

CARL LITIGATION COMMITTEE

TERMS OF REFERENCE

Goal

The goal of the Litigation Committee is to seek litigation opportunities to encourage development in the law towards better protection of the human rights of refugees, as well as immigrants and other non-citizens.

Activities

The committee can consider:

- encouraging and/or supporting strategic litigation
- engaging in litigation as a party or a public interest party
- intervening at the Supreme Court of Canada and other jurisdictions, whether individually or jointly with other organizations
- launching or participating in complaints or petitions to international human rights bodies
- participating in ad hoc coalitions or partnerships with other like-minded organizations on specific litigation projects

Committee membership

The Litigation Committee is made up of:

- Two chairpersons appointed by the Executive. At least one chairperson must be a Member of the Executive Committee
- Other individuals invited by the chairpersons, in consultation with the Executive Committee, according to the following criteria:
 - Candidates must:
 1. Be members in good standing of CARL.
 2. Support the policies of CARL and be committed to furthering respect for the rights of refugees and immigrants.
 3. Have a law degree and at least 5 years of litigation experience (exceptions may be made for academics with refugee law specialties).
 4. Have experience in Canadian refugee and/or constitutional law that can be useful to the Committee.
 5. Have relevant experience in public interest and/or test case litigation.
 6. Be willing and available to give input on strategic decisions regarding litigation and on draft memoranda.
 7. Not have other involvements that would create a fundamental conflict of interest (Committee members may of course declare a conflict of interest in individual cases where necessary)

- Priority consideration will be given to contributions that candidates can make to committee work, but we will also seek regional representation and inclusion of persons active within the sphere of refugee rights advocacy.
- At least at quarter must be able to read French.
- In addition, members of the Executive Committee are entitled to participate in the work of the Litigation Committee as full members during the course of their term on the executive committee.

Decision-making process:

Before engaging in any of the activities above, the Chairs of the committee should, where feasible, seek input from the Committee membership. New activities or projects require in-principle approval from the CARL executive.

The Chairs shall create small task forces of a few Committee members who are willing to actively participate in decision-making and give instructions and/or leadership to specific projects or litigation activities. The broader committee shall be asked for input on relevant matters.

Consensus shall be determined by the absence of expressed objections.

Members who have not participated in the previous year will be asked if they wish to continue to be part of the committee and if no response, they will be deemed to no longer be members. The Chairs may, at their discretion and with approval of the executive, suspend or revoke the membership in the Committee of any person.

The Chairs of the litigation committee will make a recommendation to the Executive committee on who to retain as counsel, taking into account such factors as expertise and public interest litigation experience. CARL committee members shall be given first consideration to represent CARL in litigation activities, where they have appropriate expertise. The Executive committee shall have final authority to decide on representation.

Criteria for legal actions:

The committee will give priority to a matter which encompasses some or all of the following elements:

- CARL has a unique perspective on the matter which would otherwise not be heard.
- The matter raises an important issue of refugee law
- The matter raises an important legal issue which will or could have a significant impact on refugees
- The matter raises an important issue with an international human rights component.
- The matter raises an issue which will have a significant impact on the lives of a large number of refugees and immigrants or other non-citizens.
- The Committee is able to recruit counsel to represent CARL. In relevant cases before the Supreme Court, CARL will actively seek counsel.