

FEDERAL BRIEFING DOCUMENT 2: EXECUTIVE SUMMARY

Gender Bias in Immigration Criteria

Gender bias in criteria and rules that determine eligibility to immigrate to Canada may threaten the safety of abused women and their children. A number of immigration criteria and rules make it easier for men than for women to immigrate to Canada as independent immigrants. These include: the points system for skilled workers and professionals; the Business Immigration Program; and the Canada Experience Class. Programs that favour male applicants encourage women's dependence on men for their immigration status. Women may therefore remain in abusive relationships in order to be allowed into Canada or to gain permanent resident status. The only immigration program that favours traditional female skills is the Live-in Caregiver Program. But this program restricts participants in ways that other immigration programs do not. Some aspects of this program may also put some women at risk of abuse by employers. It is important that all new legislation and programs, including the proposed *Balanced Refugee Reform Act*, be assessed for their impact on women, especially women's safety.

Recommendations

Immediate

1. If monitoring and comparative research on the gender impacts of the *Immigration and Refugee Protection Act* (IRPA), as suggested in the gender-based analysis of IRPA, have taken place, the results should be made public and corrective action taken as appropriate. If such monitoring and comparative research has not taken place, Citizenship and Immigration Canada (CIC) should undertake such monitoring and comparative research on an urgent basis, make public the results, and take corrective action as appropriate.
2. CIC should institute a policy that all new programs, legislation, policies, guidelines, and criteria, including the proposed *Balanced Refugee Reform Act*, must be assessed for gender bias, including ways in which identified bias might jeopardize the safety of abused women and their children, and that this gender bias must be addressed before new initiatives are implemented.

Medium-term

3. CIC should conduct a gender and safety audit of all existing programs, legislation, policies, guidelines, and criteria to assess for gender bias, including how this bias might jeopardize the safety of abused women and their children, and take immediate steps to address such bias where it is identified.

Longer-term

4. CIC should work with provincial settlement services, language and employment programs, and educational institutions to develop strategies to enable abused non-status or temporary status women to acquire language skills, employment skills, and post-secondary education necessary to qualify for application for permanent residency through the Canada Experience Class as it is currently set out.
5. CIC should amend the Canada Experience Class criteria to include lower skill jobs that are often occupied by women, in order to facilitate more women becoming permanent residents on their own merits rather than as dependents of their husbands.
6. CIC should undertake comprehensive reviews of the points system and the Live-in Caregiver Program to identify ways to address gender bias in order to facilitate more women entering Canada as independent immigrants on their own merits rather than as dependents of their husbands or as Live-in Caregivers.

FEDERAL BRIEFING DOCUMENT 2

Gender Bias in Immigration Criteria

ISSUE: Gender bias in criteria and rules that determine eligibility to immigrate to Canada may threaten the safety of abused women and their children

KEY POINTS

- A number of immigration criteria and rules make it easier for men than for women to immigrate to Canada as independent immigrants. These include: the points system for skilled workers and professionals; the Business Immigration Program; and the Canada Experience Class.
- Programs that favour male applicants encourage women's dependence on men for their immigration status. Women may therefore remain in abusive relationships in order to be allowed entry to Canada or to gain permanent resident status. This dependence puts abused women and their children at high risk of victimization.
- The immigration points system, the Business Immigration Program, and the Canada Experience Class are all biased in favour of men because men are more likely than women to be well-educated, to be trained for high skill jobs, to have substantial cash sums, to have been enrolled in Canadian post-secondary educational institutions, and to have work experience in managerial, professional, or technical occupations or skilled trades in their home country or in Canada.
- The only immigration program that favours the traditional skills of women is the Live-in Caregiver Program. However, this program restricts the participants in ways that other immigration programs do not. The program does not provide an opportunity to apply for permanent resident status or the ability to bring in family members until after two years of employment. As the program requires the caregiver to live with the family and the caregiver is dependent on her employment in order to be eligible for permanent residency, some circumstances of the Live-in Caregiver Program may put some women at risk of abuse by their employer.
- It is important that all new legislation and programs, including the proposed *Balanced Refugee Reform Act* (Bill C-11), be assessed for its impact on women, and in particular the safety of women who are victims of violence.
- The promised public consultation on Bill C-11 is applauded. It is important, in order to canvas a women-centred perspective and assess and address any potential gender bias, that this consultation includes the women-serving community.

THE CONTEXT

- To apply to immigrate as a skilled worker or professional, there are six categories in which an applicant can earn a maximum of 100 points. Three of these categories, worth a maximum of 70 of those points, depend on education, ability in English and/or French, and work experience in professional, managerial, or high skill occupations. In all of these categories, men are more likely to have more points than women, thus becoming the principal applicant on whom their wives are dependent for their application.
- The Business Immigration Program has three classes of business immigrants: investors, entrepreneurs, and self-employed persons. Applicants in the investor and entrepreneurial classes must have business experience and a net worth of \$800,000 or \$300,000 respectively. In addition, investor class applicants must have at least \$400,000 to invest in Canada. Applicants in the self-employed class must have the experience, intention, and ability to establish a business that will, at minimum, create their own employment and that will make a significant contribution to cultural activities or athletics in Canada or must purchase or manage a farm in Canada. These criteria are far more likely to apply to men than women.
- The Canada Experience Class is a category that allows temporary residents who have worked in Canada for two years in a skilled, professional, managerial, or technical occupation or successfully completed a course of at least two years at a Canadian post-secondary educational institution plus completed one year at a skilled, managerial, professional, or technical job to apply for permanent resident status. Again, this class would exclude most female immigrants.
- In the Live-in Caregiver Program, caregivers must work within their employer's home caring for children, elderly persons, or persons with disabilities. They may not bring other family members, including their own children, with them to Canada. This program provides participants with only a temporary resident permit (TRP). They may apply for permanent resident status only after they have worked for two of the three years following the date of arrival. Live-in caregivers may not bring in any other family members until after they are eligible to apply for and have received permanent resident status. Family members living abroad will not receive their papers to come to Canada until the live-in caregiver has received permanent resident status.
- The gender-based analysis of the *Immigration and Refugee Protection Regulations (Gender-Based Analysis of the Immigration and Refugee Protection Regulations. Immigration and Refugee Protection Regulations. C. Gaz. 2002)* acknowledges this gender bias. Regarding federal skilled workers selection criteria, it states:

The global labour market is highly gendered.....the selection criteria may have differential impact by gender. Although modifications have been made as a result of consultations, disproportionate impacts of the criteria by gender and diversity continue to be identifiable, largely because of the differential treatment of men and women in source countries.

Perhaps even more significantly, the analysis also states:

The new selection grid will require on-going monitoring to identify and assess the extent of potential differential impacts by gender, age and source country.

- Such monitoring implies that action may need to be taken in response to identification of continued differential impacts by gender.
- The gender-based analysis goes on to acknowledge that, despite potential benefits in the 2002 *Immigration and Refugee Protection Act (IRPA)*:

...patterns of gender discrimination and labour market segmentation by race and gender remain prevalent, particularly in many of Canada's top source countries.

- Similarly, gender bias in the Low Income Cut-Off for urban areas of \$500,000 as a measure of immigrants' "ability to establish":

...may likely have a differential impact by gender, given that women the world over have less money, and earn less, than men do.

The gender analysis states that "Ongoing monitoring is required."

- Finally, gender bias is also noted in the "years of education" requirement. The gender-based analysis states:

The requirement of degrees/certificates AND years of education will likely have differential and disproportionate impacts by gender. The requirements also tend to reflect linear paths of education. Research indicates that women are more likely to have non-linear educational paths – often linked to child-bearing, child-rearing and related family responsibilities. In many of Canada's source countries, women and men have very different access to education. Reliance on formal education as an indicator of skill may disproportionately disadvantage women.

The analysis goes on to state that:

Comparative research into educational credentials from Canadian source countries may be needed to assess if, or to what extent there are differential impacts, by gender and source country under the criteria.

RECOMMENDATIONS

1. Citizenship and Immigration Canada (CIC) should conduct a gender and safety audit of all existing programs, legislation, policies, guidelines, and criteria to assess for gender bias, including how this bias might jeopardize the safety of abused women and their children, and take immediate steps to address such bias where it is identified.
2. As priorities, CIC should undertake comprehensive reviews of the points system and the Live-in Caregiver Program to identify ways to address gender bias in order to facilitate more women entering Canada as independent immigrants on their own merits rather than as dependents of their husbands or as Live-in Caregivers.

3. CIC should institute a policy that all new programs, legislation, policies, guidelines, and criteria, including the proposed *Balanced Refugee Reform Act* (Bill C-11), must be assessed for gender bias, including ways in which identified bias might jeopardize the safety of abused women and their children, and that this gender bias must be addressed before new initiatives are implemented.
4. If monitoring and comparative research on the gender impacts of the *Immigration and Refugee Protection Act* (IRPA), as suggested in the gender-based analysis of IRPA, have taken place, the results should be made public and corrective action taken as appropriate. If such monitoring and comparative research has not taken place, CIC should undertake such monitoring and comparative research on an urgent basis, make public the results, and take corrective action as appropriate.
5. It is important, in order to canvas a women-centred perspective and assess and address any potential gender bias, that the promised public consultation on Bill C-11 includes the women-serving community.
6. CIC should work with provincial settlement services, language and employment programs, and educational institutions to develop strategies to enable abused non-status or temporary status women to acquire language skills, employment skills, and post-secondary education necessary to qualify for application for permanent residency through the Canada Experience Class as it is currently set out.
7. CIC should amend the Canada Experience Class criteria to include lower skill jobs that are often occupied by women, in order to facilitate more women becoming permanent residents on their own merits rather than as dependents of their husbands.

See also the Briefing Document *Needs of Women without Status as a Result of Leaving an Abusive Spouse – Suggested Actions* addressing the severing of dependent immigration applications from those of an abusive spouse and amendments to the TRP and H&C processes.

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