CILA Canadian Immigration Lawyers Association
L'Association Canadienne des Avocats en Immigration ACAI

September 29, 2025

The Honourable Julie Dzerowicz, M.P.
Chair, The Standing Committee on Citizenship and Immigration
Sixth Floor, 131 Queen Street
The House of Commons of Canada
Ottawa, Ontario K1A 0A6

RE: Bill C-3 An Act to amend the Citizenship Act (2025)

Dear Ms. Dzerowicz:

This submission regarding Bill C-3 is written on behalf of the Canadian Immigration Lawyers Association (CILA). CILA was founded in 2020 by a group of leading immigration lawyers to provide a national organization focused exclusively on immigration law. Over 500 Canadian immigration lawyers and law students have joined CILA.

On December 19, 2023, the Ontario Superior Court of Justice issued a landmark ruling, ***Bjorkquist et al. v. Attorney General of Canada***, declaring that the "second-generation cut-off" rule at section 3(3)(a) of the Canadian *Citizenship Act* (the "*Act"*) contravenes sections 6 and 15 of the Charter and is unconstitutional. The ruling specified that after a six-month suspension of the court's decision, section 3(3)(a) of the *Act* will be of no force and effect. The Government of Canada did not appeal the ruling. This suspension has since been extended to November 20, 2025 to permit Parliament to enact Charter-compliant legislation.

The central issue in *Bjorkquist* was the right of Canadian citizens who were born abroad, and who have a substantial connection to Canada, to pass on their citizenship to their children born abroad. Under current legislation, Canadian citizens who were born outside Canada cannot pass on citizenship to their children born abroad, with limited exceptions. The Applicants argued that section (3)(3)(a) of the *Act* conferred second-class citizenship status on those Canadians born abroad who acquire citizenship by descent from their Canadian-born parents. The Court ruled that "the second-generation cut-off create[d] an immutable second-class citizenship for the first generation born abroad."

Section 15 Violation

Section 15(1) of the *Charter* provides that "[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

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The Court determined that section 3(3)(a) created a distinction based on national origin. Canadians born abroad who obtained their citizenship by descent hold a lesser class of citizenship because, unlike Canadian-born and naturalized citizens, (1) they are unable to pass on Canadian citizenship by descent to their children born abroad and (2) they do not have the automatic right to return to Canada to live with their born-abroad children. Additionally, the Court concluded that the burdens of the second-generation cut-off were felt more keenly by women. Women encountered systemic barriers, such as being compelled to relocate to Canada to give birth in order to ensure their child would receive citizenship. This decision significantly impacts a woman's health, physical integrity, employment, travel, and study opportunities, and financial stability in ways not experienced by men.

The Court concluded that the distinction based on national origin perpetuated the disadvantages of the first generation born abroad by reinforcing the negative stereotyping of which they have been subjected, as people who seek to take advantage of the benefits of Canadian citizenship.

Section 6 Violation

Section 6(1) provides that "[e]very citizen of Canada has the right to enter, remain in and leave Canada." The Court held that the second-generation cut-off interfered with the right of first generation born-abroad Canadians to remain in Canada, because it restricted their ability to enter Canada with their dependent children. The second-generation born-abroad children may be able to enter Canada temporarily, but there is no guarantee that these children will receive permanent residence status or Canadian citizenship. The second-generation cut-off unfairly penalizes those individuals who travel abroad for personal, business, or familial reasons and decide to have children while abroad.

RESPONSE BY THE GOVERNMENT

On January 22, 2024, the Federal government announced it would not appeal the ruling of *Bjorkquist*. The Honorable Marc Miller, then Minister of IRCC, stated that "this law, as it currently stands, has had unacceptable consequences for Canadians whose children were born outside the country. For this reason, we will not appeal the ruling."

To remedy the constitutional violation, Bill C-3 was introduced. C-3 will confer citizenship on any person born before the coming into force of the Act who would be a citizen but for the first generation limit. Going forward, C-3 establishes a "substantial connection test" which allows a Canadian parent born abroad, who has a substantial connection to Canada, to pass on citizenship to their children born outside Canada. Substantial connection is defined in the legislation as 1,095 days of cumulative presence before the birth or adoption.

ANALYSIS

The Charter violations articulated by Justice Jasmine Akbarali in *Bjorkquist* must be addressed and rectified promptly. Canadian citizenship embodies opportunity, diversity, multiculturalism, and freedom. It provides a lifelong connection to Canada, and advantages such as universal healthcare, voting rights, access to quality

education, and the ability to travel freely on a Canadian passport. The current legislation has unacceptable consequences and confers a second-class citizenship status on those Canadians born abroad who acquire citizenship by descent from their Canadian-born parents.

Bill C-3 provides essential revisions to the outdated clauses of the *Act*. C-3 takes an important step forward by removing the second-generation cut-off, ensuring that citizenship can be more fairly acquired by those born abroad. This change affirms that citizenship, a vital aspect of personal identity, is no longer dictated by factors outside a person's control, such as birthplace. Additionally, the removal of the second-generation cut-off addresses the long-standing gender discrimination created by previous legislation. By eliminating the imposed distinction regarding the birthplace of the child, Bill C-3 lifts the unjust and discriminatory burden on women, promoting greater equality and fairness.

Bill C-3 restores citizenship to a significant number of people who have been unfairly excluded despite having a genuine connection to Canada. It is estimated that there are four million Canadians living outside of Canada,[1] about half of whom are citizens by descent. Despite their strong ties to Canada, these individuals are faced with unnecessary complications when returning to Canada with their non-Canadian children. Under current legislation, the Canadian citizen's children are required to undergo lengthy and burdensome standard immigration processes to enter Canada. Bill C-3 seeks to address and correct this inequity.

The family unit with Canadian parents and non-Canadian children encounters obstacles relating to travel, safety, and family unification. To avoid second-class citizenship status, the born-abroad Canadian citizen mother must make the decision to return to Canada for the child's birth, often without Canadian health coverage, at the risk of her health, career, studies, or personal development.

Bill C-3 effectively addresses these and other inequities experienced by "Lost Canadians" and cures the Charter violations stemming from gender discrimination, racial discrimination, marital status, and other outdated provisions of previous citizenship legislation.

Going forward, Bill C-3 replaces the second-generation cut-off rule with a reasonable "substantial connection" test. This test is similar to the Canadian citizenship requirement for permanent residents. The United States, the United Kingdom, and Australia have long applied similar substantial connection tests for acquisition of citizen by descent. These precedents suggest that adopting such a framework in Canada is unlikely to encounter significant problems.

[1] Julien Berard-Chagnon and Lorena Canon, The Canadian diaspora: Estimating the number of Canadian citizens who live abroad, April 13, 2022, https://www150.statcan.gc.ca/n1/pub/91f0015m/91f0015m2022001-eng.htm .

HOW CANADA WILL BENEFIT FROM C-3

CILA members have for years handled many applications for recognition of citizenship by descent, known as applications for Proof of Citizenship. These have included first generation applications, as well as second generation applications that fall under exceptions to the first-generation cutoff (primarily persons who were already citizens prior to April 17, 2009). Since April 2025, our members have filed numerous applications for grants of citizenship under the government's Expanded Interim Measure. This program was implemented to provide grants of citizenship under subsection 5(4) of the current Act to persons impacted by the first-generation limit, and who would become citizens under Bill C-3.

Through this work, our members have gained an important reservoir of knowledge regarding persons born outside Canada who have a claim to citizenship by descent. In the vast majority of cases, these persons are motivated by strong family and cultural ties to Canada, as well as respect for Canada's well-deserved reputation as a free, tolerant, inclusive, and supportive society. In many cases, applicants have no immediate plans to move to Canada, much less to take unfair advantage of Canada's social safety net. Rather, they are motivated by a life-long identification with Canadian values, and a heartfelt desire to be a real part of the Canadian family. Time and again, our clients comment, when they receive their citizenship certificate, "Mom [or Dad or Grandma] would be so proud to know that I am now a Canadian citizen." Others state "I have always felt I was Canadian; now I really am."

Our members have observed that a many persons seeking recognition of their citizenship by descent are persons that have distinguished themselves in fields such as the arts, education, science, and business. Many have higher degrees such as PhDs or professional degrees. Of those applicants who do move to Canada, or are considering doing so, most if not all express a strong desire to contribute from their fields of expertise, to give back to a country that meant so much to themselves, their parents and grandparents.

Finally, we note that the availability of the "Interim Measure for persons impacted by the First Generation Limit," which mimics the provisions of C-3, has *not* had a negative impact on the processing of ordinary first-generation proof applications at the Sydney Case Processing Center. These applications continue to be processed in most cases in a matter of a few months or less. While interest in the Interim Measure is high, members report that the actual number of applications is an incremental increase from previous levels, not an overwhelming flood. Merely because persons *can* trace their lineage to a person born in Canada does not mean they *will* go to the time, trouble and expense of a citizenship application without good reason to do.

ESTABLISHING EQUAL RIGHTS FOR ADOPTED CHILDREN

While we are in general support of C-3, we urge the Committee to amend C-3 to address the rights of adopted children. In all cases, the natural born children of Canadian citizens, as well as all other children who acquire their parent-child relationship at birth, are rightly considered Canadian citizens from birth. This is true even of "lost Canadians" who did not legally acquire their status as Canadian citizens until many years after their birth, by reason of the deeming provisions of subsection 3(7). However, adopted children are Canadian citizens only

upon approval of grant applications, following a lengthy and complicated two-step process.

Some adopted children, including those adopted outside Canada by Canadian citizens living outside Canada, may not apply for citizenship until later in life, when they may have children of their own. Unlike the biological children of Canadian citizens, these adopted children cannot pass on their citizenship to their own children, because they were not citizens when their children were born.

Section 4 of Bill C-3 correctly places adoptive parents born outside Canada and impacted by the first generation limit on par with similarly situated biological parents born outside Canada, but only with respect to establishing their own citizenship. The disparity in the effective date of their children's citizenship is not addressed. **We recommend addition of a new subsection 5(7) of the current Act reading as follows: "All adopted persons granted citizenship under any of the subsections (1) to (3) shall be deemed citizens from birth."**

CONCLUSION

Bill C-3 represents a significant step towards rectifying the historical inequities in Canadian citizenship laws. It effectively addresses the injustices of gender discrimination, national origin discrimination, unconstitutional travel restrictions, and many other burdens faced by persons who are Canadian in reality but not in law. Implementation of Bill C-3 will benefit rather than burden Canadian society. For all these reasons we urge the Committee to approve C-3 as currently drafted, with the addition of new language to specify that children adopted by Canadian citizens shall be deemed Canadian citizens from birth.

Yours sincerely,

Canadian Immigration Lawyers Association