



**Proposed Change to Citizenship Requirement
Proof of Language Proficiency
CCR Comments**

14 November 2011

Introduction

On October 15, 2011, Citizenship and Immigration Canada published in the Canada Gazette (Part I) a notice of a proposal to require applicants to furnish upfront evidence of language ability showing achievement of at least Canadian Language Benchmark level 4 in speaking and listening with their citizenship application.

The Canadian Council for Refugees has a number of concerns with this proposal.

Integration and Language Proficiency

The CCR agrees that speaking English or French is important and desirable for newcomers. Acquiring official language skills is a critical factor in settlement for new immigrants, one that is necessary to participate effectively in the labour market as well as in other aspects of society. Newcomers more than anyone are aware of this. We believe that it is essential that newcomers be appropriately supported in learning one, or ideally both, of Canada's official languages.

Proof of language proficiency as a barrier to citizenship

While language learning is to be promoted, we are concerned about the impact of the proposed change to require citizenship applicants between the ages of 18 and 54 to provide third party proof that they have attained Canadian Language Benchmark level 4. We are particularly concerned about the impacts on certain vulnerable groups of newcomers. Our concerns relate to:

1. The difficulties experienced by some newcomers in learning a new language; and
2. The additional burden for some newcomers in having to provide proof of language proficiency.

Particular difficulties for some refugees in learning a new language

Some newcomers face more challenges than others in learning a new language. It is important to note that refugees are admitted to Canada based not on their potential to integrate into Canadian society, but rather on humanitarian grounds. Many have experienced severe persecution; many have spent years in a precarious situation in a country of asylum. It is thus problematic to hold them rigidly to standards of integration that may be difficult for them to achieve, without flexibility to consider the challenges that they have overcome.

Refugees who have experienced trauma

Many refugees have experienced severe trauma such as torture, war, witnessing the killing of family members and other forms of organized violence. While many newcomers succeed in learning English or French, despite their traumatization, some will struggle.

Refugees who have spent years in a situation of deprivation

Many refugees have spent years before coming to Canada in a refugee camp or surviving without status in a third country. They may have been deprived of health care, education and even basic security. Adapting to life in Canada can be a huge challenge for them, and they may find it difficult to learn English or French as quickly as some others.

Refugees repaying transportation loans

Refugees resettled to Canada must pay for their medical exam and their travel to Canada. Since most refugees of course can't afford these expenses, Canada offers them a loan. As a result, refugee families start their new life in Canada with a debt of up to \$10,000. They must repay this loan with interest, which means that many refugee families must work several jobs for many years in order to pay back this debt. This limits their ability to go to language classes.

Others with difficulty learning a new language

Women with children

Some newcomer women are full-time caregivers for their children and other family members, and thus have limited access to language instruction.

People with intellectual challenges or learning disabilities

Attaining a Benchmark level 4 may be difficult for people with intellectual challenges or learning disabilities.

Burden of providing proof of language proficiency

The Canada Gazette notice points out that many applicants will have proof of language proficiency readily available, since many economic immigrants will have submitted such proof with their immigration application and others will have successfully completed a language training course or secondary education in English or French. We are concerned that many applicants, however, will not have such proof and will therefore face the additional burden of paying for language testing. This includes many vulnerable persons who can ill afford extra expenses.

In addition, tests can be particularly stressful and intimidating for traumatized individuals, as well as those with intellectual challenges or little formal education. There is a danger that some newcomers may be discouraged from applying because of their fears of having to get through an additional test.

Refugees and other non-economic immigrants

Many newcomers come to Canada already speaking English or French, but without documentary proof such as high school certificates. This is particularly the case for refugees, who are often forced to travel without their personal documents. Refugees often have their education

interrupted and may have learned languages informally as they struggle to improve themselves. Yet, they will face the burden of paying for language testing, even though they came to Canada with good English or French.

Other newcomers learn English or French after arrival in Canada, but not in a formal language training course like the federally funded Language Instruction for Newcomers to Canada (LINC). This may include resettled refugees who must forego language training in order to pay back the transportation loan. It also includes many refugees who arrived as refugee claimants: since claimants are not eligible for newcomer language training, they often find alternative ways on their own to learn English or French. Most of these individuals have very little money, and the additional cost of testing may represent a financial obstacle.

Regional availability of language testing

We are concerned that third-party language testing may not be equally available in all regions of Canada. This would be unfair to people in smaller centres or rural areas, who might be forced to travel long distances to be tested.

We are also concerned that applicants may be at a disadvantage if they live in a region where the official language they speak is the minority language. Again, third-party language testing may not be equally available to them.

Consideration of compassionate grounds

Paragraph 5(3)(a) of the Citizenship Act gives the Minister discretion to grant citizenship, on compassionate grounds, to a person who does not have an adequate knowledge of English or French. It is not clear how, under the proposal, this discretion would be exercised. We are concerned that the proposed process would close the door on some applicants who deserve compassionate consideration.

Under the current process, applicants submit their application and are called for the citizenship test. If they fail the test (which includes an evaluation of their knowledge of English or French), they meet with a citizenship judge. The judge may then consider any specific factors that may deserve compassion – for example the fact that the person is traumatized as a result of torture.

Under the proposed process, applications will simply be returned to the sender if they do not include proof of language proficiency.

We are therefore concerned that the requirement of proof of language proficiency will mean that some people with compelling reasons for not being able to demonstrate full proficiency will be barred from even applying for citizenship.

Obligation to facilitate citizenship for refugees

Under the 1951 Convention relating to the Status of Refugees, Canada has an obligation to:

as far as possible facilitate the assimilation and naturalization of refugees. [The Contracting States] shall in particular make every effort to expedite naturalization

proceedings and to reduce as far as possible the charges and costs of such proceedings.

The proposed change to the citizenship rules does not appear to meet this obligation. This is particularly the case given that, as explained above, refugees will be among those who will in some cases have difficulty learning a new language. In addition, the additional costs of third-party testing will be a barrier for some refugees.

Acquiring citizenship is particularly important for refugees, who have been forced to flee a country whose government was unable or unwilling to protect them. Until they have citizenship, they cannot feel fully secure. Without citizenship, they cannot enjoy the full range of rights and protections, including the protection of a government when travelling abroad.

Conclusion

Newcomers themselves know just how important learning Canada's official languages is for successful integration. It is important however to recognize that newcomers do not always need to be fluent in order to make model citizens.

We believe that rather than penalizing newcomers who have challenges learning languages, Canada should focus on providing access to language instruction to groups that currently don't enjoy it. We also note that recent funding cuts to the settlement sector may undermine the capacity of settlement organizations in some provinces to deliver language instruction.

The CCR is concerned that, rather than attaining its stated objective of strengthening the integration of newcomers in Canada by improving language outcomes and encouraging their full participation in Canadian society, this proposal will create barriers to citizenship and thus deny certain rights and protections for particular groups. We believe that it is important to avoid making the citizenship application process more burdensome, particularly to those with limited financial means or living outside the major centres.

We also emphasize the importance of retaining a certain degree of flexibility in order to take into account obstacles faced by certain vulnerable groups, who have a heightened need for the protections that citizenship offers, such as refugees and women.

While language proficiency is an objective for all newcomers, raising the bar puts the focus on penalizing certain groups, rather than on facilitating integration.