



Definition of dependent children

Comments on the proposed change to the Immigration and Refugee Protection Regulations
As published in the Canada Gazette, Part I, 18 May 2013
June 2013

The Canadian Council for Refugees (CCR) is strongly opposed to the proposed regulatory change. At the CCR's recent General Meeting, the membership responded to the proposed change through the adoption of a resolution calling for the criteria of dependency for children to remain as they currently appear in the regulations (under 22 years of age, full-time students and children with a disability).

The following are the CCR's principal reasons for opposing the proposed change.

- Young unmarried adult children under the age of 22 years are usually still part of the family, economically, socially and psychologically, and continue to need their parents' support. Indeed, children often continue to be part of the family past the age of 22. We believe that most Canadian parents expect their 19, 20 or 21 year old children to be at least partially dependent on them.
- In many societies it is difficult and even dangerous for single young women to live alone.
- The proposed change undermines one of the objectives of the Immigration and Refugee Protection Act, which is to see that families are reunited in Canada.
- Canadian society is stronger when families are valued and supported.
- Refugees are forced to flee because of persecution, which often puts their young adult children at risk too. Leaving them behind may put their lives at risk.
- Refugees often spend years in flight before they reach safety and during this time their children's lives are disrupted, whether the children are waiting in the home country or have also been forced to flee. It would be very difficult for the family to have to leave the young adult children behind when the parents are finally given a new home in Canada.
- Refugees who make a claim in Canada often wait years to receive a decision. While the new refugee system implemented in December 2012 is significantly reducing processing times, there will be some claims that take longer than average to process, through no fault of the claimant's. It is unfair for refugees to be deprived of the possibility of family reunification due to a child turning 19 while the parent's claim is being processed.
- When refugees flee, older siblings are often forced to play the role of surrogate parents to their younger siblings. Leaving the older siblings behind when the family is finally reunited in Canada would represent yet another brutal separation for a family that has already experienced separation.
- Live-in caregivers and people accepted on humanitarian grounds must wait years before they can sponsor their children. It is unfair to exclude children who have recently passed the age of 18 simply because of the length of the immigration process.

- Newcomers can't settle well when they are worried about close family members left abroad. This is particularly the case if the family members are in a refugee-like situation and at risk. This inability to settle well will limit their economic potential. In addition, parents who must worry about children from whom they are separated are more likely to suffer from mental health problems such as depression that require health services, incurring costs that might be avoided if they were reunited with their children.
- Parents forced to leave behind young adult children will instead send money abroad to support their children, at an economic loss to Canada.
- Older children often provide important support to newcomer parents, such as helping to share the task of caring for younger siblings. This may permit the parents to participate more actively in the labour market, thus increasing the overall economic potential of the family.
- Young adult children who are refugees may be in a refugee camp supported by Canadian humanitarian dollars. It would make better economic sense to bring them to Canada where they can contribute to society.
- The importance of family reunification to refugees' well-being is highlighted in the objectives with respect to refugees of the Immigration and Refugee Protection Act, which include the following: "to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada." The proposed change directly undermines this objective.
- The Regulatory Impact Analysis Statement explains the change by suggesting that Canada must select the immigrants that will fare best economically in Canada. However, refugees and family class immigrants are not selected for their economic potential, so this is not an appropriate reason for changing the family definition in these classes.
- The Regulatory Impact Analysis Statement evaluates the change exclusively in relation to economic factors, ignoring the fact that the Immigration and Refugee Protection Act identifies a whole series of objectives, of which the economic is only one. The first objective, with respect to immigration, is "to permit Canada to pursue the maximum social, cultural and economic benefits of immigration". The second is "to enrich and strengthen the social and cultural fabric of Canadian society". Keeping families together is an important social benefit for the country.
- Narrowing the definition of dependent children will lead to an increase in applications on humanitarian and compassionate grounds. Many of these applications may be compelling, because the young adult child is at risk of persecution, hardship or gender-based discrimination (such as a single woman living alone), or on the grounds of the best interests of the child (with respect to the younger siblings). Processing of these applications is much more complicated for visa officers than a dependent child application, and thus presumably an extra expense (which has not been accounted for in the Regulatory Impact Analysis Statement).

We note that some of the concerns raised above were cited in the explanations given for the expansion of the definition of dependent child when the Immigration and Refugee Protection Regulations were introduced:

The family regulations address issues that relate to adult children recognizing that some young adults enter new family relationships at a younger age, while others remain with their parents for a longer period of time. Given the importance placed on education, it is not unusual for some children to remain with their nuclear family while pursuing higher education before entering the labour market. The expanded definition of “dependent child” better reflects longer child dependency, in some of these cases; this definition also takes into account that children may have obligations in their country of origin, such as the performance of military duty, which may preclude their being able to immigrate within a specified period of time. Under current legislation, these cases require review on a case by case basis to determine whether grounds exist to exercise humanitarian and compassionate consideration.¹

By allowing in-Canada consideration of some family class cases and broadening the definition of dependent child, these new Regulations demonstrate legislative policy intent that is responsive to current social realities. The new provisions recognize that in some cultures, unmarried children will continue to live with their parents. This in turn eliminates undue hardship on the family in such situations where, under current legislation, consideration under the discretionary decision-making powers in the current Immigration Act is required.²

The CCR believes that these reasons continue to hold force today.

It is also to be noted that other countries with similar immigration systems have rules in place allowing parents to reunite with children over 19 years. In Australia, a citizen or permanent resident parent can sponsor children under 25.³ New Zealand defines a dependent child as a single child up to 24 years who is dependent.⁴ The US provides for citizens to sponsor a child who is under age 21. Older children may also be sponsored, subject to a quota.⁵

Canada’s current rules defining dependent children as under 22 years or full-time students are thus broadly in line with the rules in several like-minded countries.

The CCR also questions whether the research cited in the Regulatory Impact Analysis Statement supports the conclusions reached. The key statistic presented to justify the change is the following: “By age 30, dependants that arrived at ages 15 to 18 earn roughly 20% more than dependants that arrived at ages 19 to 21.”⁶ The rationale later states: “Research shows that the younger immigrants are when they are granted Canadian permanent residence, the better their

¹ Canada Gazette, Part I, December 15, 2001, p. 4539 <http://publications.gc.ca/gazette/archives/p1/2001/2001-12-15/pdf/g1-13550.pdf>

² Canada Gazette, Part II, June 14, 2002, p. 258, <http://publications.gc.ca/gazette/archives/p2/2002/2002-06-14-x/pdf/g2-136x9.pdf>

³ A child over 18 must be financially dependent on the parent and a full-time student. <http://www.immi.gov.au/migrants/family/child/101/>

⁴ In the case of children aged 21 to 24 years of age, evidence of dependence may be required. <http://www.immigration.govt.nz/opsmanual/44892.htm>

⁵ <http://www.uscis.gov/USCIS/Resources/A1en.pdf>

⁶ The sources cited are the Longitudinal Immigration Database and Canada Revenue Agency.

long-term labour market outcomes relative to those who immigrate at a later age...” Yet one of the research papers cited in relation to this point actually finds that immigrants who arrive around ages 15 to 18 do less well economically than those who arrive at a slightly older age. “We also observe that immigrants who arrive in their late teens, near the high school to post-secondary transition, have lower earnings than those who arrive either slightly earlier or later.”⁷

Moreover, even if 19 to 21 year-olds do not do quite as well by age 30 as their younger siblings, it does not follow that they are not still succeeding and contributing to the Canadian economy. The analysis also fails to ask what the research may or may not tell us about how being forced to leave behind young adult children or older siblings affects the labour market outcomes of refugee and immigrant parents and children.

Conclusion

The CCR recommends that the proposed regulatory change not be pursued and that the government instead strengthen efforts to facilitate speedier and more comprehensive family reunification.

⁷ Schaafsma, Joseph and Arthur Sweetman (2001). “Important Earnings: Age at Immigration Matters,” *Canadian Journal of Economics*, November 2001, v. 34, iss. 4, p. 1095.