

Bill C-71: The need for a timeframe limit

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This submission highlights the risks of the residency requirement of 1,095 days not being subject to any time limitation, unlike the residency requirements for permanent residents. An annex provides estimates the numbers of first generation and beyond being able to access citizenship and the corresponding operational impact on citizenship proofs and passports.

Recommendations:

1. C-71 (3) (a) (ii), (3) (b) (ii), (4) (a) (ii) and (4) (b) (ii) be amended to include the same residency requirement as new citizens: have lived in Canada for at least 3 out of the last 5 years (1,095 days), i.e. “been physically present in Canada for at least 1,095 days during the five years immediately before the date of his or her application” as per 5 (1) (c) (i) of the *Citizenship Act*;
2. IRCC to prepare and share estimates of the number of descendants affected by this change and the operational impact and numbers of additional citizenship proofs and passports; and,
3. IRCC to include in open data the monthly numbers of citizenship proofs issued by country of residence.

Bill C-71 sets out to allow Canadians to pass on their citizenship to any of their children born abroad past the first generation and expands “Lost Canadians” to cover a much larger number than before. The government’s response to the 2023 ruling by the Ontario Superior Court of Justice goes beyond what is needed by placing no time limit by which second generation and beyond descendants of Canadians have to meet the residency requirement of 1,095 days (the “substantial connection” test. In contrast, a permanent resident must have “[been physically present in Canada for at least 1,095 days during the five years immediately before the date of his or her application.](#)”ⁱⁱ

This lack of a timeframe for meeting the critical requirement for passing on citizenship to descendants suggests the government has failed to fully consider the implications of such an open-ended condition.

The number of people potentially [affected is significant.](#)ⁱⁱⁱ There are an estimated four million Canadians living outside Canada. About half of them were born abroad.

As of 2017, two-thirds of them lived in the U.S., with another 15 per cent in the U.K., Australia, France and Italy – the total living in all other countries has unsurprisingly risen from 14 per cent in 1990 to 20 per cent in 2017.

This trend is significant in the context of Bill C-71: for first- and subsequent-generation expatriates in the U.S., EU and other politically stable places, seeking Canadian citizenship may

not be a priority. It is likely a higher priority for those in other countries with less secure conditions.

Fueling the issue triggered by Bill C-71, expatriates as a whole are older than Canadians living in Canada - 45.3 years old compared to 41.7. But citizens by descent are much younger, at an average age of 31.7. Annex A provides a detailed analysis of the likely numbers that will be affected.

Without an established timeframe, within which to accumulate the 1,095 days of residence required to obtain citizenship, it will be challenging or impossible for the federal government to predict and manage citizenship acquisition by second and subsequent generations.

Consider these scenarios

My grandson was born in Europe. He cannot pass down Canadian citizenship to any future child. Under C-71, he would have that right, but only after first spending 1,095 cumulative days in Canada. One strategy would be to attend a Canadian university and accumulate most or all of the 1,095 days while getting a degree.

Consider a Canadian born abroad who maintains a cottage in Canada and spends summers there. Spending eight weeks a year in Canada, it would take nearly 20 years to acquire the right to give their descendants Canadian citizenship.

For second-generation Canadians who spend most of their life abroad, the road is even longer. Perhaps they make occasional trips to Canada, accumulating days to meet the 1,095-day requirement. But they would not likely meet the threshold unless they choose to return permanently in retirement.

Many descendants who are temporary residents, either through a job transfer or, as spouses of skilled workers or students, would likely meet the physical-presence requirement. Temporary foreign workers on seasonal or short-term contracts, on the other hand, would likely not meet the requirement.

The first two scenarios are manageable given that the physical-presence requirement for most would be met within a defined time period. In the latter situations, it is impossible to forecast if or when descendant citizenship rights would eventually be required.

Media in India are characterizing Bill C-71 as legislation that “will open up the [chain of citizenship without end](#) as long as the parents have spent at least 1,095 cumulative days.”ⁱⁱⁱ

Concluding observations

As we have seen from the [low numbers of expatriate voting](#), in Federal general elections, the limited number of citizenship proofs by “lost Canadians,” the limited [number of non-resident tax returns](#),^{iv} and passport data all confirm that the number of expatriates with a formal or behavioural connection to Canada is much smaller than the total estimated number of expatriates.

What is unknown is just how many Canadians of descent, in the second and subsequent generations, will want to meet the residency requirement in order to regain Canadian citizenship.

The examples above suggest that it will likely be significantly less than predicted by advocates and others—many “lost Canadians” may not be interested in being “found.”

This likely reflects that many expatriates are settled in their country of residence where their life is centred. For those living in countries like the USA, UK and Australia, there may be limited advantages to maintaining a Canadian passport compared to other countries whose passports provide limited visa-free travel.

IRCC and Statistics Canada need to provide more precise estimates of the number of persons likely affected and the resulting operational impact on citizenship and passport processing during committee review of C-71 in terms of the incremental workload and resources required. The analysis in Annex A provides an illustration of the kind of analysis needed in order to assess implications. Indeed, during [second reading of Bill C-71](#), some members of Parliament raised the need for estimates on the number of people likely to be impacted and the impact that could have on IRCC operations.

It would also be helpful for the IRCC analysis to look at the broader impact on other policy areas given that that we have seen this failing to identify corollary impacts of other recent policies on overall immigration policy and program development.

Arguably, as noted in Indian media, this change moves Canada closer to a hybrid *jus sanguinis/jus soli* regime, as it will make it possible for families to maintain intergenerational Canadian citizenship through different scenarios, which currently is not possible.

It may also provide opportunities for longer-term sophisticated foreign-interference efforts by countries like China and India by exploiting descendants who can acquire Canadian citizenship in their recruitment strategies for foreign agents.

The potential impact of Bill C-71 could be potentially large. So, before the government enshrines a new pathway to citizenship for some, all of the facts need to be properly considered.

Canadian citizenship is a precious gift. At the committee stage, members of Parliament must be able to fulsomely examine the implications of an open-ended residency requirement and consider amending the bill to make the residency requirement the same as that for permanent residents by requiring the 1,095 days of residence to be accumulated within 5 consecutive years. Unlike permanent residents, first generation and beyond descendants would not need to be assessed for knowledge of Canada nor language level.

Recommendations

1. C-71 (3) (a) (ii), (3) (b) (ii), (4) (a) (ii) and (4) (b) (ii)^v be amended to include the same residency requirement as new citizens: have lived in Canada for at least 3 out of the last 5 years (1,095 days), i.e. “been physically present in Canada for at least 1,095 days during the five years immediately before the date of his or her application” as per 5 (1) (c) (i) of the *Citizenship Act*;^{vi}
2. IRCC to prepare and share estimates of the number of descendants affected by this change and the operational impact and numbers of additional citizenship proofs and passports; and,

3. IRCC to include in open data the monthly numbers of citizenship proofs issued by country of residence.

Annex:

C-71: How many are likely to be affected

When Minister Miller introduced Bill C-71, which, if approved, will allow first and subsequent generations born abroad to transfer Canadian citizenship to their children, he presented [no data on the number of people that would be affected](#).^{vi} Judge Akbarali, who ruled that the first generation cut-off violated constitutional rights, cited an [estimated 170,000 women were affected by the cut-off](#)^{vii} whereas lawyer Sujit Choudry estimated that the current law violates the rights of [“at least 1.48 million Canadians.”](#)^{viii}

Given that having credible estimates is key to understanding the policy and operational impact of this change, this analysis uses a mix of Statistics Canada estimates, data and analysis along with Canadian passport data to provide a more accurate assessment of the number potentially affected.

Figure 1: Canadian Women by Descent by age cohort and fertility rate

Age	All grandparents born abroad		50% grandparents born abroad		Fertility
	Number	Children	Number	Children	
15 to 19	57,552	253	28,776	127	4.4
20 to 24	75,487	1,872	37,744	936	24.8
25 to 29	92,424	2,717	46,212	1,359	29.4
30 to 34	96,900	9,564	48,450	4,782	98.7
35 to 39	89,537	4,978	44,769	2,489	55.6
40 to 44	84,171	1,061	42,086	530	12.6
Total	496,071	20,445	248,036	10,223	39.6

The starting point is the [overall number of expatriates, estimated by Statistics Canada](#) as four million, two million of which are by descent. There is no breakdown of how many of these are themselves children of Canadians born abroad. Two-thirds are living in the USA, with another 15 percent in UK, Australia, France and Italy (2017) but the number living in other countries, reflecting Canadian immigration, has increased from 14 percent in 1990 to 20 percent in 2017.

Much of the [legal challenge focussed on the greater impact on women](#) who may become pregnant while establishing their careers living abroad.^s Of the one million women expatriates by descent, about 500,000 are between the ages of 15 and 44, the main child bearing ages. Figure 1 provides the breakdown by age cohort and related Canadian fertility rates which assumes all expatriate women are themselves born to expatriate parents, along with an alternative assumption that only 50 percent are. The reality is likely somewhere between the two. Assuming expatriate fertility rates track Canadian fertility rates, an estimated 20,000 children are affected, or 10,000 in the case of the alternative assumption.

If we make similar assumptions regarding Canadian men by descent but married or partnered with Canadian women, the overall numbers would be approximately doubled.

Passports

Justice Akbarali’s judgement stated that “[there is no evidence to demonstrate that there are citizens without a connection to Canada.](#)” However, the number of passports issued at missions abroad or by mail to the USA, combined with the above Statistics Canada study, provides a reasonable proxy of how many expatriates maintain a formal connection to Canada.

Figure 2: Regular Passports in Circulation Abroad as of July 31, 2024—Top 25 Countries

Country	0-2 (Child)		3-15 (Child)		16+ (Adult)		Total	% Total	% 0-2
	> 5 years	5-year	> 5 years	5-year	> 5 years	5/10 year			
USA	69	2,151	155	31,854	1,099	377,822	413,150	30.6%	0.5%
Hong Kong	266	3,614	28	16,783	48	102,387	123,126	9.1%	3.2%
UK	347	1,541	69	9,143	338	72,855	84,293	6.2%	2.2%
Australia	309	1,301	152	6,744	168	43,103	51,777	3.8%	3.1%
China	644	1,241	67	17,101	295	27,659	47,007	3.5%	4.0%
Mexico	345	407	22	5,978	96	29,365	36,213	2.7%	2.1%
France	199	656	78	5,364	216	29,009	35,522	2.6%	2.4%
UAE	1,146	2,458	61	9,936	60	21,697	35,358	2.6%	10.2%
Taiwan	257	818	40	5,412	33	24,884	31,444	2.3%	3.4%
Lebanon	189	942	30	6,800	16	20,616	28,593	2.1%	4.0%
Germany	246	722	22	3,465	72	19,545	24,072	1.8%	4.0%
Switzerland	184	597	14	3,491	52	16,506	20,844	1.5%	3.7%
Saudi Arabia	264	840	27	6,037	20	10,104	17,292	1.3%	6.4%
Israel	138	424	26	2,673	36	13,381	16,678	1.2%	3.4%
South Korea	233	442	33	2,100	31	13,416	16,255	1.2%	4.2%
Pakistan	488	822	60	4,859	31	9,505	15,765	1.2%	8.3%
Italy	57	151	70	1,372	189	13,843	15,682	1.2%	1.3%
India	190	470	25	3,753	25	9,809	14,272	1.1%	4.6%
Philippines	98	525	16	3,040	27	9,897	13,603	1.0%	4.6%
New Zealand	72	220	49	1,522	79	10,896	12,838	1.0%	2.3%
Greece	16	72	26	1,227	61	10,879	12,281	0.9%	0.7%
Japan	125	442	66	2,148	73	9,249	12,103	0.9%	4.7%
Turkey	234	357	62	2,950	85	7,771	11,459	0.8%	5.2%
Egypt	175	381	66	2,892	68	6,459	10,041	0.7%	5.5%
Spain	93	197	51	1,359	192	7,194	9,086	0.7%	3.2%
Grand Total	9,676	29,807	2,072	210,602	4,735	1,092,420	1,349,312	100.0%	2.9%

Highlighting: Green, percentage of 0-2 year olds (born abroad) 4 percent or more

IRCC passport data has a number of limitations. It only refers to where the passport was issued, not to where the holder is residing, whether the holder is a citizen by birth or naturalization, or is a citizen by descent. Figure 2 provides the breakdown by age group and passport validity. The top 10 countries account for two-thirds of all passports issued.

Only passports issued to children under 2 can all be assumed to be citizens by descent (first generation born abroad, and thus unable to transmit their citizenship to their offspring under the current cut-off). About 40,000 children are in this group, 94 percent born outside the USA. Countries where more than 4 percent fall into this category are largely from recent immigration source countries, reflecting the shift also noted in the Statistics Canada analysis.

With respect to children older than 2 and adults, a reasonable assumption would apply the Statistics Canada estimate that 50 percent of expatriates are citizens by descent and thus C-71 could potentially affect approximately 650,000 persons. Similarly, if we assume similar demographics as Canadian residents with respect to women being between 15 and 44 (about 47 percent), the number of women affected would be around 130,000. Using Canadian fertility rates, this would mean around 5,000 children would potentially gain citizenship, the vast majority outside the USA.

These numbers are theoretical maximum numbers, as for some, particularly longer term expatriates living and integrated into more stable political and economic environments, maintaining Canadian citizenship for the first generation and beyond may not be a priority compared to more recent expatriates in less stable environments. The large difference in the number of estimated expatriates and actual passport holders supports this hypothesis.

Methodology

Statistics Canada methodology, medium scenario, is used in their citations. Fertility data is from [Fertility in Canada, 1921 to 2022](#), Table 6.³¹ The analysis focuses on women given the court ruling but one can assume that the numbers could be doubled for Canadian men by descent married or partnered with non-Canadian spouses in the same age cohorts. The number would likely be smaller as some Canadian men by descent may be married or partnered with Canadian women by descent.

IRCC provided the disaggregated data on the number of valid passports in circulation by country of issue (delivered by consular services of Global Affairs Canada and mail-in USA)) and provided context on how the data can be interpreted.

Endnotes

ⁱ [Citizenship Act](#) last current to 11 November 2024.

ⁱⁱ Statistics Canada. [The Canadian diaspora: Estimating the number of Canadian citizens who live abroad](#). 13 April 2022.

ⁱⁱⁱ Times of India. [Canada set to lift restrictive citizenship by descent norms; Indian diaspora to benefit say experts](#). 24 May 2024.

^{iv} CRA. [Income Statistics 2023 \(2021 tax year\) Table 1](#). 2023 (2021 tax year).

^v [Bill C-71 An Act to amend the Citizenship Act \(2024\)](#). 23 May 2024.

^{vi} [Citizenship Act](#), 22 June 2023.

^{vii} CTV. [New Canadian citizenship rules for those born abroad could be delayed until December](#). 21 June 2024.

^{viii} Toronto Star. [Court grants Trudeau government extension to fix lost Canadians citizenship rules – with a catch](#). 20 June 2024.

^{ix} CBC. [Court grants government another extension to fix unconstitutional citizenship law](#). 20 June 2024.

^x [Bjorkquist et al. v. Attorney General of Canada, 2023 ONSC 7152 \(CanLII\)](#). 19 December 2023.

^{xi} Statistics Canada. [Fertility in Canada, 1921 to 2022](#). 31 January 2024.