

CANADIAN COUNCIL FOR REFUGEES
Comments to the Standing Committee on Citizenship and Immigration
on Bill C-37 (An Act to amend the Citizenship Act)

11 February 2008

Introduction

The Canadian Council for Refugees (CCR) is an umbrella organization committed to the protection of refugees in Canada and around the world and to the settlement in Canada of refugees and immigrants. About 170 organizations from across Canada are members of the CCR.

The CCR has a longstanding concern about statelessness, and the need for Canada's *Citizenship Act* to reduce the risk of statelessness.

We are very concerned that Bill C-37 introduces changes that will mean that children of Canadian citizens may be born – and remain – stateless. Given this very serious rights issue, we regret that Parliament appears to be rushing through passage of this bill, without properly considering its implications. Bill C-37 seeks to resolve some situations of “lost Canadians” and yet will create a new category of future “lost Canadians”, who as stateless persons will be left in an extreme state of vulnerability.

Statelessness

Canadians need to be concerned that the global problem of statelessness has, if anything, been increasing in recent years. Members of the Canadian Council for Refugees more and more report that there are people in Canada in a legal limbo, because they have no rights here, and as stateless people, they have nowhere else to go to. While the numbers of stateless people in Canada is probably relatively small, many people around the world find themselves in this situation.

The problem of statelessness is recognized internationally and has led to the development of human rights instruments intended to reduce the numbers of cases of statelessness and protect the rights of those who are stateless. The two key instruments are the 1961 Convention on the Reduction of Statelessness, and the 1954 Convention relating to the Status of Stateless Persons.

Although regrettably Canada has not signed the Convention relating to the Status of Stateless Persons, we are signatory to the Convention on the Reduction of Statelessness, and therefore required at a minimum to comply with its obligations. We of course can – and should – go beyond those minimum requirements to avoid creating situations of statelessness.

This is important both for those who will be directly affected by our legislation, and so that the Canadian legislation can serve as a model internationally, as part of efforts to solve the global problem of statelessness.

Bill C-37 and statelessness

In the current *Citizenship Act*, persons who are born abroad to a Canadian citizen parent are Canadian citizens by birth. If they are the second generation born abroad (that is, their Canadian parent is a Canadian citizen by virtue of being born outside Canada to a Canadian citizen parent), they must apply to retain their citizenship before the age of 28 years.

The current provision is problematic because these Canadian citizens may become stateless at 28 years if they do not apply to retain their citizenship or do not meet all the requirements in the law.

Under Bill C-37, the situation is much worse. Children born abroad in the second generation to Canadian citizen parents will not be entitled to Canadian citizenship at birth. If these children are not entitled to some other citizenship, they will be stateless.

In this era of globalization, when so many Canadian citizens are working and studying outside Canada, we can expect this provision to apply to more and more Canadians. It may apply to the children of Canadian citizens who have spent almost all of their lives in Canada, but who happen to be born outside Canada.

Suppose, for example, a Canadian couple are spending a few years working abroad and give birth outside Canada to a baby. The baby – let us call her Anna – is a Canadian citizen through her parents. The family returns to Canada when Anna is six months old and she grows up in Canada. As a young adult she chooses to study abroad and finds herself pregnant. If she gives birth to her child outside Canada, the child is not a Canadian citizen under the terms of Bill C-37. If the baby – let us call her Mariam – happens not to be entitled to any other citizenship, she will be stateless.

Bill C-37 does provide a provision to allow Mariam and others like her to apply for Canadian citizenship if they are stateless (Subsection 4(2)). However, there are a number of conditions that must be met, including the requirement that the stateless child of a Canadian citizen have resided for three or four years preceding the application. This means that the child will have to remain stateless for at least three years. The bill also fails to explain on what basis Mariam would be allowed to enter and live in Canada in order to meet the three-year residency requirement. Even if Anna attempts to sponsor her child as an immigrant under the Family Class, she will face a challenge in finding travel documents for Mariam so that she can travel to Canada – as a stateless person, she is not entitled to any passport.

The Convention on the Reduction of Statelessness, to which Canada is a party, establishes minimum obligations for the granting of citizenship to a child of a citizen who would otherwise be stateless. Bill C-37 has been drafted to comply only with the absolute minimum requirements of the Convention. This is unworthy of Canada.

We note that, for children of citizens born in another territory who would otherwise be stateless, the Convention provides, as the first option, that citizenship be granted “at birth, by operation of law.” This is a simple solution that would ensure that children of Canadian citizens are not born stateless.

Equality of citizenship

The Canadian Council for Refugees holds that it is an important principle that all citizens have equal rights and obligations, without regard to the manner in which they acquired citizenship.

Bill C-37 is therefore disturbing in that it deepens an inequality in terms of the right to pass on citizenship to one's children. If Bill C-37 is passed in its current form, a Canadian citizen who has acquired her citizenship through birth outside Canada does not have the same right to pass on her citizenship to her child as a citizen who is born in Canada or who is naturalized. She must be careful not to give birth outside Canada herself, because her baby will not be a Canadian citizen (and might even be stateless). This applies even if she has lived in Canada all her life apart from the first few months. On the other hand, a citizen by birth in Canada or who came to Canada as an immigrant does not need to worry about, for example, taking a job in another country and having a baby there, since the baby will be a Canadian citizen.

RECOMMENDATIONS

1. Add a provision stating that the Act is to be interpreted in a manner consistent with the principle of reducing statelessness.
2. Delete Subsection 2(2) of the Bill so that second-generation children born abroad are Canadian citizens.
3. In the alternative, amend Subsection 4(2) so that second-generation children born abroad are granted citizenship, by operation of law, if they would otherwise be stateless.