years as a convention refugee before they obtain their permanent landed status) the claimant would have to stay still at least an extra 730 days (or two years) to prove their attachment to Canada. This is an absurd result.

11. Second, many of MOSAIC's clients may need to return to their former countries to deal with family, property, or other issues that may require them to be outside of Canada. Our clients wait a long time before they obtain their residency and cannot leave Canada until they obtain such status. However, the Act provides for no explicit exception for certain compelling reasons why a person may want to leave the country, such as traveling for work, an overseas illness that requires a longer convalescence period than expected, or caring for sick relatives.
12. C-18 grants the Minister broad powers to waive some of the residency requirements that a person applying for citizenship if the applicant can demonstrate compassionate grounds. However, such powers are not well defined and MOSAIC submits that they ought to be included in the Act, or at the very least by regulation under s. 7(2) of C-18.

Recommendation:

Delete s. 7(1)(b)(ii) and amend s. 7(1)(b)(i) by inserting the words "protected person, convention refugee, refugee claimant, and temporary resident, if that person was formerly a convention refugee" at the end of that clause.

Statelessness

13. MOSAIC joins the Canadian Council for Refugees in opposing s. 14 of C-18. Under that section, a young person outside of Canada born after February 14, 1977 to parents who acquired citizenship other than by being born in Canada in certain circumstances (“second generation citizens”) may lose their citizenship if they fail to apply to the Minister to retain their citizenship and have resided in Canada for 1,095 days in the previous six years before so applying.
14. This provision will affect most of the children of our current and future clients. As our clients achieve citizenship, some of them will travel outside of Canada for various reasons. Those reasons may include employment, caring for family, or choosing to give birth to children close to overseas family. In those cases, the children born under those circumstances will automatically face the jeopardy of losing their citizenship without notice. The children of those clients may return to Canada to live most of their lives in Canada, but go abroad to pursue post-graduate studies. During that time, many of them will turn 28 and may lose their citizenship automatically without even knowing it!
15. There are no apparent or legitimate government objectives justifying this extreme measure. The purposes of C-18 as defined in s. 3 include a purpose “to require strong attachment to Canada for the reception of citizenship”. Section 14 penalizes those young adults who may have demonstrated an attachment to Canada but who have chosen to live abroad at a certain time in their lives. This is an arbitrary means of ensuring that a person has an attachment to Canada.

Recommendation:

Delete s. 14.

Denial or Revocation of Citizenship

16. C-18 empowers the Minister to deny a person citizenship if they have demonstrated a “flagrant and serious disregard for the principles and values underlying a free and democratic society”. MOSAIC submits that this provision inadequately defines the Minister’s power and provides no standard against which one can evaluate the Minister’s exercise of discretion.
17. The government backgrounder states that the courts have interpreted and defined the meaning of this phrase. This is not entirely true. The courts have not given that phrase any real normative meaning. The courts have not defined any precise behavior a person would engage in to violate those principles. C-18 does not refer specifically to the rights such as the Canadian Charter of Rights and Freedoms, the Canadian Bill of Rights, and other legal and political instruments that define individual rights and freedoms. In short, the Minister could deem a person to be a threat to a “free and democratic” society in many ways.
18. For example, South Africa, a democratic, Commonwealth state, jailed Nelson Mandela for political crimes and participating in the ANC which at the time was labeled by the government as a terrorist organization. The ANC has been accused of numerous other crimes, including those involving violent demonstrations and other acts of sedition. Nelson Mandela is a person whom the Minister could find was a threat to the values and principles of a free and democratic society for his political crimes. Canada recently granted Mr. Mandela honorary citizenship.
19. This example, while extreme, illustrates several problems with the way in which C-18 purports to allow the Minister to protect Canada’s national security. What principles and values are we talking about? What is a free society? What is a democratic society? These are broad concepts that do not define or control the Minister’s discretion and provide little substantive guidance to courts on any potential judicial review

Recommendation:

Amend s. 21 and other consequential amendments by defining more precisely the kinds of behaviours and actions that the Minister may consider when revoking membership. Examples of such behaviours may include international conventions against war crimes, terrorism, and human rights violations.

Knowledge of language and social history

20. The Bill maintains the requirement that citizens have adequate knowledge of one of the official languages of Canada and adequate knowledge of Canada and responsibilities and privileges of citizenship. Two groups are vulnerable to these requirements for reasons beyond their control.
21. Lower income immigrants and refugees attend government-funded programs to learn one of the official languages, to learn about Canada, and to acquire employment skills and knowledge. The ability of these people to acquire such skills is therefore dependent on government funding that may not always be there. Certainly, under the current delegation of responsibility for training immigrants from the federal to the provincial government, immigrants and refugees in B.C. may be in danger of losing further opportunities to pass these tests. In practice, many immigrants and refugees may find it difficult to acquire the necessary skills and knowledge to become citizens no matter how hard they try due to the lack of funding and community support for these programs.
22. Second, seniors and individuals who have come from countries where education systems are failing are particularly at risk of being denied citizenship because they lack the ability, through age or lack of training, to obtain such skills with any reasonable degree of success in a reasonable amount of time.

Recommendation:

The Committee must report to Parliament that funding must be in place to ensure that all immigrants and refugees, regardless of their ability to pay, have a substantively equal opportunity to receive education and training to meet the language and social knowledge requirements of citizenship.

Move to Commissioners

23. C-18 has created the office of the Citizenship Commissioner, and it purports to delegate the authority to preside of citizenship to those individuals rather than through citizenship judges. MOSAIC submits that the government will undermine its purpose of “heighten[ing] the awareness of citizens that the acquisition of citizenship is a significant event worthy of celebration” by removing the judicial quality from citizenship proceedings.
24. The creation of the Citizenship Commissioner removes the appearance that the grant of citizenship is made by an objective, impartial, and fair process. This reinforces the appearance that the government intends to subject the process of granting citizenship to individuals who are more beholden to the government of the day.
25. Many of our clients come from countries where the privileges of citizenship are granted by corrupt politicians and government bureaucrats. There is a greater appearance of justice when such an important status is granted to a person in a judicial process and MOSAIC submits that the grant of citizenship will acquire greater legitimacy in the eyes of many of our clients if a judge rather than a non-judicial Commissioner granted it.

Conclusion

26. MOSAIC applauds the government's attempt to reform the citizenship regime. Respectfully however, the government has reacted to perceived security risks after September 11, 2001 by enacting several provisions in the new Immigration and Refugee Protection Act, and now under C-18 that will impose further hardship on qualified and willing claimants without an appreciable improvement in Canada's security.
27. C-18 focuses so much on ensuring that citizenship claimants have a physical attachment to Canada through extensive residency requirements. The 2001 census confirms that Canada's workforce and economic growth will come from its immigrants, particularly in areas that require skilled workers and professionals. Unprincipled residency requirements will discourage potential immigrants and refugees to choose Canada as their country of choice. Unfortunately, C-18 uses those requirements as the prime determinant of who acquires the privileges to participate fully in Canadian civic life.
28. MOSAIC submits that the Committee should recommend loosening the residency requirements in C-18, refining the discretion that the Minister may use to deny or revoke citizenship, and report to Parliament that Cabinet should allocate further resources towards processing and assisting refugee claimants to help them focus on becoming productive citizens. By employing legislative and administrative reforms, C-18 will help Canada attract and maintain a productive, active, and loyal citizenry.