



**ORAL SUBMISSION ON BILL C-6: AN ACT TO AMEND THE CITIZENSHIP ACT
AND TO MAKE CONSEQUENTIAL AMENDMENTS TO ANOTHER ACT**

The Standing Committee on Citizenship and Immigration

House of Commons | April 14, 2016

Statement by Ihsaan Gardee, NCCM Executive Director

On behalf of the National Council of Canadian Muslims (NCCM), I am pleased to have this opportunity to offer the committee our organization's perspective on Bill C-6 and the *Citizenship Act*.

Briefly, the NCCM is an independent, non-partisan, and non-profit grassroots organization that is a leading voice for Muslim civic engagement and the promotion of human rights.

Our mandate is to protect the human rights and civil liberties of Canadian Muslims, promote their public interests, build mutual understanding between communities, and confront Islamophobia. For over 15 years, we have worked to achieve this mission through activism in four primary areas including community education & outreach, media engagement, anti-discrimination action, and public advocacy.

At the outset, the focus of NCCM's submissions today will be on the provisions in Bill C-6 that repeal the grounds for the revocation of Canadian citizenship as related to national security. We do not take a formal position on the bill's other proposed amendments to the *Citizenship Act*.

As a civil liberties organization, the NCCM supports the proposed legislative changes under Bill C-6 in order to remedy the problematic and legally dubious elements introduced by Bill C-24. Specifically, in our view and that of many other respected Canadian human rights organizations including Amnesty International Canada and the British Columbia Civil Liberties Association to name a few, removing the grounds for revocation of Canadian citizenship that relate to national security upholds Canada's democratic ideals and ensures the protection of our deeply cherished and hard-won civil liberties.

The law as it exists today has created, in essence, two classes of citizenship. The idea that dual citizens are more vulnerable to losing their citizenship means that some individuals and groups are less Canadian than others, and therefore, are less deserving of equal protection of the law. This is completely antithetical to the equality rights guaranteed by Section 15 of the *Canadian Charter of Rights and Freedoms*, namely equality before and under the law, and equal benefit of the law. In effect, exposing dual citizens to banishment – something not faced by Canadians holding no other citizenship – makes dual citizens unequal before the law.

The *Citizenship Act* today allows for a dual national found guilty and incarcerated for a national security-related criminal offence to be punished again via banishment through citizenship revocation and deportation. In our view and that of many legal experts, this is inconsistent with the rule of law and the protections of the *Charter*.

Aside from these human rights concerns, there is also a larger context to the social implications of the citizenship revocation provisions, which our organization is very cognizant of as we regularly receive and hear the concerns of Canadian Muslims. Simply stated, these laws do not exist in a vacuum and have harmful consequences. Stripping dual citizens of their citizenship for national security reasons unfairly targets immigrant and racialized groups, particularly those belonging to Muslim communities. It does little to enhance our national security by, in effect, unloading our problems on the doorsteps of other countries - many of whom may be our allies in the fight against violent extremism.

But make no mistake, the implications of the current law also go beyond dual citizens. Canadian Muslim individuals, families and the broader community have been disproportionately impacted by ostensible anti-terrorism measures enacted in the name of national security. In some cases, citizenship revocation proceedings have been commenced against individuals who were born in Canada and held only Canadian

citizenship, merely because it was theorized that they would be able obtain citizenship in a foreign country through their parents, even though they themselves have never held such foreign citizenship¹ or even lived in a foreign country. This is an astonishing and deeply draconian and archaic development. Such an arbitrary and dangerous interpretation and implementation of the citizenship revocation provisions speaks to the urgent need to repeal them.

It is in this context that we remind this committee of what the Arar Commission Report warned in 2006: “Given the tendency thus far of focusing national security investigations on members of the Arab and Muslim communities, the potential for infringement on the human rights of innocent Canadians within these groups is higher.”

Since 9/11, Muslims have been living under a microscope and subject to heightened suspicion, which is perpetuated by negative stereotyping and discrimination in Western countries, including Canada. The potential reliance on terrorism convictions outside of Canada to revoke citizenship further exacerbates the issue. Had the citizenship revocation provisions been fully in effect it is not difficult to imagine that someone like Canadian journalist Mohamed Fahmy could have been absurdly stripped of his citizenship after being convicted in what was widely described as a flawed legal process. That should give us all pause.

Ultimately, while Canadian Muslims benefit as much as our fellow citizens from our shared national security and public safety, Canadian Muslims also pay a higher cost for any benefit that may be derived from national security measures. This is also true when we take into consideration the impact of other national security-related measures, such as the *Anti-Terrorism Act, 2015*.

¹ Canadian-born Saad Gaya, convicted and incarcerated for terrorism offences, was subject to citizenship revocation proceedings in 2015. See: <http://www.cbc.ca/news/politics/saad-gaya-citizenship-revocation-terrorism-1.3253043>

NCCM strongly believes that repealing provisions that revoke citizenship for national security-related criminal offences is both a necessary and critical step in protecting the constitutional rights of Canadians. It is imperative, as a democratic and free society, that Canada upholds equal treatment for all under the law. At the same time, NCCM supports measures that effectively enhance security and public safety while respecting civil liberties and the protections afforded under the *Charter*.

To be clear, all Canadians agree that people should be held accountable for the crimes they commit. There is no question that the offences listed under the existing Act are serious crimes. However these crimes are appropriately punished by the criminal justice system founded on a robust and transparent adversarial system and due process. In stark contrast to this principle of fundamental justice, the power to enforce banishment, as the law currently stands, is profoundly unjust and discriminatory.

In keeping with the spirit of Bill C-6, we would also like to take this opportunity to encourage Parliament to, at best, repeal and at worst, significantly amend other harmful pieces of legislation that threaten the principles of democracy, equality, and the rule of law. Bill C-6 will have little meaning if the same principles are undermined through other legislative measures, such as the *Anti-Terrorism Act, 2015* and if any changes made to these are only cosmetic in nature.

As mentioned, given the disproportionate impact that previous security measures and legislation have had on Muslim communities, it is not unreasonable that they fear they will be the collateral victims in a web of unchecked power and unbridled information sharing, if not the direct targets of unfair scrutiny.

The temptation to create more powers of enforcement, detention and punishment to make the general population feel safer can be appealing, but they represent a slippery slope in a liberal democracy. The *Citizenship Act* provisions for citizenship revocation are part of that slippery slope.

In closing, the NCCM strongly supports the removal of the grounds for citizenship revocation as related to national security under Bill C-6. By repealing these measures the government can reinforce its commitment to rebuilding the trust of Canadians that they will be treated equally, including Canadian Muslims who have felt stigmatized by national security policy and the public discourse surrounding it.

Only by doing so can we move towards a comprehensive and balanced pursuit of safeguarding national security while promoting Canadian citizenship in a manner that upholds the rule of law and protects the human rights of all.

Subject to the committee's questions, those are my submissions. Thank you.