



**Written submission for the Committee on
Social Affairs, Science and Technology, Senate of Canada**

Review of Bill S-235

**“An Act to amend the Citizenship Act and the Immigration and Refugee Protection
Act”**

**South Asian Legal Clinic of Ontario (SALCO)
December 2023**

SALCO remains deeply committed to addressing the immigrations issues that arise for children / adults who have gone through child welfare systems. These are some of the most vulnerable populations that we serve. **SALCO provides the following recommendations:**

- **That Bill S-235 be passed by the Senate as proposed or with amendments to address any issues raised in committee.**

Introduction:

The South Asian Legal Clinic of Ontario (SALCO) is a not-for profit legal clinic funded by Legal Aid Ontario to enhance access to justice for low-income South Asian communities. SALCO does that by: i) providing summary legal advice, legal brief services, and legal representation to low-income South Asians in Ontario in a number of areas of law (including immigration, income maintenance, tenant’s rights, employment, human rights, family, and gender-based violence), and ii) by participating in law reform, community development, and public legal education to advocate for systems change to address the issues that our low-income racialized communities face across Canada. SALCO has participated in several test cases up at all levels of court including the Supreme Court of Canada; has appeared at government committee hearings to speak about legislation that impacts the clients it serves; has provided expert advice to several government departments on issues of equity, anti-racism, faith-based discrimination, gender-based violence, data collection, and socio-economic discrimination; and has appeared at the United Nations multiple times in relation to its review of Canada’s domestic and international track record on human rights.

Background:

SALCO works with a large population of racialized and low-income clients in Ontario. As part of our work, we provide direct legal services to clients in the area of immigration law. That work includes:

- Humanitarian and compassionate applications for permanent residence (where people have no immigration status in Canada and are seeking permanent residence because of extraordinary circumstances including lengthy establishment in Canada, and serious hardship if removed from Canada);
- Submissions on criminal inadmissibility in immigration (where clients are facing loss of permanent residence and removal from Canada because of certain criminal convictions)
- Deferral requests (to stop removals from Canada in compelling cases directly with the Canada Border Services Agency)
- Stay Motions / Judicial Reviews in Federal Court to stay removals from Canada and review decisions to remove/deport
- Temporary Resident Permits (where a person has no status but must be in Canada on a temporary basis for a variety of reasons)
- Authorization to Re-enter Canada, ARC applications, once removed

SALCO has worked with young people and adults who have been in care or have had a file with child welfare systems in Ontario. SALCO has also worked with a number of adults who have come out of the child welfare system without having obtained citizenship, and who now face immigration issues like loss of temporary or permanent residence and removal.

What we know:

1. This issue impacts racialized people disproportionately. Data tells us that Indigenous, Black and racialized people are over-policed in both the criminal justice and child welfare systems;
2. There is a population of people who have come out of child welfare systems who do not have citizenship in Canada;
3. There are systemic / structural barriers that have led to the failure to obtain citizenship;
4. Many of our clients have been convicted of criminal offences that now trigger immigration criminal inadmissibility, loss of permanent residence, and removal from Canada;
5. In many of these cases, the criminal behavior was connected to traumatic experiences as children and exacerbated by connection to a child welfare system;
6. We have had almost no success in stopping loss of status and removals because of the strict application of immigration law; and
7. We have had almost no success in supporting clients to re-enter Canada once removed.

Consequently, SALCO has worked for a number of years with partners across Canada to address this issue through law reform, including:

- A test case at the Federal Court of Appeal to address the application of *Charter* rights in these cases
- A research project through the University of Toronto to highlight this issue in Ontario and British Columbia
- A law reform campaign to advocate of legislative and policy change
(<https://www.blacklegalactioncentre.ca/our-system-our-children-our-responsibility-request-to-the-minister-of-immigration/>)

Two current cases that highlight our work:

1. A came to Canada with his mother on a visitor visa. He was 3 at the time. His mother hoped to apply for permanent residence but was unsuccessful. A and his mother started to have issues and ultimately A was taken into care by a children's aid society at a young age. His mother gave up custody and was deported from Canada while he was still in care. The children's aid society supported him to apply for permanent residence on humanitarian and compassionate grounds and he was able to get permanent residence. A was referred to us several years later because he had received an inadmissibility report (to remove him from Canada because of criminal inadmissibility). He had never been told that he was eligible for citizenship and that being a permanent resident would not stop immigration removal from Canada. A had worked hard to rehabilitate himself only to find out that now he was going to be removed because of immigration law. Our clinic is still in the process of supporting A to address his removal. A has no connections in his home country and has been in Canada for over 29 years, since the age of 3.
2. B came to Canada accompanying a parent who was on a work permit. That parent passed away in Canada and B was placed into the care of a children's aid society. B had no family here or elsewhere. B's temporary permit (as a student) expired while he was in care and the society missed extending it. The children's aid society eventually noted that he was out of immigration status and contacted our clinic to support him with an application for permanent residence on humanitarian and compassionate grounds. The application took a number of years to process and B went between having temporary status to being out of status and back and forth. B finally got permanent resident status after he was an adult and out of care. Had the pathway to citizenship been available while he was in care, he would have had his citizenship years before he got it. Bu suffers from mental health issues, related to his lifelong trauma of losing a parent and being in care, and is now seeking a waiver of the citizenship test because he is not capable of writing it. Something that would not have been required if he had obtained citizenship under legislation like Bill S-235. B has been in Canada for 32 years, since he was 7 years old.

SALCO's Position:

SALCO is in full support of Bill S-235.

We work with these clients regularly and are heartbroken by the devastating impact of the current immigration legislation on their lives.

In all ways, the populations impacted by this proposed legislation are Canadians. They are Canadian children. They are Canadian adults. They grew up in Canada, raised by parents, families, and in some cases raised by child welfare systems. They were educated in Canadian education systems. They are embedded in Canadian communities, giving back and contributing like other Canadians. Canada is their home. Their only distinction is not holding or having access to Canadian citizenship because of legislative barriers that we have created. It is time to correct those barriers.