

Court challenge slams new Citizenship Act as 'anti-Canadian'

Legal advocacy groups launch constitutional challenge Thursday, arguing Bill C-24 creates discriminatory 'two-tier citizenship regime.'

By: **Debra Black** Immigration Reporter, Published on Thu Aug 20 2015

Two legal advocacy groups are launching a constitutional challenge to the Conservative government's new Citizenship Act in federal court, calling it "anti-immigrant, anti-Canadian, anti-democratic, and unconstitutional." Both the B.C. Civil Liberties Association and the Canadian Association of Refugee Lawyers are filing a judicial review application and a statement of claim Thursday arguing that Bill C-24, the Strengthening Canadian Citizenship Act, creates a "two-tier citizenship regime" that discriminates between dual nationals — born here or abroad — and naturalized citizens.

The legal challenge focuses on some key provisions in the act which add an intent to reside in Canada provision before being granted Canadian citizenship, expand the grounds upon which a person can have his or her citizenship revoked and amend the procedures that lead to that revocation.

"This citizenship-stripping law is unjust, legally unsound and violates the core values of equality enshrined in the Charter of Rights and Freedoms," says Toronto lawyer Lorne Waldman, one of the litigators handling the case and a member of the executive of the Canadian Association of Refugee Lawyers.

"With this law the federal government shows a flagrant disregard for these values, and for the basic rights of all Canadians. We are asking the court to strike the law down."

The Minister of Immigration Chris Alexander vigorously defended Bill C-24 both when it was first introduced and as it was debated in Parliament.

The act also introduced a series of sweeping changes, including altering residency requirements for permanent residents to four out of six years before being eligible for citizenship; increasing the fees for applications for citizenship to \$300 a person; expanding the age range for those required to demonstrate language proficiency and a knowledge test to 14-years-old to 64-years-old and streamlining the application process.

At the time of its introduction in February 2014 and beyond there was widespread and vociferous criticism of the bill. And one legal challenge — by Toronto lawyer Rocco Galati and the Constitutional Rights Centre — filed last year has already been dismissed although that decision is being appealed.

"The value of citizenship has never been more widely recognized as it is today, but it only has value because there are rules governing it," Alexander told the Star last year, rejecting the growing criticism and opposition to the act.

"Citizenship of course involves rights and enormous privileges in Canada, but it also, for those of us born here and for naturalized Canadians, involves responsibilities.

"This act reminds us where we come from and why citizenship has value. When we take on the obligations of citizens we're following in the footsteps of millions of people who came here and made outstanding

contributions over centuries. And we're celebrating that diversity, solidifying the order and rule of law we have here."

But according to Waldman, the law doesn't do that at all, but rather creates two classes of citizens, a profoundly unfair process and exposes many Canadians to not only losing their citizenship without due process but also their rights to move and travel out of the country.

Under Bill C-24, which came into effect in June, Canadians could see their citizenship revoked if convicted of certain serious crimes in Canada or abroad — even in countries that do not have due process, according to the statement of claim.

What's more, there is no right to an oral hearing if citizenship is revoked and the decision to revoke citizenship is to be made by government bureaucrats and not a court of law.

The claim also argues that new Canadians — who have become citizens under Bill C-24 — could lose their citizenship if they move abroad for work or school or family because they must sign an intent to reside in Canada when they receive their new citizenship. That requirement was not in effect for new citizens prior to the passing of Bill C-24.

"All Canadian citizens used to have the same citizenship rights, no matter what their origins," says Josh Paterson, executive director of the BCCLA. "Now this new law has divided us into classes of citizens — those who can lose their citizenship and those who can't. Bill C-24 is anti-immigrant, anti-Canadian, and anti-democratic. It undermines — quite literally — what it means to be Canadian."

This is fundamentally an issue of equality, Paterson says in an interview with the Star.

According to the statement of claim, two key sections of the act — the revocation provisions as well as the intent to reside provision — violate fundamental sections of the Canadian Charter of Rights and Freedoms.

The legal arguments of the case focus on the fact the new bill violates the equality rights, mobility rights, the rights to freedom and security of person, due process rights, the right to freedom from cruel and unusual punishment — all freedoms guaranteed to Canadians under the charter, says Paterson.

"It is a constitutional mess," says Paterson. "But for us the bigger point is this creation of second-class citizenship where some Canadians have a less strong citizenship than others and that weakens citizenship for everyone. This for us is a fundamental attack to what it means to be Canadian.

"All Canadians are equal," he adds. "It doesn't matter where we're born. Once you're Canadian you should always be a Canadian. Period. Everybody's citizenship is weakened when we design a system that makes some of us less worthy Canadians than others."

Key Arguments

- I. The suit claims the law violates Section 15 of the Charter, which guarantees equality rights, by discriminating against some Canadians and giving them limited rights because they, their parents or their ancestors were born elsewhere.

CASE 4

2. The suit claims the law violates due process rights, guaranteed under Section 7 of the Charter, because the act leaves citizenship revocation decisions in the hands of Ottawa officials rather than a court of law.
3. The suit alleges that Sections 6 of the Charter is also violated leaving citizens without the right to enter and leave Canada freely because of the intent to reside clause; Section 11 is also breached because under the act citizens can not be punished twice for a crime; and Section 12 is violated because the bill subjects people to cruel and unusual punishment.

<http://www.thestar.com/news/immigration/2015/08/20/court-challenge-slams-new-citizenship-act-as-anti-canadian.html> **SOURCE**