

# THE CARL QUARTERLY



**Canadian Association of Refugee Lawyers**  
Association canadienne des avocats et avocates en droit des réfugiés

**VOLUME 2 ISSUE 2**  
**SEPTEMBER 2014**

## *In this Issue:*

CARL's 7th National Conference.....	1
CARL Advocacy.....	2
CARL Student Corner.....	3
CARL in the Courts.....	4-7
Decision Report: Refugee Health Cuts.....	4-5
Decision Report: <i>Harkat</i> .....	5
Decision Report: <i>Huruglica</i> .....	6
FEATURE: CARL & Bill C-24.....	7-12
<i>"Strengthening Canada's Citizenship Act":</i> <i>Another Misnomer.....</i>	7
From Counsel's Perspective: Lobat Sadrehashmi.....	8
<i>Backwards: Canada's New Citizenship Act</i> <i>embraces our shameful past.....</i>	9-12
CARL in the Media.....	13-14
A Special Thank You. ....	14
Announcements .....	15

## Seventh Annual Conference & Fourth National AGM

CARL's 7th national Conference and 4th National Annual General Meeting takes place on **Thursday, October 16, 2014**, joining together CARL members by video-conferencing between Montreal, Ottawa, Toronto and Vancouver. Local workshops will take place in Ottawa and Toronto from 9:00-10:15 EDT . Please visit our website for the most up-to-date agenda: <http://carl-acaadr.ca/conferences>.

*Early Bird rates apply to registration received on or before October 1, 2014*

## FEATURE:

### CARL & Bill C-24

*Featuring articles by:*

*Tess Acton & Jennifer Smith*  
*Amy Kishek & Claire Tempier*

*See pages 7 -12 for details.*



If you have a question about something in this newsletter or would like to get involved with our team, write to [info@carl-acaadr.ca](mailto:info@carl-acaadr.ca) with "Newsletter" in the subject line.

#### Editorial Committee:

Stephanie MacIntosh  
Emily Bates  
Michelle Carlesimo

#### Translator:

Raphaëlle Ferland

# CARL Advocacy

## The Demonstration before the Decision: Annual Report on the Third Annual National Day of Action against Cuts to Refugee Health Care

By Joanna Berry

Monday June 16th, 2014: CARL members once again joined Canadian Doctors for Refugee Care (CDRC) and other migrant rights advocates at 16 sites across Canada for the third annual Day of Action against Cuts to Refugee Health Care (National Day of Action). The Federal Court had yet to release its decision in *Canadian Doctors for Refugee Care v Canada (AG)*. National Day of Action spokespersons emphasized: whatever the case outcome, we will continue the fight until Interim Federal Health Program (IFHP) cuts are reversed.

More than two years had passed since then Minister of Immigration, the Honourable Jason Kenney, announced significant changes to the Interim Federal Health Program (IFHP), which provides temporary healthcare coverage to protected persons not covered under provincial, territorial or private health insurance plans. The changes included a restriction on health coverage for certain refugees and refugee claimants whose health conditions are deemed to not pose a risk to public health and safety, or are deemed 'not urgent'.

IFHP cuts have had a devastating impact on the wellbeing of those counted among the most vulnerable members of Canadian society. And although the cuts have been universally condemned by provincial health ministers, only some provincial governments have instituted stopgap coverage. For instance, on January 1st, 2014, the Ontario Ministry of Health launched its Temporary Health Program (OTHP) for refugee claimants. CDRC recently reported that the federal government is interfering with the OTHP's administration by creating unnecessary 'red tape'.

National Day of Action spokespersons emphasized the callousness and incongruity of such government actions. In Toronto, Dr. Tatiana Friere-Lizama, a Toronto-based

specialist in maternal-fetal medicine, stated the following:

Mr. Harper, why are presenting yourself on the international stage as a champion of health for women and children? Just last month you were hosting a global summit on maternal health, while here in your own country you denied some pregnant women coverage for needed medical care and medications. Which is it? Are you a champion for maternal health, or aren't you?

[...]

No matter what this government tells us, we will not be convinced that caring for the sick and helping pregnant women to have healthy babies is somehow 'irresponsible'. I refuse to believe that Canadians would want their healthcare professionals to deny medical assistance to those who need it. I do not question the legitimacy of people who seek safety in Canada. I question the legitimacy of our federal government when it denies basic human rights...

At the Ottawa demonstration, CARL's own Peter Showler outlined the legal grounds for CARL and CDRC's court challenge to the IFHP cuts. Meanwhile, CARL uOttawa students and medical students sought out the Members of Parliament in the crowd to deliver petitions advocating for the reinstatement of full IFHP coverage.

The third National Day of Action succeeded in raising public awareness of the IFHP cuts' grievous consequences, setting the stage for the favourable Federal Court decision that followed soon after. This initiative demonstrates that a great deal can be accomplished when Canadian doctors and lawyers join forces.

# Student Corner

CARL would like to send a huge thank you our outgoing National Student Coordinators: **Michelle Carlesimo and Anna Du Vent** for their time and energy throughout the 2013-2014 year. In addition to coordinating all communications between the CARL Student Chapters across Canada, Michelle and Anna published CARL's first Student Start-Up Manual in order to assist future student groups wishing to set up a local CARL university chapter.

CARL would also like to welcome **Joanna Berry** as the new lead National Student Coordinator for the 2014-2015 year. CARL is still accepting applications for another National Student Coordinator. Please see below for details.

## CALL FOR APPLICATIONS: CARL National Student Coordinator

**Role:** ONE National Student Coordinator (NSC).

**Mandate:** The NSCs promote active student engagement in CARL. Their three primary objectives are:

- 1) Serving as a link between CARL Student Chapters and CARL National** (Executive and Committees) by communicating student views, ideas, and needs to CARL National and its members in each city, and communicating CARL National projects, opportunities, and requests for action to the Student Chapters.
- 2) Promoting the establishment and growth of CARL Student Chapters** at universities across Canada by providing information and support.
- 3) Facilitating CARL Student Chapter communications and coordination**, for example via periodic conference calls between chapter leaders.

CARL is seeking a student/ articling student CARL member to serve as one of two National Student Coordinators for 2014-2015. This individual should have experience working with a CARL Student Chapter and a strong knowledge foundation in CARL's area of work. Other assets for this position include:

- Substantive experience in refugee law, whether through research, advocacy, education, or another channel;
- Experience in a coordinating or management role, with ability to motivate and encourage collaboration toward shared goals;
- Strong organizational and time management skills;
- Strong written and oral communication skills;
- Strong interpersonal skills giving the candidate the ability to work effectively with various groups, including students, lawyers, and various sector experts;
- Proven ability to work independently and take initiative in carrying out complex projects from conception to completion; and
- Proficiency in French is an asset.

The NSCs have primary responsibility for fulfilling the mandate above. In doing so, duties will include (but are not limited to):

- Serving as a conduit liaison between CARL National and Student Chapters in order to relay information, coordinate project distribution, and proactively plan for student engagement;
- Organizing and carrying out conference calls and other coordinating activities between student representatives from CARL Student Chapters across Canada;
- Providing support for new student chapters, for example through updating and distributing the existing Student Chapter Start-up Guide and by developing other resources as necessary ; and
- Reporting on student activities at bi-annual CARL National Conferences.

**Please note that this is a volunteer position. To be considered for the position, please send an expression of interest addressing how your skills would meet this role to [membership@carl-acadr.ca](mailto:membership@carl-acadr.ca) by OCTOBER 8, 2014.**

# CARL in the Courts

## *Decision Report: Federal Court Strikes Down Refugee Health Cuts*

### Press Release - July 4, 2014

Canadian Doctors for Refugee Care (CDRC), the Canadian Association of Refugee Lawyers (CARL), and Justice for Children and Youth (JFCY) welcome the Federal Court judgment released today in CDRC CARL, JFCY, Rodrigues and Ayubi v. Canada. The decision declares the federal government cuts to the Interim Federal Health Program (IFHP) unlawful and unconstitutional. The cuts are not merely wrong, they constitute cruel and unusual treatment, and outrage standards of decency and shock the conscience of Canadians.

The IFHP has been in existence since 1957 and is administered by Citizenship and Immigration Canada. The program previously paid for basic health care for refugee claimants until they left Canada or became eligible for provincial health care. Without notice or consultation, the federal government abolished the program in June 2012, and replaced it with a program that denies basic, emergency, and life-saving medical care to thousands of refugee claimants who have lawfully sought Canada's protection. Even where provinces such as Ontario have attempted to fill the gap, the federal government persists in obstructing their efforts. CDRC, CARL, and JFCY, together with two individual patients who were severely impacted by the cuts, challenged the legality of the IFHP cuts before the Federal Court of Canada.

"With today's decision, the Federal Court has recognized that the government's cuts to refugee health care violate the fundamental rights enshrined in the Charter of Rights and Freedoms, without any lawful justification", said Lorne Waldman, president of CARL and lead counsel on the case. "This decision gives life to Canada's commitment to protect refugee rights. It sends a clear message to government that it cannot abdicate its responsibility to meet the most basic health care needs of vulnerable refugees and refugee claimants".

"The impact of the federal Conservative Government's cuts has been devastating," said Dr. Philip Berger, a founding member of CDRC and Medical Director, Inner City Health Program at St. Michael's Hospital. "For more than two years now, doctors across Canada have seen these cuts place the pregnancies of refugee women at serious risk, cause denial of treatment for sick children, and deprive refugees with cancer of coverage for chemotherapy. We are pleased to see the Federal Court put an end to this unwarranted suffering."

"We applaud the court for recognizing and upholding Canada's commitment to the lives and health of children in our communities; and as a signatory to the UN Convention on the Rights of the Child, the Court has recognized the need to protect and provide for the specialized needs of some of the most vulnerable children in Canada", added Emily Chan, counsel for JFCY.

The Federal Court ruled that the executive intentionally targeted poor and vulnerable refugees and refugee claimants "for the express purpose of inflicting predictable and preventable physical and psychological suffering on many of those seeking the protection of Canada (para. 587). Noting that the "cruelty of the 2012 changes to the IFHP is not limited to children" (para. 670), the judge nevertheless specifically highlighted the impact of the cuts on children, noting that the government's actions "potentially jeopardize the health, and indeed the very lives, of these innocent and vulnerable children in a manner that shocks the conscience and outrages our standards of decency They violate section 12 of the Charter" (para. 1080). The Court also emphasized that there is "no reliable evidence before this court" that the cuts to the IFHP would result in predicted cost savings to the federal government. To the contrary, there was evidence that some of the cost of medical services previously covered under the IFHP "has now simply been downloaded to the provinces" (para. 1012).

# CARL in the Courts

“This decision is a victory for human rights, for human dignity, and for compassion”, said Audrey Macklin, Professor and Chair in Human Rights Law at the University of Toronto, and executive member of CARL. “The decision makes clear that a government cannot deliberately subject human beings to physical and emotional suffering as a means of punishing them for seeking refugee protection. Asking for refugee protection is not a crime. Today’s judgment is consistent with the Charter of Rights and Freedoms, Canada’s international legal commitments, and the values that make us proud to be Canadian.”



## *Decision Report: Canada (Citizenship and Immigration) v Harkat, 2014 SCC 37*

### By Sam Santos

On May 14, 2014, the Supreme Court of Canada (“SCC”) upheld the constitutionality of Canada’s revised security certificate regime. A security certificate allows the government to detain and deport non-citizens alleged to be threats to national security without disclosing all evidence against them. In their reasons, the SCC acknowledged the difficulty in balancing the protection of national security information with ensuring a fair judicial process for individuals.

Writing for a unanimous court, McLachlin, CJC, noted that while the current regime is not perfect, it meets the requirements of procedural fairness guaranteed by s.7 of the Charter. The SCC ruled that the revised security certificate provisions do not violate a named individual’s “right to know and meet the case against him, or the right to have a decision made on the facts and the law.”

Although the decision upheld the current security certificate regime, the SCC offered guiding principles to ensure future cases are conducted under a fair process. The SCC identified the “crucial ingredient” to ensuring

fairness is the designated judge, who is meant to act as “interventionist” and “gatekeeper”. The SCC acknowledged the broad discretionary powers granted to the designated judge including: ensuring the named individual receives sufficient disclosure to instruct their counsel, monitoring the reliability of evidence admitted, and authorizing the appropriate amount of communication between the special advocates and the named individual and/or third parties.

Security certificates were issued against Mr. Harkat in 2002 and 2007, declaring him inadmissible to Canada on national security grounds. It was alleged that Mr. Harkat entered Canada as a “sleeper agent” for terrorist organizations.

With this decision, Mr. Harkat faces deportation to his native country, Algeria, where the SCC acknowledges Mr. Harkat may be at risk of torture or death. The constitutionality of deportation under the security regime where such risks exist has not yet been decided.



# CARL in the Courts

## *Decision Report: Huruglica, et al, vs Canada (Minister of Citizenship and Immigration), 2014 FC 799.*

### Federal Court Ruling On Refugee Appeal Welcomed

Press Release - August 25, 2014

The Canadian Association of Refugee Lawyers (CARL) and Canadian Council for Refugees (CCR) welcome the recent Federal Court decision clarifying that the refugee appeal is a full appeal on the merits. The two organizations intervened jointly in the case (*Huruglica, et al, vs Canada (Minister of Citizenship and Immigration), 2014 FC 799, IMM-6362-13*).

In a detailed and carefully reasoned decision, the Court ruled that the law requires the Refugee Appeal Division (RAD) to conduct its own independent assessment of the refugee claim. The Court found that this was the intention of Parliament in passing the law. As then Minister of Citizenship and Immigration Jason Kenney said in the House about the bill enacting the RAD: "It would create for the first time a full and fact-based appeal at the refugee appeal division." The decision from the Federal Court gives effect to this purpose of the bill.

Having a full appeal on the merits is critical for refugee rights: an error at the first instance that goes uncorrected can mean that a refugee is sent back to face persecution or even death.

Refugee advocates in Canada, led by the CCR, have advocated for an appeal on the merits for refugee claimants since the 1980s. A refugee appeal was finally included in the Immigration and Refugee Protection Act in 2002, but the provisions were not implemented for a decade. After the refugee appeal was finally put in place in 2012, refugee advocates were dismayed to find the Refugee Appeal Division narrowly interpreting its role as requiring only limited supervision, rather than a full appeal on the merits. The Court's judgment is an important correction to the Refugee Appeal Division's mistaken interpretation of its purpose and jurisdiction.

### La Décision De La Cour Fédérale Sur L'appel Des Réfugiés Accueillie Favorablement

L' Association canadienne des avocats et avocates en droit des réfugiés (CARL-ACAADR) et le Conseil canadien pour les réfugiés (CCR) se félicitent de la récente décision de la Cour fédérale précisant que l'appel des réfugiés est un véritable appel sur le fond. Les deux organisations sont intervenues conjointement dans l'affaire (*Huruglica, et al, c. Canada (ministre de la Citoyenneté et de l'Immigration), 2014 FC 799, IMM-6362-13*).

Dans une décision détaillée et soigneusement motivée, la Cour juge que la loi exige de la Section d'appel des réfugiés de procéder à un examen indépendant de la demande d'asile. La Cour estime que c'était là l'intention du législateur en adoptant la loi. Comme a déclaré à la Chambre le ministre de la Citoyenneté et de l'Immigration de l'époque, Jason Kenney : « Nous sommes le premier gouvernement à avoir créé un véritable appel fondé sur l'établissement des faits. » La décision de la Cour fédérale donne effet à cet objectif du projet de loi.

Le fait d'avoir accès à un véritable appel sur le fond est essentiel pour les droits des réfugiés : une erreur lors de la première instance qui n'est pas corrigée peut entraîner le refoulement d'un réfugié vers la persécution, voire la mort.

Les défenseurs des réfugiés au Canada, et notamment le CCR, ont plaidé en faveur d'un appel sur le fond pour les demandeurs d'asile depuis les années 1980. Un appel des réfugiés a finalement été prévu par la Loi sur l'immigration et la protection des réfugiés de 2002, mais pendant une décennie les dispositions pertinentes n'ont pas été mises en œuvre. Quand l'appel des réfugiés a enfin été mis en place en 2012, les défenseurs des réfugiés ont été consternés de constater que la Section d'appel des réfugiés appliquait une interprétation étroite de son rôle comme ne nécessitant qu'une supervision limitée, plutôt qu'un véritable appel sur le fond. L'arrêt de la Cour corrige l'interprétation erronée donnée par la Section d'appel des réfugiés à son mandat et sa compétence.

# FEATURE: CARL & Bill C-24

## “Strengthening Canada’s Citizenship Act”: Another Misnomer

*By: Tess Acton & Jennifer Smith*

Bill C-24 (“Strengthening Canada’s Citizenship Act”) received Royal Assent on June 19, 2014, bringing sweeping changes to Canada’s Citizenship Act. The ostensible purpose of these changes is to “update eligibility requirements for Canadian citizenship, strengthen security and fraud provisions and amend provisions governing the processing of applications and the review of decisions.” The reality is that the changes make citizenship harder to get and easier to lose. Among the changes are a number of troublesome amendments, which include:

- Extending the residency requirement from three of four years to four of six years;
- Tripling of application fees;
- Removing the right to an oral hearing in most revocation proceedings;
- Requiring would-be citizens to declare an intent to reside in Canada; and
- Re-introducing the possibility of banishment/exile for dual citizens who have “engaged in certain actions contrary to the national interest of Canada”.

In response to Bill C-24, CARL has taken action on several fronts. First, CARL prepared submissions to the House of Commons Standing Committee on Citizenship and Immigration. Professor Audrey Macklin and CARL Vice President Mitchell Goldberg testified before the Committee on May 5, 2014, detailing how the proposed Bill does exactly the opposite of what its title proclaims. Both reiterated the importance of citizenship as a permanent and secure status, one that symbolizes a person becoming a full, unconditional member of Canadian society. Second, CARL prepared legal primers summarizing key problems with Bill C-24, which are available in 10 languages in order to make the information available to many communities. Third, a new Myth-Busting section is also available on CARL’s webpage (<http://carl-acaadr.ca/challenging-misinformation>), providing valuable information about the misconceptions surrounding Bill C-24. Finally, CARL teamed up with the BC Civil Liberties Association to draft a petition asking the government not to

pass Bill C-24, as it creates a category of second-class citizens who have fewer rights. Over 41,000 people signed the petition, and it was delivered to a Citizenship and Immigration office in Vancouver on June 3, 2014.

CARL’s preliminary research indicates that the new legislation violates sections 6, 7, 11, 12, and 15 of the Charter of Rights and Freedoms. For instance, naturalized citizens face the risk of citizenship revocation for leaving Canada, if the Minister forms the opinion that the departure proves that the individual misrepresented his or her intent to reside in Canada post-citizenship. The chilling effect this will exert on the citizen’s mobility violates s. 6 of the Charter. In addition, this provision is contrary to s. 15 of the Charter because it only applies to naturalized (and not birthright) citizens, thereby discriminating on the basis of national origin. In addition, deprivation of citizenship breaches security of the person under s. 7, as lawfully obtained citizenship ceases to be a secure status – it becomes contingent and insecure. New provisions also violate s. 12 of the Charter, as citizenship revocation for misconduct constitutes cruel and unusual treatment or punishment. Finally, s. 11 of the Charter is violated in a number of ways, including:

- A reverse onus for statelessness, which goes against the presumption of innocence; and
- Proof on a balance of probabilities or less, rather than beyond a reasonable doubt;
- Ministerial decisions based on written submissions instead of a fair and open trial before and independent arbiter; and
- Imprisonment plus expatriation, which defies the right not to be punished twice for the same offence.

Now that Bill C-24’s has been given Royal Assent, CARL is preparing to challenge its constitutionality in the courts.

# FEATURE: CARL & Bill C-24

## *From Counsel's Perspective:*

*Lobat Sadrehashemi discusses the Citizenship Bill Petition by CARL & CCLA*



### *Interview by the CARL newsletter team*

#### **1. Why do you think the citizenship issues raised in Bill C-24 had a broad appeal for Canadians?**

There are so many problems with Bill C-24 but what really resonated with people was the key message that the passing of this bill would create of different classes of citizenship, and that some citizens would have greater rights than others. There seems to be a strong attachment to the idea that every person should have equal rights and that no citizen should be treated by the law as if they have less worth and dignity than another.

#### **2. How did you strike up a partnership with change.org ? With BCCLA?**

Change.org is a platform where people can create online petitions on their own. We had the assistance of one of their Canadian campaigners who had done work on previous immigration campaigns. BCCLA is a civil liberties and human rights group based in Vancouver, and working at the federal level, that we have worked with on previous campaigns such as CBSA oversight and accountability issues.

#### **3. What was it like to engage with people through this medium (as opposed to previous campaigns)?**

It was very powerful to be able to reach out to so many people and inform them about Bill C-24, and then to see so many people deciding to take action. So many people shared the petition and encouraged others to sign, so that it became their fight as well as ours.

#### **4. What was the goal going into the campaign? And do you think you achieved that goal?**

The primary goal was to get enough public support to stop this bill from being passed. We didn't achieve this goal. Other goals were to educate the public about these fundamental changes to citizenship law; to create a group (online petition signers) with whom we could communicate about our ongoing work related to the Bill; and to let Parliamentarians know that many Canadians are opposed to these changes. I think we had some success on these goals. I think we were able to broaden the conversation about the bill in a number of communities.

#### **5. Was there something about this issue that lent itself to this type of campaign?**

These are issues that affect everyone - a fundamental change in how we understand Canadian citizenship. The online petition was a way in which we could reach out to those who are normally not involved in immigration and refugee advocacy. In some ways it was a very complex issue to get across to people through an online petition, but I think we succeeded in getting people to understand the critical issues through carefully-written materials - the petition, and legal background information that CARL translated into nine languages besides English.



# FEATURE EDITORIAL: CARL & Bill C-24

## Backwards: Canada's New Citizenship Act embraces our shameful past

*By: Amy Kishek & Claire Tempier*

The story of Canadian citizenship is well known: Canada is a generous country, which has time and time again opened its doors to immigrants and refugees from across the globe. Everyone wants to be a Canadian. Canada is a country rich in multiculturalism and is profoundly accepting of others. In a globalized world, Canada is a model for other states to emulate. Though this story of Canadian citizenship is historically inaccurate, it is, at the very least, aspirational.

The Conservative government's Bill C-24 threatens any progress that has been made in recent decades to move Canadian society forward. The sweeping changes—the first reforms to the Canadian Citizenship Act since 1977—will make it tougher for many foreign nationals to become

Canadian citizens and will threaten the fair and accessible citizenship regime on which the majority of Canadians pride themselves.

Racist and discriminatory laws characterise Canada's immigration history. Unfortunately, the proposed reforms reengage Canada's shameful immigration policies of yesteryear by envisioning a Canadian citizenship administration that is vindictive, classist, and racist. In recent decades Canada has become a welcoming country to foreign nationals; today it seems Canada may be following in the steps of European nationalism by toughening access to citizenship.

We cannot afford to go backwards.

For those seeking to acquire Canadian citizenship, Bill C-24 means being treated as second-class citizens. Those applying for Canadian citizenship have already been vetted through our immigration or refugee procedures. Would-be citizens are permanent residents; they are our neighbours, colleagues, friends and loved ones.

L'histoire de la citoyenneté canadienne est bien connue : le Canada est un pays généreux qui a ouvert ces portes à maintes reprises aux immigrants et aux réfugiés à travers le monde entier. Tout le monde veut être un Canadien. Le Canada est un pays riche en multiculturalisme et est très ouvert aux autres. Dans une planète mondialisée, le Canada sert comme modèle pour les autres états. Bien que cette histoire de la citoyenneté canadienne est historiquement inexacte, il est, à tout le moins, ambitieux.

Le projet de loi C-24 du gouvernement conservateur menace les progrès qui ont été accomplis au cours des dernières décennies pour faire avancer la société canadienne. Des changements radicaux, les premières réformes à la Loi sur la citoyenneté canadienne depuis 1977. Il sera, maintenant, plus difficile pour de nombreux ressortissants étrangers de devenir des citoyens canadiens et les changements menacent le régime de citoyenneté équitable et accessible sur lequel la majorité des Canadiens sont fiers.

Les lois racistes et discriminatoires caractérisent l'histoire de l'immigration du Canada. Malheureusement, les réformes proposées font remonter les politiques d'immigration du Canada honteuses d'antan en envisageant une administration de citoyenneté canadienne qui est vindicative, classiste et raciste. Au cours des dernières décennies, le Canada est devenu un pays d'accueil pour les ressortissants étrangers ; aujourd'hui, il semble que le Canada pourrait suivre les traces de nationalisme européen en durcissant l'accès à la citoyenneté.

Nous ne pouvons pas retourner en arrière.

Pour ceux qui cherchent à obtenir la citoyenneté canadienne, le projet de loi C-24 fait en sorte qu'ils seront traités comme des citoyens de seconde classe. Les personnes qui demandent la citoyenneté canadienne ont déjà été passées au crible par nos procédures d'immigration ou de réfugiés. Les « citoyens » sont des résidents permanents ; ils sont nos voisins, nos collègues, nos amis et nos proches.

## Backwards: Canada's New Citizenship Act embraces our shameful past

They have chosen to immerse themselves in Canadian society, or have been compelled to seek its protection. Under both banners, they are making immeasurable contributions to our shared society. In spite of this, Bill C-24 would place considerable hurdles in the path of potential citizens. The following are just a few examples of the barriers put forward by this Bill.

The legislation extends the required time for permanent residents to stay in the country from three out of the last four years, to four out of the last six years. The requirement becomes particularly draconian in light of the fact that applicants will not be able to count time spent in Canada before becoming permanent residents. Given the current procedures for determining residency and the amount of time it presently takes to get an application processed, the addition of this requirement will make the application process more complex and time consuming. More importantly, it will restrict permanent residents' mobility rights, limiting their ability to meet employment, travel, and family obligations.

The written language test requirement appears to be a backdoor to barring under-educated refugees from full realizing their rights in Canada. While knowledge of an official language is necessary to ensure that an individual has sufficient language skills to participate in the democratic process and workforce, requiring that an individual pass a written test will make citizenship inaccessible to refugees and sponsored family members who could and should be accommodated. According to a study for CIC on effectiveness of ESL language training "members of East Asian and Southeast Asian language categories appear to have been disadvantaged relative to other language groups" and "refugees received the lowest CBAL scores of all". The language test, along with the citizenship exam, is also now being administered to the increasingly young and old, alike: previously required of ages of 18 and 54. Now, those aged 16 to 64 are required to take the tests.

Ils ont choisi de s'immerger dans la société canadienne, ou ont été contraints de demander sa protection. Dans les deux bannières, ils apportent une contribution inestimable à notre société partagée. En dépit de cela, le projet de loi C-24 mettrait des obstacles considérables dans la voie de citoyens potentiels. Ce qui suit est quelques exemples des obstacles mis de l'avant par ce projet de loi.

Le projet de loi prolonge le temps requis pour les résidents permanents à rester dans le pays de trois des quatre dernières années à quatre des six dernières années. L'exigence est particulièrement draconienne à la lumière du fait que les candidats ne seront pas en mesure de compter le temps passé au Canada avant de devenir des résidents permanents. Compte tenu des procédures en vigueur pour déterminer la résidence et la quantité de temps qu'il faut actuellement pour obtenir une demande traitée, l'ajout de cette exigence rendra le processus plus complexe et prendra plus de temps. Plus important encore, il limite la liberté de circulation des résidents permanents, limitant leur capacité à remplir leurs obligations d'emploi, de voyages et de famille.

L'exigence du test de langue écrite semble être un moyen obscur d'interdire aux réfugiés sous-instruits de réaliser pleinement leurs droits au Canada. Alors que la connaissance d'une langue officielle est nécessaire afin de s'assurer que la personne possède les compétences linguistiques requises pour participer au processus démocratique et à la main-d'œuvre, exiger qu'une personne passe un examen écrit rendra la citoyenneté inaccessible aux réfugiés et aux personnes qui sont parrainés par un membre de leur famille qui pourrait être accommodé. Selon une étude de CIC sur l'efficacité de la formation en anglais langue seconde les « locuteurs dans les catégories de langues de l'Asie orientale (à l'exception des locuteurs du tagalog) et de l'Asie du Sud-Est semblent avoir été désavantagés par rapport aux autres groupes de langues » et les « réfugiés ont reçu les résultats les plus bas à l'ENCLC de tous ». Le test de langue, avec l'examen de citoyenneté, est désormais administré aux plus jeunes et aux plus vieux, de la même façon : auparavant nécessaire pour ceux âgés de 18 et 54 ans. Maintenant, les personnes âgées de 16 à 64 ans sont tenues de prendre les tests.

## Backwards: Canada's New Citizenship Act embraces our shameful past

The written language test requirement appears to be a backdoor to barring under-educated refugees from full realizing their rights in Canada. While knowledge of an official language is necessary to ensure that an individual has sufficient language skills to participate in the democratic process and workforce, requiring that an individual pass a written test will make citizenship inaccessible to refugees and sponsored family members who could and should be accommodated. According to a study for CIC on effectiveness of ESL language training “members of East Asian and Southeast Asian language categories appear to have been disadvantaged relative to other language groups” and “refugees received the lowest CBAL scores of all”. The language test, along with the citizenship exam, is also now being administered to the increasingly young and old, alike: previously required of ages of 18 and 54. Now, those aged 16 to 64 are required to take the tests.

The requirement that applicants for citizenship be required to take a written language test can lead to refusal because of inadequate language skills, despite having lived in Canada for several years. What if English-speaking Canadians, many of whom are not versed in Canada's official second language, were similarly required to pass a French language test in order to vote?

This is to say nothing of the increased difficulty in the written citizenship test itself, which has proven to be especially challenging for family class applicants, and favourable to the government's targeted economic class.

Bill C-24 impacts refugees in particular and violates Canada's legal obligation under the Refugee Convention to speed up access to citizenship. Article 34 of the Convention relating to the status of Refugees states “The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings”.

L'exigence du test de langue écrite semble être un moyen obscur d'interdire aux réfugiés sous-instruits de réaliser pleinement leurs droits au Canada. Alors que la connaissance d'une langue officielle est nécessaire afin de s'assurer que la personne possède les compétences linguistiques requises pour participer au processus démocratique et à la main-d'œuvre, exiger qu'une personne passe un examen écrit rendra la citoyenneté inaccessible aux réfugiés et aux personnes qui sont parrainés par un membre de leur famille qui pourrait être accommodé. Selon une étude de CIC sur l'efficacité de la formation en anglais langue seconde les « locuteurs dans les catégories de langues de l'Asie orientale (à l'exception des locuteurs du tagalog) et de l'Asie du Sud-Est semblent avoir été désavantagés par rapport aux autres groupes de langues » et les « réfugiés ont reçu les résultats les plus bas à l'ENCLC de tous ». Le test de langue, avec l'examen de citoyenneté, est désormais administré aux plus jeunes et aux plus vieux, de la même façon : auparavant nécessaire pour ceux âgés de 18 et 54 ans. Maintenant, les personnes âgées de 16 à 64 ans sont tenues de prendre les tests.

L'exigence que les candidats à la citoyenneté seront tenus de passer un test de langue écrite peut entraîner le refus en raison du manque de compétences linguistiques, en dépit d'avoir vécu au Canada pendant plusieurs années. Si les Canadiens anglophones, dont beaucoup ne sont pas versés dans la seconde langue officielle du Canada, étaient tenus de passer un test de langue française pour pouvoir voter?

C'est sans parler de la difficulté accrue de l'examen de citoyenneté écrite elle-même, qui s'est avéré être particulièrement difficile pour les demandeurs de la catégorie familiale, et favorable à la classe économique – une catégorie ciblée par le gouvernement.

Le projet de loi C-24 a des impacts particuliers pour les réfugiés et viole l'obligation légale du Canada en vertu de la Convention sur les réfugiés afin d'accélérer l'accès à la citoyenneté. L'article 34 de la Convention relative au statut des réfugiés stipule que « Les États contractants faciliteront, dans toute la mesure possible, l'assimilation et la naturalisation des réfugiés. Ils s'efforceront notamment d'accélérer la procédure de naturalisation et de réduire, dans toute la mesure possible, les taxes et les frais de cette procédure. »

## Backwards: Canada's New Citizenship Act embraces our shameful past

Despite the fact that they are contributing to the society by working, paying taxes and raising their families, the legislation excludes newcomers from full participation in society.

A divisive citizenship regime will hinder Canada's multicultural identity. Former Citizenship and Immigration Minister Jason Kenney's policy of giving Irish nationals preferential access to immigration, and his comments referring to Irish immigrants as "culturally compatible", betray a racist logic underpinning these reforms. This view has been echoed in history.

Regarding Jewish immigration to Canada, Frederick Charles Blair, Director of Immigration, once stated: "I often think that instead of persecution it would be far better if we more often told them frankly why many of them are unpopular. If they could divest themselves of certain of their habits I am sure they could be just as popular in Canada as our Scandinavians". Canada's immigration laws had always been ethnically selective and by 1938, as anti-Semitism erupted in Germany, Canada began to actively restrict Jewish immigration.

Though Blair was certainly blunter, there's no ignoring the fact that this government's immigration, citizenship and refugee policies are informed by an ideation of a Canada that is mono-cultural.

A young, multiethnic and culturally diverse Canada demands a citizenship act that reflects its values, an act that is open, inclusive and fair to all. We need an act that embraces modern realities and doesn't cower in fear at changing global dynamics. We need an Act that moves Canada forward not backwards into its sordid past.

Malgré le fait qu'ils contribuent à la société en travaillant, paient des impôts et élèvent leurs familles, la législation exclut les nouveaux arrivants de participer pleinement à la société.

Un régime de citoyenneté divisé va entraver l'identité multiculturelle du Canada. Les politiques de l'ancien ministre de la Citoyenneté et de l'Immigration, Jason Kenney, de donner aux ressortissants irlandais un accès préférentiel à l'immigration, et ses commentaires se référant aux immigrants irlandais comme «culturellement compatibles», trahissent une logique raciste qui sous-tend ces réformes. Ce point de vue a été repris dans l'histoire.

En ce qui concerne l'immigration juive au Canada, Frederick Charles Blair, Directeur de l'immigration, a déjà dit : « Je pense souvent qu'au lieu de la persécution, il sera plus avantageux si nous leur disons franchement pourquoi tant d'eux sont impopulaires. S'ils pouvaient se débarrasser de certaines de leurs habitudes, je suis certain qu'ils pourront être tout aussi populaires au Canada que nos Scandinaves. » Les lois de l'immigration du Canada ont toujours été sélectives quant aux races et en 1938, alors que l'antisémitisme a éclaté en Allemagne, le Canada a commencé à restreindre activement l'immigration juive.

Bien que Blair était certainement émoussé, il ne faut pas ignorer le fait que les politiques d'immigration, de la citoyenneté et des réfugiés de ce gouvernement sont informés par une idéation d'un Canada qui est monoculturelle.

Canada, un jeune pays multiethnique et culturellement divers, exige une loi sur la citoyenneté qui reflète ses valeurs, une loi qui est ouverte, inclusive et équitable pour tous. Nous avons besoin d'une loi qui embrasse les réalités modernes et qui n'aura pas peur face aux changements dans les dynamiques mondiales. Nous avons besoin d'une Loi qui permettra au Canada d'avancer au lieu de reculer dans son passé sordide.

# CARL in the Media

On July 4, 2014, the Federal Court of Canada released a landmark decision declaring that the federal government cuts to the Interim Federal Health Program - a program that previously provided basic, life saving care to refugee claimants - are unconstitutional and unlawful. The Court held that the cuts are not merely wrong, they constitute cruel and unusual treatment and violate equality rights (for more, click <http://www.carl-acaadr.ca/articles/81>).

The media response to this decision has been overwhelming. We have compiled a few highlights below:

CBC As It Happens (July 4): <http://www.cbc.ca/asithappens/episode/2014/07/04/friday-federal-court-on-refugee-health-transgender-comedian-human-rights-complaint-resto-scalping-an/>

CBC Power and Politics (July 4): [www.cbc.ca/player/News/TV+Shows/ID/2470960437/](http://www.cbc.ca/player/News/TV+Shows/ID/2470960437/)

CBC News (July 4): [www.cbc.ca/news/politics/federal-government-to-appeal-ruling-reversing-cruel-cuts-to-refugee-health-1.2696311](http://www.cbc.ca/news/politics/federal-government-to-appeal-ruling-reversing-cruel-cuts-to-refugee-health-1.2696311)

Globe and Mail (July 4): [www.theglobeandmail.com/news/politics/ottawas-refugee-health-cuts-cruel-and-unusual-court-rules/article19459837/](http://www.theglobeandmail.com/news/politics/ottawas-refugee-health-cuts-cruel-and-unusual-court-rules/article19459837/)

Toronto Star (July 4): [http://www.thestar.com/news/canada/2014/07/04/court\\_rules\\_against\\_conservative\\_governments\\_refugee\\_health\\_cuts.html](http://www.thestar.com/news/canada/2014/07/04/court_rules_against_conservative_governments_refugee_health_cuts.html)

Toronto Star editorial (July 4): [http://www.thestar.com/opinion/editorials/2014/07/04/federal\\_court\\_rightly\\_strikes\\_down\\_harpers\\_refugee\\_healthcare\\_cuts\\_editorial.html](http://www.thestar.com/opinion/editorials/2014/07/04/federal_court_rightly_strikes_down_harpers_refugee_healthcare_cuts_editorial.html)

National Post: Christie Blatchford (July 4): <http://fullcomment.nationalpost.com/2014/07/04/christie-blatchford-government-policy-on-refugee-health-care-exposed-as-heartless-and-shameful/>

Ottawa Citizen: Kate Heartfield (July 4): <http://ottawacitizen.com/news/national/refugee-rules-are-bad-policy-legal-or-not>

Embassy News: Carol Goar (July 4): <http://www.embassynews.ca/opinion/2014/07/03/so-much-for-canadas-generosity-to-refugees/45757>

Radio-Canada (4 juillet): [ici.radio-canada.ca/nouvelles/Politique/2014/07/04/001-programme-harper-refugies-soins-cour-federale.shtml](http://ici.radio-canada.ca/nouvelles/Politique/2014/07/04/001-programme-harper-refugies-soins-cour-federale.shtml)

La Presse(4 juillet): [ici.radio-canada.ca/nouvelles/Politique/2014/07/04/001-programme-harper-refugies-soins-cour-federale.shtml](http://ici.radio-canada.ca/nouvelles/Politique/2014/07/04/001-programme-harper-refugies-soins-cour-federale.shtml)

Canadian Press (July 4): [www.theprogress.com/national/265827271.html](http://www.theprogress.com/national/265827271.html)

CTV New (July 4): <http://www.ctvnews.ca/canada/court-gov-t-cuts-to-refugee-health-care-cruel-and-unusual-treatment-1.1898922>

Global News (July 4): <http://globalnews.ca/news/1432337/refugee-health-cuts-violate-charter-govt-has-4-months-to-change-court/>

Global TV (July 4): [globalnews.ca/news/1432337/refugee-health-cuts-violate-charter-govt-has-4-months-to-change-court/](http://globalnews.ca/news/1432337/refugee-health-cuts-violate-charter-govt-has-4-months-to-change-court/)

Sun media (July 4): [cnews.canoe.ca/CNEWS/Canada/2014/07/04/21784731.html](http://cnews.canoe.ca/CNEWS/Canada/2014/07/04/21784731.html)

Le Devoir (5 juillet): <http://www.ledevoir.com/politique/canada/412699/soins-de-sante-pour-refugies-la-cour-federale-blame-ottawa-qui-interjettera-appel>

CBC News (July 5): <http://www.cbc.ca/news/canada/refugee-health-care-cuts-doctors-gave-voice-to-most-vulnerable-1.2696961>

Macleans (July 5): <http://www.macleans.ca/politics/do-the-cuts-to-refugee-health-care-make-sense/>

Saskatoon Star Phoenix (July 5): <http://www.thestarphoenix.com/life/Activist+praises+refugee+health+ruling/10003673/story.html>

Globe and Mail Editorial (July 6): [www.theglobeandmail.com/globe-debate/editorials/cruel-to-take-health-care-away-from-refugee-claimants/article19473711/](http://www.theglobeandmail.com/globe-debate/editorials/cruel-to-take-health-care-away-from-refugee-claimants/article19473711/)

Catholic Register (July 8): <http://www.catholicregister.org/item/18453-federal-court-reinstates-health-coverage-for-refugees>

Calgary Herald editorial (July 8): <http://www.calgaryherald.com/opinion/editorials/Editorial+Sick+system/10011970/story.html>



# CARL in the Media

Embassy News: Peter Showler (July 9): <http://www.carl-acadr.ca/Refugee-health-fight-will-carry-on-to-the-ballot-box>

Hamilton Spectator (July 10): [www.thespec.com/opinion-story/4622500-federal-court-exposes-ottawa-s-cruelty/](http://www.thespec.com/opinion-story/4622500-federal-court-exposes-ottawa-s-cruelty/)

Toronto Star: Jane Philipott (July 10): [www.thestar.com/opinion/commentary/2014/07/10/cuts\\_to\\_refugee\\_health\\_cruelly\\_harm\\_the\\_most\\_vulnerable.html](http://www.thestar.com/opinion/commentary/2014/07/10/cuts_to_refugee_health_cruelly_harm_the_most_vulnerable.html)

Ottawa Citizen: Isabel Wallace (July 14): [ottawacitizen.com/news/national/canadas-long-tightening-of-refugee-policy](http://ottawacitizen.com/news/national/canadas-long-tightening-of-refugee-policy)

Toronto Star: Gerald Caplan (July 24): <http://www.theglobeandmail.com/news/politics/the-conservatives-are-a-cruel-and-unusual-government/article19777415/>

Toronto Star Opinion: Dr. Paul Caulford (July 28): [http://www.thestar.com/opinion/letters\\_to\\_the\\_editors/2014/07/28/equal\\_health\\_care\\_for\\_immigrants.html](http://www.thestar.com/opinion/letters_to_the_editors/2014/07/28/equal_health_care_for_immigrants.html)

Calgary Herald: Dr. Hedy Fry (Liberal Health Critic (August 6): <http://medicinehatnews.com/commentary/letters-to-the-editor/2014/08/06/refugee-health-care-cuts-morally-wrong-and-fiscally-short-sighted/>

Toronto Star Editorial (August 4): [http://www.thestar.com/opinion/editorials/2014/08/04/tories\\_strike\\_another\\_blow\\_to\\_canadas\\_oncehumane\\_immigration\\_policy\\_editorial.html](http://www.thestar.com/opinion/editorials/2014/08/04/tories_strike_another_blow_to_canadas_oncehumane_immigration_policy_editorial.html)

Globe and Mail: Lee Marshall (August 17): <http://www.theglobeandmail.com/life/health-and-fitness/health/refugee-claimants-struggling-to-find-health-care-after-cuts/article20090315/>

## *A Special Thank You...*

CARL would like to extend our sincere thanks to all those who have donated to our organization this year. Countless individuals have made our work possible by donating to our IFHP fund and to support other CARL activities.

We'd like to say a special thank you to two donors in particular, whose dedication and generosity has gone beyond the call of duty:

**Mohamed Dalmar**, winner of the 2014 Roberto Miranda Award at the University of Ottawa, has generously donated the financial prize of \$500 that is associated with this award to CARL. Each year, the award recognizes a refugee who has made an outstanding contribution to social justice in Canada. It is a celebration of the many positive contributions that people with refugee backgrounds make to our society. As a former long-time Manager and Counselor in the Settlement Department at the Catholic Centre for Immigrants, Mr. Dalmar has been an active member of the community. He is well known not only for his work accomplishments but for his compassion, willingness to support and collaborate with whoever is in need, and pleasant personality. CARL is honoured that Mr. Dalmar chose to donate his award to our work this year, and we thank him wholeheartedly.

After a busy year of fundraising, **CARL's University of Ottawa Chapter** has recently announced a \$1,700 donation to CARL's litigation fund. This group of students has brought tremendous energy, creativity, and determination to the many CARL projects they take on and initiate. Their fundraising this year included two extremely successful bake sales, a silent auction, and fundraising at Refugee Night, among other initiatives. Beyond their fantastic fundraising efforts, CARL uOttawa leads educational events, participates in and leads advocacy activities, and participates in CARL and other refugee research projects. They are a dynamic group and we can't wait to see what they get up to this year. Thank you CARL uOttawa and keep up the amazing work!

A big thank you to everyone who makes CARL's work possible through their generous donations. To make a contribution to CARL's work, visit our donation page: <http://www.carl-acadr.ca/donate>

# Announcements

## Calling CARL Student Members

Looking for a chance to connect with a Canadian refugee lawyer?

The CARL Quarterly is looking for volunteers to spearhead a new section in our newsletter featuring interviews with CARL members. Send an email to the editor at [info@carl-acaaadr.ca](mailto:info@carl-acaaadr.ca) if you are interested.

## Get involved with CARL - Committees

Committees are the driving force of CARL, and we need your help to make their work as good as it can be! If you're interested in being a part of CARL's work, please consider joining a committee or volunteering on a project. As a young organization, we are especially interested in people who can help us grow and establish our presence. Get in touch with us to let us know how you'd like to contribute!

- ❖ *Advocacy Committee*
- ❖ *Membership and Education Committee*
- ❖ *Legal Research Committee*
- ❖ *Litigation Committee*

If you want to get involved and contribute to CARL's work, please email [membership@carl-acaaadr.ca](mailto:membership@carl-acaaadr.ca) with an expression of interest.

## Calling all Students - Get Involved Early!

Join a CARL student chapter – CARL student chapters participate in CARL's work through independently organized events and projects from CARL National. CARL has seven student chapters at law schools across the country. To find out more about joining your local chapter, send an email to the chapter coordinator:

Dalhousie University: [dal.law.carl@gmail.com](mailto:dal.law.carl@gmail.com)  
 McGill University: [carl.umcgill@gmail.com](mailto:carl.umcgill@gmail.com)  
 University of Ottawa: [carl.uottawa@gmail.com](mailto:carl.uottawa@gmail.com)  
 University of Toronto: [carl.utoronto@gmail.com](mailto:carl.utoronto@gmail.com)  
 York University (Osgoode Hall Law School): [carl.osgoodehall@gmail.com](mailto:carl.osgoodehall@gmail.com)  
 University of Windsor: [uwindsor.carl@gmail.com](mailto:uwindsor.carl@gmail.com)  
 University of Victoria: [carl.uvic@gmail.com](mailto:carl.uvic@gmail.com)

## Thank you, CARL volunteers!

All of CARL's activities are achieved by volunteers who donate their time and expertise to our young organization. Our litigation efforts, bi-annual conferences, advocacy efforts, and a range of student activities would not be possible without these valuable contributions. CARL would like to extend our sincere thanks to the wonderful team of volunteers who have driven our growth. We look forward to continuing our work together!

### Don't miss a beat!

Keep up with CARL's activities by following us online! You can find us via our twitter handle, [@carladvocates](https://twitter.com/carladvocates), or visit and 'like' our Facebook page.



## Thank you to this Issue's Contributors:

Amy Kishek  
 Claire Tempier  
 Emily Bates  
 Jennifer Smith  
 Joanna Berry  
 Lobat Sadrehashemi  
 Sam Santos  
 Tess Acton