

IMMIGRATION LAW

Saba Z. Naqvi

Saba Naqvi practices Canadian and U.S. immigration law at Boughton Law Corporation. Ms. Naqvi represents corporations and individuals in a wide range of immigration and citizenship matters. A graduate of Southwestern University School of Law, Los Angeles, Ms. Naqvi is licensed to practice law in the Province of British Columbia and in the State of California. She is the Vice Chair of the American Immigration Lawyers Association Canada Chapter, a member of the Immigration Section of the Canadian Bar Association BC Branch, and a member of the American Bar Association.

- A. Introduction
- B. New Minister of Citizenship, Immigration and Multiculturalism
- C. Amendment to the Citizenship Act
- D. Amendments to the Immigration and Refugee Protection Act
 - 1. Requirements Before Entering Canada
 - 2. Humanitarian and Compassionate Applications Submitted Outside Canada
 - 3. Ministerial Instructions for Processing of Visa Applications
- E. Changes to Canada's Immigration Programs
 - 1. Canadian Experience Class Introduced
 - 2. New Eligibility Requirements for Federal Skilled Worker Applicants

The author is grateful for the contributions of Bruce Harwood during preparation of this chapter. Mr. Harwood practices immigration law at Boughton Law Corporation.

F. Policy Announcements

1. Changes to Permanent Residence Card Application Process
2. Work Permit Program for International Graduates
3. Off-Campus Work Permits for International Students at Private Institutions in BC
4. On-Line Applications for Off-Campus Work Permits
5. Three-year Renewable Work Permits for NAFTA Professionals
6. Settlement Funds for New Immigrants

G. Case Law

1. Security Certificate Procedures
2. Issues Surrounding Refugees and Persons in Need of Protection
3. Humanitarian and Compassionate Applications
4. Overseas Applications
5. Standards of Review
6. Temporary Resident Visa Application
7. Citizenship

A. Introduction

The year 2008 brought numerous changes to Canada's immigration laws and policies. A new Minister of Citizenship, Immigration and Multiculturalism was appointed and amendments to the *Citizenship Act* and the *Immigration and Refugee Protection Act* were implemented. Significant changes were made to Canada's immigration programs; the federal government made improvements to international student work permit programs and announced the allocation of additional financial resources for immigrant programs. As well, there were noteworthy cases heard in the Supreme Court of Canada and the Federal Courts regarding immigration law and this chapter will summarize the most significant of these decisions.

B. New Minister of Citizenship, Immigration and Multiculturalism

In October 2008, the Honourable Jason Kenney was appointed Minister of Citizenship, Immigration and Multiculturalism as a result of Prime Minister Stephen Harper's cabinet shuffle. The renaming of the

position, from “Minister of Citizenship and Immigration” to “Minister of Citizenship, Immigration and Multiculturalism”, emphasizes the government’s objective of establishing multicultural and settlement programs to facilitate the integration of new immigrants into Canadian society.

C. Amendment to the Citizenship Act

On April 16, 2008, former Minister of Citizenship and Immigration Diane Finley announced the formal passage of Bill C-37, *An Act to amend the Citizenship Act*. This amendment will restore Canadian citizenship to any individual who was born in Canada or became a Canadian citizen on or after January 1, 1947 (the effective date of the first citizenship act in Canada), and subsequently lost citizenship. This amendment will also recognize Canadian citizenship for individuals born abroad to Canadian citizens on or after January 1, 1947, if the individual was the first generation born abroad and Canadian citizenship was not expressly renounced. This law must be implemented no later than April 17, 2009.

D. Amendments to the Immigration and Refugee Protection Act

The implementation of the *Budget Implementation Act, 2008* (“Bill C-50”) in June 2008 and the Ministerial instructions announced in November 2008 resulted in the following noteworthy amendments to the *Immigration and Refugee Protection Act (IRPA)*.

1. Requirements Before Entering Canada

Prior to the implementation of Bill C-50, s. 11(1) of *IRPA* provided that a visa “shall” be issued if an officer was satisfied that a foreign national was not inadmissible and met all of the requirements of *IRPA*. The amendment of this section replaces the word “shall” with “may”. A visa officer now has discretion to refuse to grant a foreign national a visa even if the foreign national meets all *IRPA* requirements.

2. Humanitarian and Compassionate Applications Submitted Outside Canada

Prior to the amendment made to s. 25 of *IRPA*, the Minister, upon request, was required to consider the granting of exemptions from *IRPA* requirements in light of “humanitarian and compassionate

grounds". This applied to applications made both in Canada and outside of Canada. Pursuant to the amendment made to s. 25 of *IRPA*, the Minister now has the discretion not to consider applications submitted outside of Canada.

3. Ministerial Instructions for Processing of Visa Applications

Ministerial instructions on the processing of visa applications were issued. The addition of s. 87.3 to *IRPA* grants the Minister a great degree of power to issue instructions on the processing of visa applications and other documents requested under s. 11 of *IRPA*. The new amendments provide authority for issuance of instructions on establishing categories of applications to which instructions apply, establishing an order for the processing of applications, and setting the number of applications (by category or otherwise) to be processed annually.

Pursuant to s. 87.3(4) of *IRPA*, officers and persons authorized to exercise the powers of the Minister under s. 25 of *IRPA* must comply with the Minister's instructions before processing applications. In the event that any application is not processed, it may be retained, returned, or disposed of in accordance with the Minister's instructions. Section 87.3(5) goes further by specifically providing that retaining, returning, or otherwise disposing of an application is not a final decision on the application. This legislative amendment restricts the availability of judicial review.

The impact of these changes will become apparent within the next few years. There are concerns that the system of Ministerial instructions is akin to placing legislative power in the Minister, without oversight by Parliament or the option of judicial review.

E. Changes to Canada's Immigration Programs

I. Canadian Experience Class Introduced

In September 2008, the Canadian Experience Class ("CEC") category for permanent residence was introduced. The CEC category provides eligible temporary foreign workers and recent international graduates with a Canadian educational credential to apply for permanent residence in Canada. To be eligible, the individual must plan to live outside Quebec and meet the following requirements:

- (1) Be a temporary foreign worker with at least two years of full-time (or equivalent) skilled work experience in Canada under a valid work permit; or
- (2) Be a foreign graduate from a Canadian post-secondary institution with a valid study permit and at least one year of full-time (or equivalent) skilled work experience obtained under a valid work permit.

Skilled work experience is defined as employment in either a managerial, professional, or technical/skilled trade occupation as per the National Occupational Classification (NOC).

Temporary foreign workers will be assessed based on their proficiency in English or French and the quality of their work experience. Foreign graduates will be assessed in accordance with the above criteria and their education experience. Applicants are required to submit their application while working in Canada or within one year of discontinuation of employment in Canada.

2. New Eligibility Requirements for Federal Skilled Worker Applicants

The Ministerial instructions also revealed critical changes to Canada's Federal Skilled Worker Program ("FSW"). Retroactive to February 27, 2008, individuals will be eligible to apply under FSW if they:

- (1) Have an arranged offer of employment; or
- (2) Have been legally residing in Canada for at least one year as a temporary foreign worker or international student; or
- (3) Have a minimum of one year of full-time work experience or its equivalent in one of thirty-eight employment categories determined to be "high-demand" occupations.

The list of high demand occupations was formulated after consultation with the provinces, various business sectors and stakeholders. The work experience must have been acquired within a ten year period prior to the application, in a managerial, professional, or technical/skilled trade capacity in accordance with the NOC. Due to the anticipated reduction of inventory the anticipated processing time for new applications under FSW is six to twelve months, compared to up to six years under the previous model. Further, applications of individuals with experience in one of the thirty-eight high-demand occupations will be forwarded to the newly established centralized intake office in Sydney, Nova Scotia. This office, which will employ

thirty additional staff, will be geared towards reducing the burden on overseas visa offices and reducing processing times.

F. Policy Announcements

Effective March 1, 2008, citizens of Poland, Slovakia, Lithuania, and Hungary have been added to the list of visa exempt countries. Citizens of visa exempt countries do not require a visa to travel to Canada and are extended the privilege of applying for work and study permits at a Canadian port of entry if all other immigration admissibility criteria are satisfied. Presently, only citizens of two European Union (EU) countries - Bulgaria and Romania - still require temporary resident visas for Canada. Citizenship and Immigration Canada is currently working with Bulgaria and Romania with the goal of granting them visa exempt status to encourage free movement between the EU and Canada.

1. Changes to Permanent Residence Card Application Process

In June 2008 two noteworthy changes to Canada's permanent residence card application process were announced. First, Canadian permanent residents are no longer required to submit their valid permanent resident card when applying to replace a permanent resident card that is due to expire. Instead, applicants may simply exchange their old card for their new card when they pick up the new card in person at the Citizenship and Immigration Canada ("CIC") office. Those who apply for a new permanent resident card after their current card has expired should still submit their expired card with their application. This change allows permanent residents to travel abroad while their application for a new permanent residence card is in process.

Second, permanent residents applying for a new or replacement permanent resident card are no longer required to have a guarantor sign their application, or to execute a statutory declaration in lieu of a guarantor. This makes the application process easier for applicants, and security is not compromised as CIC can verify an applicant's identity and residence with their passport, driver's license, employment information, or educational information.

2. Work Permit Program for International Graduates

Effective April 21, 2008, foreign students graduating from eligible programs at certain post-secondary institutions in Canada may obtain a post-graduation open work permit with a three year validity. This

announcement significantly broadens Canada's Post-Graduation Work Permit Program; the previous model required a job offer, placed restrictions on the type of employment that was eligible, and allowed for a maximum validity of one to two years depending on location. The changes are designed to provide international students with more employment options once they graduate in Canada, which allows them to gain valuable work experience, contribute to Canada's labour market, and eventually acquire permanent resident status.

3. Off-Campus Work Permits for International Students at Private Institutions in BC

On May 20, 2008, a four year pilot expansion program of the Off-Campus Work Permit Program for international students in British Columbia was announced. The announcement allows international students attending qualifying private institutions to be eligible for off-campus work permits. (Previously, only international students at public universities were eligible.) The program applies to qualifying programs offered at eligible, degree conferring, post-secondary institutions. Similar pilots have already been implemented in Alberta, Manitoba, and Prince Edward Island.

4. On-Line Applications for Off-Campus Work Permits

Building on the momentum of attracting and retaining international students in Canada, on September 3, 2008, CIC announced that international students applying for off-campus work permits in Canada now have the option of completing and submitting their application and fee payment online. This process is intended to minimize delays from incomplete forms and to make it more convenient for students to complete the off-campus work permit application process.

5. Three-year Renewable Work Permits for NAFTA Professionals

Effective December 15, 2008, applicants from the United States and Mexico seeking entry to Canada as NAFTA Professionals are eligible for three-year work permits rather than the one-year maximum permits previously available. This amendment is in response to a similar rule adopted in the United States. Minister Kenney advised that this change will benefit the Canadian economy by providing continuity and stability for both workers and employers in a time of economic uncertainty.

6. Settlement Funds for New Immigrants

Canada's 2008 budget revealed that Canada will invest \$22 million over two years to modernize Canada's immigration system and enable it to process skilled immigrants expeditiously. This builds on the \$1.4 billion investment over five years to improve on Canada's settlement and integration services in all provinces except Quebec. British Columbia's allocation for settlement funding is over \$106 million.

G. Case Law

I. Security Certificate Procedures

The decision of the Supreme Court of Canada in *Charkaoui v. Canada (Minister of Citizenship and Immigration)*, 2008 SCC 38, has been reported on in the last two years and has a significant history. In *Charkaoui v. Canada (Minister of Citizenship and Immigration)*, 2007 SCC 9, the court considered the constitutionality of security certificates and detention provisions; certain provisions of *IRPA* pertaining to security certificate issuance and detention were found to breach s. 7 of the *Canadian Charter of Rights and Freedoms* (the "Charter") and to be inconsistent with principles of fundamental justice. The violating provisions were struck down and changes to the security certificate issuance procedures under *IRPA* were implemented.

The 2008 Supreme Court of Canada concerned a separate aspect of the appellant's case, namely the Federal Court detention review and the review of a security certificate. The appellant was issued a security certificate, arrested, and detained. Prior to a fourth scheduled detention review, counsel for the Minister of Citizenship and Immigration and the Solicitor General (now the Minister of Public Safety and Emergency Preparedness) (collectively, the "Ministers") advised the judge in an *in camera* hearing that some documents on which the government was relying were inadvertently not disclosed to the appellant. The documents consisted of summaries of Canadian Security and Intelligence Service ("CSIS") interview notes (the "interview summaries"). The judge ordered that the interview summaries be disclosed to appellant's counsel immediately. During the same *in camera* hearing, the Ministers' counsel filed new allegations against the appellant based on new evidence (the "new evidence") that was not on file when the appellant's security certificate was signed. The new information was disclosed to the appellant the following day. The detention review was adjourned and a postponement was granted to the appellant.

The appellant then moved to exclude the new evidence and requested disclosure of the complete CSIS interview notes rather than just the interview summaries. He also requested recordings of the CSIS interviews. The Ministers advised that the complete notes of the interview were destroyed, as per CSIS policy, once the interview summaries were completed. Further, there were no recordings of the interview on file. In response the appellant filed a motion for a stay of proceedings, alleging a violation of procedural fairness and requesting that the security certificate be quashed and he be released. In the alternative, he requested that the new evidence be excluded. The Federal Court and the Federal Court of Appeal dismissed both applications. As the appellant was subsequently granted a conditional release from custody after a fourth detention review, the matter of his detention was not at issue before the Supreme Court of Canada.

The Supreme Court of Canada allowed the appeal in part, holding that CSIS had a duty to retain and disclose the complete interview notes. However, no prejudice to the appellant resulted since the Federal Court addressed the late disclosure of both the interview notes and the new evidence by adjourning the hearing and granting a postponement of the detention review to allow the appellant to prepare his testimony and defence. The court also reasoned that, as the judicial review process was ongoing and related to both the certificate and the detention, the receiving of new evidence was fair since it could be as beneficial to the appellant as to the Ministers. A stay of proceedings was not a suitable remedy in this case.

2. Issues Surrounding Refugees and Persons in Need of Protection

a. Constitutionality of Safe Third Country Agreement with the United States

Canada (Minister of Citizenship and Immigration) v. Canadian Council for Refugees, 2008 FCA 229, leave to appeal refused [2008] S.C.C.A. No. 422 (QL), was an appeal of a decision of an applications judge reported last year. The original decision held that the Agreement Between the Government of Canada and the Government of the United States of America for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries, also known as the Safe Third Country Agreement (“SCTA”), and ss. 159.1 to 159.7 of the Immigration and Refugee Protection Regulations (“IRPR”) were ultra vires the enabling legislation (s. 102 of IRPA) and in violation of ss. 7 and 15 of the Charter. The STCA provides that a foreign national who enters Canada from the United States (a country designated as a

“safe third country”) at a land border crossing is not permitted to make a refugee claim in Canada. Designation as a safe third country under s. 102(2) of *IRPA* requires that the Governor-in-Counsel first ensure that the designated country complies with Article 33 of the *Refugee Convention* and Article 3 of the *Convention Against Torture*.

The Federal Court of Appeal set aside the decision of the applications judge; the sections of the *IRPR* and the *STCA* at issue were not *ultra vires*. The court held that the standard of review to be applied to the Governor-in-Counsel’s decision to designate the United States as a safe third country was correctness. The Governor in Counsel is to exercise its authority as delegated in s. 102(2) of *IRPA* and there is no requirement for “actual” compliance or compliance in “absolute terms” as per the applications judge’s reasoning. Parliament had clearly set out four factors to be considered in determining whether a country could be designated a safe third country. These are general factors to be assessed by the Governor-in-Counsel’s consideration of the country’s practices, policies and human rights record. Once it is determined that the four factors have been considered and compliance with the relevant Conventions is ascertained, judicial review of the decision is not necessary. There was no basis to imply that the Governor-in-Counsel acted in bad faith when it designated the United States as a safe third country, as it had engaged in consultation prior to the promulgation of the pertinent provisions of *IRPR*.

However, the court failed to determine whether in fact the designation of the United States as a safe third country violates the *Charter*. It stated there was no factual basis to assess the alleged *Charter* breach because the individual in question did not come to Canada and attempt to make a refugee claim. Rather, the individual instead claimed that he would have sought refugee status in Canada but for the *SCTA*.

b. Burden of Proof in Refugee Claims

In *Canada (Minister of Citizenship and Immigration) v. Carrillo*, 2008 FCA 94, the central issue involved discussion of what is meant by “the presumption of state protection” in refugee claims, as referred to in *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689.

In this case, the respondent’s refugee claim was based on her inability to get state protection in her home country of Mexico. She fled the country from her physically abusive common-law spouse. Her argument on lack of state protection was based on the fact that, after a severe beating by her common-law spouse, she filed a complaint with Mexican police authorities and moved to a friend’s house without

disclosing her whereabouts to her common-law spouse. The spouse located her with the assistance of his brother, a federal judicial police officer. The respondent then escaped Mexico and made a refugee claim in Canada.

Her claim was dismissed, partly based on the fact that the Refugee Protection Division (“RPD”) found the respondent failed to rebut the presumption of state protection with “clear and convincing” evidence (*Xue v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 1728 (QL), citing *Ward* as calling for the same standard of proof).

The Federal Court allowed the application for judicial review and ordered a new refugee hearing. It found that the standard of proof placed on the respondent was too high, and that the presumption of state protection was a legal presumption which could be rebutted with reliable evidence adduced by the claimant to demonstrate inability of the state to provide protection. The following question was certified (at para.1):

What is meant by the presumption of state protection (as mentioned in *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689)? Does it impose a particular standard of proof on refugee claims [sic] to rebut it, or does it merely impose an obligation to present reliable evidence of a lack of state protection? If it imposes a particular standard of proof, what is it?

On appeal by the Minister, the Federal Court of Appeal granted the appeal, set aside the decision of the Federal Court and reinstated the RPD decision. As to the certified question, the Federal Court of Appeal held that the Federal Court incorrectly defined the presumption of state protection as a legal presumption rather than a rebuttable presumption. The onus was on the claimant to bear both the evidentiary burden of rebutting the presumption of state protection and the legal burden of persuading the trier of fact that the evidence is sufficient to demonstrate inadequate state protection. With respect to the standard of proof the court stated (at para. 38):

The standard of proof applicable is the balance of probabilities and there is no requirement of a higher degree of probability than what that standard usually requires. As for the quality of the evidence required to rebut the presumption of state protection, the presumption is rebutted by clear and convincing evidence that the state protection is inadequate or non-existent.

3. Humanitarian and Compassionate Applications

Thiara v. Canada (Minister of Citizenship and Immigration), 2008 FCA 151, involved an appeal of a Federal Court decision confirming the denial of an application for a humanitarian and compassionate (“H&C”) exemption pursuant to s. 25 of *IRPA*. The Federal Court of Appeal considered the following certified question (at para. 2):

Does paragraph 3(3)(f) of the *Immigration and Refugee Protection Act* (IRPA), require that an immigration officer, exercising discretion under section 25 of the IRPA, specifically refer to and analyse the international human rights instruments to which Canada is signatory, or is it sufficient if the officer addresses their substance?

The Federal Court of Appeal answered the question in the negative, affirming the Federal Court’s decision that substance prevails over form. The appellant argued that international human rights instruments required the best interests of the child to prevail; by denying her application, in essence the officer failed to act consistently with human rights instruments and erred by refusing the application. In dismissing the appeal, the Federal Court of Appeal agreed with the applications judge’s reasoning in accordance with *Legault v. Canada (Minister of Citizenship and Immigration)*, 2002 FCA 125. In *Legault* the court held that although the best interests of the child is a significant factor to which importance should be given, it is not the paramount or determinative consideration. All relevant factors concerning the appellant’s circumstances should be assessed in making the final determination.

4. Overseas Applications

a. Entrepreneur Class

Rahim v. Canada (Minister of Citizenship and Immigration), 2008 FCA 87, involved a refusal of an application for a permanent resident visa submitted under the entrepreneur class (“EC”). The issue on appeal was the appropriate test to determine whether an applicant has control of certain shares of a corporation, as control was one of the eligibility requirements of the EC.

The appellant’s EC application was denied as the visa officer determined the appellant had relinquished his ownership rights in the company by creating a trust to which he had transferred his rights and 60% interest in the shares. However, the appellant retained the power to revoke the trust at any time; this would result in all trust property being transferred back to him.

On appeal to the Federal Court, the decision of the visa officer was upheld. Even though the appellant had the power to revoke the trust, he did not have legal control over the shares. The following question was certified (at para. 15):

Does the phrase “the control of a percentage of equity of the qualifying business”, as it appears in subsection 88(1) of the *Immigration and Refugee Protection Regulations*, refer only to the legal or *de jure* control of the shares in issue, or does it include cases where an applicant may have *de facto* control over the shares in question, notwithstanding the fact that legal control over the shares may temporarily rest in another person?

The Federal Court of Appeal allowed the appeal with costs and set aside the decision of the Federal Court. It answered the certified question in the negative; s. 88(1) of *IRPA* does not refer to only legal or *de jure* control. The appropriate test to be applied is that of “effective control”, as set out in *Cloutier v. Canada (Minister of National Revenue)* (1986), [1987] 2 F.C. 222: whether there is “control that can be freely exercised and is not impeded by circumstances independent of the person having control”. This test was satisfied in the present case as the appellant had the unfettered authority to revoke the trust at any time.

b. Definition of Dependent Child

The decision in *Canada (Minister of Citizenship and Immigration) v. Dimonekene*, 2008 FCA 102, centered on the definition of “dependent child” in s. 2(b)(ii)(A) of *IRPR*. Under that provision, a child over the age of 22 will still be considered as “dependent child” if the child is “continuously enrolled in and attending” full-time studies. A dependent child is eligible to be included on a parent’s application for permanent residence.

In the present case, the respondent’s child was refused permanent residence in Canada based on an interruption of his studies in the Democratic Republic of Congo. On appeal, the respondent argued that her child had an interruption of studies due to the civil war in their home country; this resulted in the closure of schools. Regardless, the Immigration Appeal Division (IAD) affirmed the decision of the visa officer. The Federal Court set aside the decision of the IAD, sent it back for redetermination, and certified the following question (at para. 2):

For the purpose of interpreting the conditions stated in the definition of “dependent child” set out in clause 2(b)(ii)(A) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 as amended, with regard to the words “continuously enrolled in and attending”, can the Immigration Appeal

Division take into consideration a period of interruption of studies, and if so, can it take into consideration the reasons for the interruption?

The Federal Court of Appeal allowed the appeal, finding that the lower court had erred in focusing on the definition of “dependent child” rather than reviewing the facts in evidence before the IAD. Following *Dunsmuir v. New Brunswick*, 2008 SCC 9, and according to the standard of reasonableness, the IAD rendered the only decision it reasonably could on the evidence before it. This was due to the fact that apart from the periods of closure due to civil war, after reaching the age of 22, the son failed to attend school on occasions before and after the periods of closure.

5. Standards of Review

As referred to in *Dimonekene* above, it is necessary to briefly mention *Dunsmuir v. New Brunswick*, 2008 SCC 9, as it relates to immigration law. In short, *Dunsmuir* acknowledged the need to simplify varying standards of review as cases with similar facts attracted different standards. The Supreme Court of Canada noted that only two standards of review are applicable: reasonableness, and correctness. The majority held that an exhaustive consideration of the appropriate standard of review is not always necessary. First, it should be determined whether jurisprudence has already satisfactorily determined the deference to be granted to a particular decision-maker. If not, the second step is to apply the four factors outlined in *Pushpanathan v. Canada (Minister of Citizenship and Immigration)*, [1998] 1 S.C.R. 982. These four factors are:

- (1) the nature of the question: law, fact, or policy;
- (2) the expertise of the tribunal on the issue, relative to that of the reviewing court;
- (3) the presence of a privative clause or right of appeal; and
- (4) the purpose of the statutory scheme and the particular provision.

6. Temporary Resident Visa Application

Khatoon v. Canada (Minister of Citizenship and Immigration), 2008 FC 276, involved an application for a temporary resident visa. The court held that it was inappropriate for the visa office to find that the applicant would not leave Canada at the end of her authorized stay simply because her son was “out of status” in Canada. The court reasoned that

people are to be judged on their own behaviour and not that of their family members. Further, as the elderly applicant's Canadian host family had sufficient funds to support her while she was visiting Canada, it was patently unreasonable to require the applicant to submit evidence of her personal funds. In light of *Dunsmuir*, the term "patently unreasonable" may no longer be a relevant consideration for judicial review.

7. Citizenship

Worthington v. Canada (Minister of Citizenship and Immigration), 2008 FC 409, concerned s. 3(1) of the *Citizenship Act*. The court held that it was discriminatory to deny foreign born adoptive children the opportunity of "deemed" citizenship pursuant to s. 3(1)(e) simply because they were adopted. The provision was found to violate the *Charter*.