

immigrants detained or under removal orders. Business interests were in favour of economic admissions being more closely tied to economic needs. As is the case today, there were differences of opinion regarding whether Canada should admit more immigrants or fewer.¹⁰²

Policy Transformed: 1967–2001

1967–1975: Towards a New Immigration Act

In 1967, new regulations were passed,¹⁰³ introducing features that would remain in place for the next forty years. Explicit prohibitions based on nationality, ethnicity, or racial identity were removed from all immigration streams. The admissible categories for immigration were simplified and reduced to three: independent, sponsored, and nominated immigrants.

Independent immigrants were required to meet a specific threshold of points focused on the ability of a person to establish themselves in Canada. Points were assigned based on a person's age, education, training, finances, skills, family in Canada, knowledge of English or French, and secured employment.

Sponsored immigrants included close family members of Canadian citizens or permanent residents. They were exempt from the points system, with sponsors remaining responsible for their settlement.

Nominated immigrants were more distant relatives. They had to clear a points threshold but needed fewer than independent applicants. Points were assigned based on factors like age, education, skills, and long-term suitability.

The points system represented a significant departure from the previously wide-ranging discretion granted to immigration officers, but certain aspects still allowed for subjective evaluation. For

102 FitzGerald and Cook-Martin, *Culling the Masses*, 176–7; Kelley and Trebilcock, *Making of the Mosaic*, 354–5.

103 Order in Council, P.C. 1967-1616 (16 August 1967).

instance, up to fifteen of a total of 100 points were allocated based on the immigration officer's assessment of qualities, including adaptability, motivation, initiative, and resourcefulness.¹⁰⁴

Furthermore, the minister had the authority to reject applicants who met the required points threshold while admitting those who did not. This was also delegated to immigration officers provided they had the approval of a superior officer.¹⁰⁵ Between 1963 and 1976, approximately 4,000 to 7,000 individuals per year who did not meet established criteria were nonetheless admitted on a temporary or permanent basis via this discretionary power.¹⁰⁶ It is unclear how many were rejected in this manner.

The 1967 regulations opened immigration to Canada in two significant ways. First, they eliminated remaining explicit exclusions based on race and ethnicity, and further opened immigration to Canada from more diverse source countries. Second, they expanded opportunities for Canadians and permanent residents to sponsor their relatives, thus contributing to a significant shift in the composition of immigrants.

Immigration from traditional sources in the United Kingdom, Europe, and the United States declined from 80 per cent in the 1960s to 49 per cent in the 1970s, 22 per cent in the 1980s, and 20 per cent in the 1990s, while immigration from the rest of the world – Asia, the Caribbean, Central and South America, Africa, and the Middle East – increased (see [figure 1](#)). Just between 1962 and 1976, European immigration to Canada fell from 78 per cent of annual admissions to 38 per cent. British immigration fell from 28 per cent to 16 per cent in the same period. Meanwhile, the proportion of immigrants from Asia increased from 3 per cent to 22 per cent.¹⁰⁷

Also, by 1976, immigrants coming through the family and nominated categories made up 62 per cent of annual admissions, economic

104 Order in Council, P.C. 1967–1616, schedules A and B.

105 Louis Parai, "Canada's Immigration Policy, 1962–74," *International Migration Review* (1975): 459.

106 Kelley and Trebilcock, *Making of the Mosaic*, 363.

107 R. Douglas Francis, Richard Jones, and Donald B. Smith, *Destinies: Canadian History Since Confederation* (Toronto: Holt, Rinehart, and Winston, 1988).

immigrants comprised 30 per cent, and refugees made up less than 8 per cent of the total.¹⁰⁸ Immigrants from new source countries were often recruited for jobs in urban areas that Canadians were unwilling or unable to fill. Various ethnic groups often were concentrated in low-wage sectors in specific occupations and industries. The combined effects of economic segregation and shared cultures contributed to the formation of cohesive ethnic communities that survived over time.¹⁰⁹

By the mid-1970s, the country entered a period of rising interest rates and flatlining economic growth – stagflation – in part due to the rising cost of oil. Unemployment rates rose as did prices. A wave of rising prosperity lasting close to thirty years was over and the economy lapsed into a deep and persistent recession. Immigration became the focus of attention and debate.

The scrutiny was also fuelled by the delays experienced in immigration processing, which dated back to the creation of the Immigration Appeal Board in 1967. Authorized to hear appeals from Canadian citizens whose sponsorship applications were denied and from immigrants ordered to be removed from Canada, it survives to this day. Before it was established, potential immigrants had to apply to Canada from outside the country. In 1966, the law was changed to allow for applications within its borders. Shortly afterwards, the Immigration Appeal Board was overwhelmed.

To cope with the backlog, the potential immigrant's right to apply from within Canada was revoked in 1972 and the size of the board expanded the following year. Appeal rights were no longer extended to those in the country unlawfully or to those from countries that Canada did not require a visa to enter, such as the United States and the United Kingdom. In parallel, the government allowed a limited grace period for people who were in Canada irregularly, to adjust their status. These applications were judged on humanitarian and compassionate grounds, including how well they had become established in Canada. Thirty-nine thousand people became permanent residents under this amnesty.

108 Kelley and Trebilcock, *Making of the Mosaic*, 353.

109 Jeffrey Reitz, *The Survival of Ethnic Groups* (Toronto: McGraw Hill-Ryerson, 1980), chap. 2.

The difficulties encountered by the Immigration Appeal Board put more attention on immigration policy, just as the economy was slowing down. In 1974, the government commissioned a study, known as the Green Paper. It concluded that large-scale immigration was not desirable, that it exacerbated the negative impacts of increased urbanization, heightened racial tensions, and contributed to a declining proportion of francophones in Canada.¹¹⁰ Recommendations in the Green Paper included reducing immigration, tying admissions to labour market needs, requiring immigrants to settle in designated areas, creating a separate category of refugees based on Canadian definitions, and not becoming a signatory to the *International Refugee Convention*.¹¹¹

The Green Paper provoked widespread criticism. A Joint Senate-House of Commons Committee was commissioned to conduct cross-country public hearings on it.¹¹² A broad constellation of stakeholders joined in the debate: politicians, church groups, ethnic associations, business alliances, other special interest groups, individual Canadians, academics, and the media. By this time, sizeable ethnic political constituencies had developed, particularly in the major urban areas. Members of Parliament from those areas were increasingly attentive to immigration policy that affected these constituents.

The 1975 hearings revealed that there was relatively broad consensus in favour of a liberal immigration policy, although there was some divergence of opinion on whether it should be based on short- or long-term economic factors. Representatives of the legal community argued for enhanced due process protections in admission, removal, and appeal processes.

110 Canada, Department of Manpower and Immigration, *Report of the Canadian Immigration and Population Study (The Green Paper)* (Ottawa: Information Canada, 1974). It was comprised of several volumes all of which were published by the Department of Manpower and Immigration.

111 Department of Manpower and Immigration, *The Green Paper*, 119–28.

112 Not, however, in Quebec which appreciated the recognition that large-scale immigration was diluting the francophone population. Between 1946 and 1971, only 15 per cent of immigrants to Canada settled in that province, and of that number only 5 per cent were francophone.

Among its many recommendations, the committee called for the setting of annual immigration quotas in consultation with the provinces and subject to parliamentary approval. Immigration applications should be assessed on a first-come first-served basis. Criteria for economic immigrants should place greater emphasis on life experience, personal competence, and having relatives in Canada, and less on education and personal assessment.

The committee recommended eliminating the nominated category and permitting the sponsorship of parents of any age. Additionally, it called for a separate regime for refugees, and the removal of the ban on the admission of homosexuals. Among the enhanced due process protections, it recommended greater due process protections in deportation procedures.¹¹³ Sixty of the committee's sixty-five recommendations were implemented in new legislation – the *Immigration Act, 1976* – which set a new trajectory for Canadian immigration policy.

1976–1987: Greater Inclusion and Transparency

The *Immigration Act, 1976* was passed following extensive political and public debate. It reflected broad consensus for transparent and points-based admission criteria for independent immigrants, generous family reunification policies, due process protections for individuals facing deportation, and a reasonably generous refugee policy. It was the most inclusive admissions policy in Canadian history.

The act set out who would be included under the various admission streams while leaving the detailed selection criteria and processes to regulations that were subject to parliamentary review.¹¹⁴ It provided for increased provincial engagement

113 Canada, *Report to Parliament by the Special Joint Committee on Immigration Policy*, First Session, Thirtieth Parliament, 1974–75 (Ottawa: Information Canada, 1975), 21–2, 32, 36–7, 42–4.

114 Some vestiges of executive discretion remained. Cabinet could admit or deny entry to individuals or groups that did not meet the requirements of the act or its regulations, but it could not overturn a deportation order unless it had been successfully appealed.

in immigration policy, not least in mandating that the minister responsible for immigration consult with provinces, individuals, and institutions regarding future immigration levels.¹¹⁵ Immigration levels during most of this period closely aligned with economic conditions.

Following the economic downturn that started in 1974, annual admissions declined from 201,000 to 86,000 over the course of four years. Subsequently, as the economy recovered, immigration numbers began to rise, only to decrease again during the 1980s recession, reaching just over 84,000 in 1985, the lowest point since 1962. However, sustained economic growth throughout the 1990s resulted in a significant increase in annual admissions, more than doubling to over 200,000 for most of the decade.¹¹⁶

Expansive admission criteria contributed to the changing composition of new arrivals. Immigrant arrivals had shifted from Europe and the United States to elsewhere by the late 1970s. Initially, many new arrivals were from the Caribbean (predominantly Afro-Caribbean).¹¹⁷ This source declined in the 1980s and, by 1990, approximately 50 per cent of arriving permanent residents were from the Middle East and Asia. Arrivals from countries within the European Union accounted for 25 per cent, down from over 50 per cent twenty years before.¹¹⁸

Under the *Immigration Act, 1976* immigrants to Canada continued to come through the three main streams: economic, family,

115 *Immigration Act, 1976*, SC 25-26 Elizabeth II, c. 52, s. 7 (1977).

116 Citizenship and Immigration Canada, *Canada Facts and Figures: Immigration Overview – Permanent and Temporary Residents, 2010* (Ottawa: Public Works and Government Services Canada, 2010), 3–4, <https://www.canadianimmigration.com/media/facts2010.pdf>.

117 Jeffrey G. Reitz, “Canada: Continuity and Change in Immigration for Nation-Building,” in *Controlling Immigration: A Comparative Perspective*, 4th ed., ed. Wayne A. Cornelius, Philip L. Martin, James F. Hollifield, and Takeyuki Tsuda (Stanford, CA: Stanford University Press, 2022), 125.

118 Jane Badets and Tina W.L. Chui, *Canada’s Changing Immigrant Population: Focus on Canada* (Ottawa: Statistics Canada, and Toronto: Prentice Hall Canada Inc., 1994), 12–13; Monica Boyd and Michael Vickers, *100 Years of Immigration in Canada*, Canadian Social Trends 58 (Ottawa: Statistics Canada, 2000). The top five countries accounting for one third of all admissions were Hong Kong, the People’s Republic of China, India, the Philippines, and Sri Lanka.

and assisted relative. To this was added a separate humanitarian category and a much smaller business stream.¹¹⁹

Economic immigrants were still required to meet a minimum threshold of points, which were adjusted to prioritize individuals with occupations in high demand. Employers could apply for permits to bring in immigrant workers but, as of 1978, they had to demonstrate that there were no qualified Canadian or permanent-resident candidates available for the position. During the recession of 1982–6, all independent immigrants had to have a firm job offer to be admissible.¹²⁰

The family class was broadened under the 1976 act to include spouses, fiancé(e)s, unmarried children under twenty-one years of age, parents, and minor unmarried orphaned relatives.¹²¹ The assisted relative category was also broadened to include brothers, sisters, aunts, uncles, nieces, nephews, and grandparents. Like economic immigrants, individuals in these categories were required to meet specific point requirements. Notably, some points were awarded for having a family member already residing in Canada.

The use of points-based criteria in the economic and assisted relative stream gave authorities the ability to carefully choose immigrants based on the likelihood that they would successfully establish themselves. The number and location of visa offices also reflected preferences for immigrants from certain regions over

119 “Report of the Department of Employment and Immigration,” *Annual Departmental Reports, 1990–91*, 39. Several programs were initiated for business class immigrants and investors. They aimed to attract individuals with experience and capital and the ability to create jobs in Canada. The programs admitted just a few thousand individuals annually and were criticized for being laxly monitored and used as a means of selling Canadian passports to wealthy buyers. The investor program was eventually cancelled in 1994.

120 *Annual Report to Parliament on Future Immigration Levels, 1985* (Ottawa: Ministry of Supply and Services, 1985), 3, <https://publications.gc.ca/collections/Collection/Ci1-2005E.pdf>. A similar condition was imposed in the postwar period.

121 This brought the regulations in line with the definition of a child under the UN *Convention on the Rights of the Child*. See UN General Assembly, Resolution 44/25, *Convention on the Rights of the Child*, 20 November 1989, ss. 1(1)(2), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>. Parents were initially limited to over sixty years of age or disabled but in 1978 parents of any age could be sponsored.

others. So, while the elimination of overt racial and ethnic preferences opened admissions from more regions of the world, selection processes meant that the doors were not entirely wide open, which helped to avoid fears of unregulated immigration.

The humanitarian stream provided for the admission of displaced and persecuted persons. The regulations provided for the selection of refugees abroad, through resettlement, as well as for the determination of refugee claims made from within Canada or at Canadian ports of entry. For the first time, the government included refugee admissions in its detailed planning. It established dedicated overseas resettlement processes and inland refugee determination procedures.

Refugees selected from abroad had to meet the international refugee definition,¹²² show that they could successfully establish themselves in Canada and have a Canadian sponsor. The federal government set annual numbers for the refugees it would sponsor, and established processes for private groups to sponsor refugees. Sponsors were required to provide lodging, care, maintenance, and resettlement assistance for one year.¹²³

The government also established special humanitarian classes in response to specific circumstances in Eastern Europe and Latin America. The requirements for admission varied depending on the class, reflecting the prevailing ideological influences during the Cold War era. The most lenient criteria were applied to individuals from Eastern Europe, who only needed to demonstrate that they were outside their country and willing to immigrate to Canada.¹²⁴

122 As set out in the 1951 *Convention Relating to the Status of Refugees* and its 1967 Protocol. UN General Assembly, A/RES/429, "Draft Convention Relating to the Status of Refugees," 14 December 1950, <https://www.refworld.org/docid/3b00f08a27.html>; UN General Assembly, A/RES/2198, *Protocol Relating to the Status of Refugees*, 16 December 1966, <https://www.refworld.org/docid/3b00f1cc50.html>.

123 Hawkins, *Critical Years in Immigration*, 78–9.

124 *Regulations Respecting the Designation of a Self-Exiled Persons Class*, S.O.R./78–933. In contrast, to come within the *Regulations Respecting the Designation of Political Prisoners and Oppressed Persons Designated Class*, S.O.R./82–977, which applied to Latin America (S.O.R./82-977), individuals had to meet the definition of a Convention refugee or provide evidence of being detained for exercising their civil liberties or freedom of thought. They also had to demonstrate their ability to successfully establish themselves in Canada.

Another program was established for the admission of refugees from the communist regimes in Vietnam, Cambodia, and Laos following the end of the Vietnam War in 1975.¹²⁵ It was part of a larger international effort to respond to a growing refugee crisis in the region where fleeing refugees were often pushed from the borders of neighbouring states.

Tens of thousands of refugees had died in flight and many thousands were stranded in the South China Sea in overcrowded, leaky vessels with inadequate food and water and vulnerable to pirate attacks.¹²⁶ Initially, the Canadian government committed to accepting 12,000 Indochinese refugees for resettlement, most through government sponsorship. Strong public support and advocacy for the government to do more led to a promise by the government that it would sponsor one refugee for every refugee sponsored privately.

The response was unprecedented. By 1982, more than 60,000 refugees from Vietnam, Laos, and Cambodia were resettled in Canada, most of whom subsequently integrated well into Canadian society.¹²⁷ With the onset of a recession in the early 1980s, the number of both federal and private sponsorships fell.

Other refugees were admitted through the exercise of ministerial exceptions. This was used to benefit 10,000 Lebanese fleeing the 1976 civil war and 8,000 Chinese refugees following the 1989 Tiananmen Square massacre in Beijing.¹²⁸

125 *Regulations Respecting the Designation of an Indochinese Designated Class*, S.O.R./78-931.

126 In 1979, the United Nations negotiated an agreement between countries in the region and resettlement countries. The former agreed to provide temporary protection to refugees, pending their resettlement abroad. The plan was revised in 1989. By the end of the program, in the early 1990s, 1.4 million refugees were resettled. Kelley, *People Forced to Flee*, 197-9.

127 Morton Beiser, *Strangers at the Gate: The "Boat People's" First Ten Years in Canada* (Toronto: University of Toronto Press, 1999), preface.

128 Salvadorans faced with deportation from the United States were also admitted in this way as Canada's recognition rate of refugees from El Salvador was much higher than the United States. For further information, see "Report of the Department of Employment and Immigration," *Annual Departmental Reports*, 1982-83; Gerald E. Dirks, *Controversy and Complexity: Canadian Immigration Policy During the 1980s* (Montreal: McGill-Queen's University Press, 1995), 74.

Many significant refugee situations did not benefit from special measures and accounted for a small proportion of the government's annual plans. For example, of the over 6.5 million Afghan refugees in Pakistan and Iran in 1986, Canada provided resettlement places for just 300.¹²⁹ Similarly, of the 5 million refugees in Africa, no more than 1,000 were selected in any year in the 1980s despite a continually worsening refugee situation.¹³⁰ Between 1975 and 1990 annual admissions of refugees selected abroad rose from 7,300 in 1977 to more than 52,000 in 1992. A similar increase was experienced in the number of refugees who sought Canada's protection either at the border or from within Canada. Annual numbers increased from a few hundred annually in the 1970s, to a few thousand in the 1980s, eventually reaching 37,000 in 1992.¹³¹

The refugee determination process was designed to handle a few hundred cases a year. It involved multiple steps and layers of decision-making. Claims were determined based on a written submission with limited rights to seek judicial review of a negative decision.¹³² Persons who received a positive determination were subsequently subject to health and security admissibility checks. The very lengthy procedure, coupled with the increase in annual refugee claims, led to serious backlogs in the mid-1980s and calls for better management of the system.

By this time, concerns were also being raised regarding the other admission streams. In the family admission category, allegations circulated of high default rates on family sponsorship undertakings

129 The total number of government-assisted refugees in 1986 was set at 12,000 from "other world areas." See the *Annual Report to Parliament on Future Immigration Levels, 1985*, 5.

130 Based on statistics in the *Annual Report to Parliament on Future Immigration Levels, 1980 to 1989*, available in the Library and Archives Canada.

131 Employment and Immigration Canada, *Refugee Perspectives, 1985–86* (Ottawa: Employment and Immigration Canada, 1985), 39.

132 The claims were reviewed by an advisory committee to the minister. The minister decided the claim. Negative decisions could be reviewed by a special committee on compassionate and humanitarian grounds. An unfavourable decision could then be reviewed again by the Immigration Appeal Board. A further review by the Federal Court with permission of the court and on the narrow grounds of errors in law or jurisdiction. *The Immigration Act, 1976*, ss. 47(1), 70–2.

and weak federal oversight. Meanwhile, low employment rates among recent immigrants triggered debates on whether the selection criteria in the economic stream aligned with the country's economic needs. Several provinces, seeing a surge in annual immigrant arrivals, voiced growing disaffection with what they perceived as inadequate federal support to meet settlement costs.

1988–2001: Calls for Change

Failings in immigration processing were addressed by a patchwork of changes to the *Immigration Act* from 1987 onward leading to a full-scale review in 1994. Several in-depth reports had been published on how best to reform the refugee determination system. All called for a simplified process and for refugee claims to be heard orally by an independent tribunal with an opportunity to appeal that decision.¹³³ The Supreme Court of Canada's decision in the 1985 *Singh* case was the catalyst for change.¹³⁴ The Court held that, given the gravity of the issues at stake in refugee determinations, fundamental justice required that the claimant have an opportunity to an oral hearing.¹³⁵

In 1989, the Immigration Appeal Board was replaced by the Immigration and Refugee Board, a change that has endured to this day. Initially, the board consisted of two divisions: the Refugee Determination Division focused on determining refugee claims in

133 Walter G. Robinson, *The Refugee Status Determination Process: A Report of the Task Force on Immigration Practices and Procedures* (Ottawa: Minister of Supply and Services, 1981). Another report was published in 1984 by Ed Ratushny, *A New Refugee Status Determination Process for Canada* (Ottawa: Minister of Supply and Services, 1984). The following year the government commissioned a study led by Rabbi Plaut whose report was issued the same year: W. Gaunther Plaut, *Refugee Determination in Canada* (Ottawa: Minister of Supply and Services, 1985).

134 *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177.

135 The government responded with some temporary measures such as expanding the size of the Immigration Appeal Board and implementing a partial amnesty in 1987 to deal with the backlog of cases. This gave permanent residence status to refugee claimants who were likely to establish themselves successfully in Canada. Eighty-five per cent of the 28,000 applicants gained immigrant status under this measure.

an oral hearing, while the Immigration Appeal Division handled appeals related to denied family sponsorship applications and removal orders. The members of both divisions were appointed by the Cabinet and operated independently from the Department of Immigration. In 1993, the Adjudication Division was introduced, tasked with conducting admissibility hearings and detention reviews for foreign nationals suspected of being inadmissible to or removable from Canada.¹³⁶

The creation of the Immigration and Refugee Board marked a significant milestone, providing greater transparency and due process protections to Canadians, permanent residents, and foreign nationals who received unfavourable immigration decisions. However, it also coincided with other changes to the *Immigration Act* aimed at reducing the number of refugees arriving in Canada.

Although the number of refugee claims per year was rising, it was relatively small compared to the countries that received far larger numbers of refugees with far fewer resources to care for them. Most of the 11 million refugees around the world were hosted in low- and middle-income countries, where refugee influxes were measured in the hundreds of thousands of arrivals in a short span of time. Nonetheless, for many Canadians, an increase in spontaneous arrivals raised concerns over the ability to control national borders.

For some, the arrival of 173 East Asian refugee claimants off the coast of Nova Scotia in 1987 was a case in point. Most were Sikhs claiming refuge from religious persecution in India. They had spent three weeks at sea in a crowded vessel and, once close to land, told to jump ship and swim to shore. Responding to public outcry, the government recalled Parliament to on the basis that the arrival was a matter of grave importance.¹³⁷ Over the next few years, the *Immigration Act* and regulations were amended to deter arrivals, tighten admissibility, and secure borders.¹³⁸

136 David Vinokur, “30 Years of Changes at the Immigration and Refugee Board of Canada,” *CIHS Bulletin*, no. 88 (2019): 8, <https://cihs-shic.ca/wp-content/uploads/2019/04/Bulletin-88-Final.pdf>. Its members are from the Canadian civil service.

137 *House of Commons Debates*, 11 August 1987, 7910.

138 Changes were introduced to Parliament in a series of bills: Bill C-84 (1987), Bill C-55 (1987), and Bill C-86 (1992).

Increased fines and jail terms were imposed on transportation companies and individuals who brought to Canada individuals without the required prior authorization. Moreover, refugee claimants who came to Canada through the United States were required to wait there until the date of their Canadian refugee determination hearing. Provision was made for Cabinet to proscribe certain countries as “safe” based on their compliance with international refugee protection principles.¹³⁹ Refugees who came to Canada through one of these countries would be removed there without their claim being heard in Canada. Mandatory detention was imposed for all persons whose identities were in doubt.

To critics, such changes put the lives of refugees at risk. They noted that refugees often flee without visas and documentation and that penalizing them for it was contrary to international law. Additionally, they highlighted interpretive differences between Canadian and American jurisprudence such that certain claims of persecution might be recognized in Canada but not in the United States. As a result, refugees with valid claims could face the risk of being deported from the United States to potentially harmful situations while awaiting their appointments in Canada. Within Parliament, members of the Opposition made nearly 100 motions to amend the provisions, most of which were defeated by the Conservative majority.

Another controversial change was introduced in the early 1990s. It involved admissibility criteria for live-in caregivers. Applicants were required to have the equivalent of a Canadian grade-twelve education; six months’ formal training related to the job; and the ability to speak, read, and understand French or English.¹⁴⁰ Critics argued that

139 *Immigration Act*, s. 46.01(1) (b), as enacted by R.S.C. 1985 (4th Supp.), c. 28. For over fifteen years no country was proscribed as “safe.” This was partly due to significant opposition to invoking the concept. Advocates pointed out that even among Western countries with good human rights records, the recognition rates of refugee asylum claims still varied widely. Therefore, individuals who could be recognized as refugees in Canada might be rejected in another country. To remove them would implicate Canada in *refoulement* (or forcible return), which is prohibited by international law.

140 Canada, Department of Employment and Immigration, *The Live-In Caregiver Program* (Ottawa: Ministry of Supply and Services, 1992), 9.

such requirements created unnecessary barriers for otherwise qualified individuals. The policy was somewhat eased in subsequent years with evidence that there was a shortage of caregivers in Canada.¹⁴¹

Less controversial was the broadening of general inadmissibility provisions. In 1992, medical officers were provided with wider latitude to reject applicants if they were likely to endanger public health or safety or be too great a burden on health or social services. Persons convicted of crimes prohibited under Canadian law continued to be inadmissible and the provisions were broadened to include those suspected of committing such crimes or being members of an organized criminal group. An actual conviction was no longer necessary to trigger the ban.

In the early 1990s, the ability of family members to sponsor their relatives was curtailed. In 1992, the age limit of a sponsored child was lowered from twenty-one years to nineteen years and the nominated class provision was abolished the following year.¹⁴² Criteria in the economic stream was also reviewed. Through the late 1980s and into the 1990s, there were several studies on the impact of immigration on the Canadian economy.¹⁴³ The majority view was that immigrants did not displace Canadian workers and had small but positive economic benefits for the host community.¹⁴⁴

141 Eliminating the requirement that foreign “nannies” have six months of formal training and replacing this with at least a year of related experience.

142 Exceptions were made for children older than nineteen but “dependent” on their parents for reasons of full-time study or a disability. Employment and Immigration Canada, *Annual Report to Parliament: Immigration Plan for 1991–1995, Year Two* (Ottawa: Minister of Supply and Services, 1991), 3.

143 W.L. Warr and M.B. Percy, “Immigration Policy and Canadian Economic Growth,” in *Domestic Policies in the International Economic Environment*, ed. John Whalley (Toronto: University of Toronto Press, 1985). Their research was commissioned by the Royal Commission on the Economic Union and Development Prospects for Canada (Ottawa, 1985). See also Don J. DeVoretz, “Immigration and Employment Effects,” Discussion Paper 89.B.3 (Ottawa: Institute for Research on Public Policy, 1989); Neil Swann et al., *The Economic and Social Impacts of Immigration: A Research Report Prepared for the Economic Council of Canada* (Ottawa: Minister of Supply and Services, 1991); Don DeVoretz, ed., *Diminishing Returns: The Economics of Canada’s Recent Immigration Policy* (Toronto: C.D. Howe Institute, 1995).

144 Another finding, generally accepted, was that increased contact between persons of different races reduces racial discrimination and animus over time.

During the 1990s, the employment rates and earnings of recently arrived immigrants were closely examined. Despite higher education levels and language proficiency compared to the Canadian-born population, evidence indicated that immigrants faced lower employment rates and earned lower average incomes.¹⁴⁵ These findings supported growing calls for an assessment of criteria that prioritized immigrants with skills that were in demand in the Canadian labour market. The Canadian government incorporated this approach into the first multi-year immigration plan submitted to Parliament in 1990. The plan aimed to attract immigrants whose skills and expertise would contribute to the country's economic growth and development. The plan set specific immigration targets for a period of five years, outlining the levels for each admission stream. It was developed through extensive consultations involving more than 4,000 individuals representing a diverse range of stakeholders, including businesses, labour groups, various levels of government, and community organizations.

Since the mid-1980s, annual immigration levels had steadily risen from below 100,000 to over 200,000 annually in 1990.¹⁴⁶ The consultations revealed widespread support for a continued increase in immigration from 200,000 annually in 1990 to 250,000 by 1995. This was notable as the country was experiencing a recession at the time. The plan marked the first time the government, backed by the major political parties, made a commitment focusing on long-term growth rather than short-term fluctuations in the economic cycle.

As part of the plan, the government consulted with the provinces and businesses and developed a list of occupations in short

145 Garnett Picot and Andrew Heisz, "The Performance of the 1990s Canadian Labour Market," Analytical Studies Branch—Research Paper Series (Ottawa, ON: Statistics Canada, 2000). Subsequent studies point to the same: Marc Frenette and René Morissette, "Will They Ever Converge? Earnings of Immigrant and Canadian-Born Workers over the Last Two Decades," Analytical Studies Branch—Research Paper Series (Ottawa, ON: Statistics Canada, 2003); Jeffrey G. Reitz, "Immigrant Skill Utilization in the Canadian Labour Market: Implications of Human Capital Research," *Journal of International Migration and Integration* 2, no. 3 (2001): 347–78.

146 Reitz, "Canada: Continuity and Change in Immigration," 125.

supply in particular areas. Applicants who qualified for those positions received extra selection points.¹⁴⁷ Additional points were also awarded for those with a relative in Canada.¹⁴⁸ Within a few years, a new Provincial Nominee Program was introduced that gave participating provinces a greater role in the selection of economic immigrants based on their labour market needs.¹⁴⁹

By this time, the *Immigration Act, 1976* had been amended many times and, in the government's view, had become overly cumbersome and inadequate. In 1996, it commissioned a three-member committee to review the act with a view to arriving at less complex legislation and a more streamlined refugee determination process. The panel was also asked to study the scope and depth of ministerial discretion.

The panel's report was released in 1997 and presented recommendations for two new pieces of legislation. One focused on immigrants and the other concerned refugees and individuals in need of protection. It also proposed the implementation of legal ceilings on the number of immigration visas issued annually, while emphasizing the need for the federal government to allocate adequate resources for settlement services.

The panel recommended expanding the scope of family class sponsorship. However, it also proposed that all sponsored and independent immigrants meet a prescribed language proficiency level in English or French. The report further recommended consolidating the skilled worker, entrepreneur, and investor categories into a unified self-supporting class, considering language proficiency, education, age, and work experience as significant factors for assessment. Specifically, it proposed that applicants in the investor program be no older than forty-five years and possess a minimum of half a million dollars for investment purposes.

147 Employment and Immigration Canada, *Immigration Plan 1991–1995, Year Two*, 13.

148 Employment and Immigration Canada, "Helping a Relative Immigrate to Canada," Immigration Fact Sheet No. 2, January 1993.

149 The Provincial Nominee Program is discussed more in [chapter 2.1](#): "Economic Stream: Accelerated Change and Growth." In 1978 Quebec had the first federal-provincial agreement with Quebec, which over time was revised giving Quebec increased autonomy in managing immigration destined for the province.

The panel advanced recommendations concerning the requirements for citizenship. In addition to the existing criteria, prospective citizens should also be required to know an official language and have actively participated in Canadian society through holding a job, going to school, raising a family, or doing volunteer work.¹⁵⁰

The report received a critical reception from business associations, immigrant and faith-based groups as well as bar associations and international humanitarian agencies. Following its publication, the Minister of Immigration chaired public hearings across the country and received over 2,000 written submissions.¹⁵¹ The language recommendations received the most criticism as being unsound and unworkable given that over two-thirds of all immigrants to Canada spoke neither English nor French. The panel's suggested changes to the investor program were said to be so strict that they would lead to the collapse of the program. The panel was also criticized for recommending that decisions on refugee claims be transferred to civil servants. And the proposed elevated requirements of citizenship were seen as so onerous most Canadians would be unable to meet them.

Over the next two years, a series of events helped to maintain public focus on immigration policy and fuel demands for reform. One was the arrival of 600 Chinese migrants off the coast of British Columbia in the summer of 1999. The migrants were largely from Fujian province and had paid thousands of dollars to go to North America where they believed jobs awaited them. A significant number were children between eleven and eighteen years of age. Many of the arrivals were detained, most were returned to China, and a small number received refugee status. The smugglers were criminally prosecuted. Several aspects of the handling of the incident came under scrutiny, including the fact that a number of arrivals made refugee claims and then disappeared. It was characterized as a further example of a failing process.

150 Susan Davis, Roslyn Kunin, and Robert Trempe, *Not Just Numbers: A Canadian Framework for Future Immigration* (Ottawa: Minister of Public Works and Government Services Canada, 1997).

151 Jennifer Hyndman, "Gender and Canadian Immigration Policy: A Current Snapshot," *Canadian Woman Studies* 19, no. 3 (1999): 6, <https://cws.journals.yorku.ca/index.php/cws/article/view/7868>.

Also in 1999, a case before the Federal Court of Canada revealed that many failed refugee claimants were making repeat claims in a manner the presiding judge characterized as “a scandalous abuse of our border.” The minister was quick to note that the practice was under review.¹⁵²

The following year, the Auditor General’s report to Parliament added pressure to reform. The report pointed to multiple weaknesses in the immigration system: long processing times, overly vague medical, criminal, and security inadmissibility criteria; insufficient quality control over immigration decisions; and inadequate rights of appeal. The report concluded that the failings limited “Canada’s ability to maximize the economic and social benefits that immigration affords.”¹⁵³

Pressure also came from the United States. The chief of the Central Intelligence Agency, among others, alleged that Canada’s immigration system and relatively porous border made it a haven for terrorists. This apprehension was amplified following the 11 September 2001 terrorist attacks.

All these concerns influenced the drafting of a new legislation, introduced to Parliament in 2001. The *Immigration and Refugee Protection Act 2001* marks another pivotal inflection point in Canadian history and is the bedrock of contemporary immigration policy.

Main Historical Shifts

Throughout its history, Canadian immigration policy has had three broad trajectories. First, for close to 100 years, it was racially selective, designed and executed in a manner that gave close to

152 Estanislao Oziewicz, “Ottawa Reconsidering Refugee Process: Immigration Act Provision Allowing for Multiple Claims under Review,” *Globe and Mail*, 6 November 1999.

153 Auditor General of Canada, “Citizenship and Immigration Canada – The Economic Component of the Canadian Immigration Program,” *Report of the Auditor General of Canada* (Ottawa: Office of the Auditor General of Canada, 2000), 9–11; Benjamin Dolin and Margaret Young, “Canada’s Immigration Program,” Background Paper (Ottawa: Parliamentary Information and Research Service, 2004).