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# Age & Generation in Canada's Migration Law, Policy, & Programming

*Christina Clark-Kazak*

Glendon College, York University,  
cclark-kazak@glendon.yorku.ca



## Executive Summary

Age and generation are central to forced migration experiences and processes for several reasons. First, different demographic profiles exist in different migration contexts, with age issues factoring into migration decisions and policymaking. Second, people at different stages of the life course may have differential experiences of migration for biological and/or socially constructed reasons. Third, in multicultural migration contexts, generational power relations are dynamic, and the socially constructed meanings and roles ascribed to different stages in the life cycle may change. In addition, migration may change familial patterns of child-rearing and elder care. In recognition of the multiple ways in which age and generation intersect with other power relations in contexts of forced migration, UNHCR has developed and applied age, gender, and diversity mainstreaming in its policy and programming. However, national governments do not have similar age mainstreaming strategies. This paper will draw on the UNHCR experiences, and current practices under Canada's Immigration and Refugee Protection Act (IRPA) and its regulations, to propose ways in which age and generation could be more effectively mainstreamed into Canada's migration policy and programming.

## Recommendations

Over ten years ago, the United Nations High Commissioner for Refugees (UNHCR) adopted the Age, Gender, and Diversity Mainstreaming (AGDM) strategy. As chair of the UNHCR's Executive Committee, Canada could lead in implementing a similar strategy at the national level, building on its international reputation on gender issues.

1. In line with evidence from a variety of migration contexts, as well as international organizations such as UNICEF, the Government of Canada should move beyond chronology to adopt more holistic definitions of age that take into account social relationships and practices.
2. The Government of Canada should undertake a systematic age analysis of the Immigration and Refugee Protection Act (IRPA) and its regulations to identify and

correct age-based discrepancies and discrimination.

3. In all future policy, programming, and law, the Government of Canada should undertake a systematic age analysis in order to better mainstream age issues in migration decisions. This involves the systematic collection of age-disaggregated data; localized understandings of social markers of aging; analysis of the differential impact of migration due to biological and/or chronological and/or social age; attention to generational division of labour; and understanding of intra- and intergenerational relationships. Checklists and other programmatic tools should be developed to assist with these analyses.

## The Importance of Age in Migration Processes

Age and generation are central to migration experiences and processes for several reasons. First, there are different demographic profiles in different migration contexts, with age factoring into migration decisions and policymaking. For example, in the context of an aging Canadian population, the Government of Canada has used immigration policies as a way to address labour shortages and to provide for elder care. In Germany, on the other hand, families are choosing to send elderly people across the border to Poland to take advantage of lower costs of nursing homes in their European Union neighbour (Kresge 2013). Indeed, the age of migrants affects individual and collective decision-making about which family members migrate, to which areas, and when (Kustec 2006). Research on independent child migration, for example, indicates that young people may be deliberately chosen to migrate alone to Western countries—sometimes by irregular channels—because of positive discrimination towards “unaccompanied minors”: people under the age of eighteen who migrate without a parent or guardian (Clark-Kazak and Orgocka 2012).

Second, people at different stages of the life course may have differential experiences of migration for biological and/or socially constructed reasons (Loizos 2007). For example, children born in Canada to migrants often have citizenship status that is different from that of their parents. School-aged newcomers also regularly interact with educational services provided by the state almost daily, in contrast to older immigrants and refugees who may never access social services.

Third, in multicultural migration contexts, generational power relations are dynamic, and the socially constructed meanings and roles ascribed to different stages in the life cycle may change. For example, children who learn the language of host countries more quickly than their parents may serve as interpreters, thereby becoming spokespeople for their families and challenging intergenerational hierarchies (Hynie, Guruge, and Shakya 2012).

In addition, migration may change familial patterns of child-rearing and elder care. For example, a burgeoning literature on transnational care provides insights into migration

policies that attempt to respond to child- and elder-care shortages in wealthy countries (Parreñas 2001; Pratt 1999), such as Canada’s Live-in Caregiver program. In turn, the migration of these caregivers changes family dynamics for the children, spouses, and parents they leave behind (Kelly 2009; Parreñas 2005; Pratt 2008, 2009, 2012; Tung 2000).

## Current Approaches to Age and Migration

In recognition of these important age-related differential experiences of migration, the UNHCR has adopted an explicit age, gender, and diversity mainstreaming (AGDM) policy. Established in 2004, the objective of UNHCR’s AGDM is “to ensure a broad participatory, rights- and community-based approach within UNHCR operations, based on an analysis of protection risks from the standpoint of age, gender and other social factors” (Thomas and Beck 2010). It entails a fundamental conceptual and behavioural shift in the way UNHCR does its programming and has been only partially successful (Clark-Kazak 2009a; Groves 2005; Thomas and Beck 2010). However, UNHCR’s AGDM is innovative and unique among migration institutions. No other United Nations, non-governmental, or governmental agency working on refugee and immigration issues attempts to mainstream social age in the same way as it does gender. Canada could thus become a leader on this issue, as it has historically done in relation to gender and migration.

Similarly, despite the importance of age in migration experiences, structures, and processes, there is only patchy empirical evidence on these issues. Most studies on age and migration in Canada focus on only one stage in the life course, and, for understandable reasons of constrained time and resources, limit the scope to a particular group of migrants or refugees. The result is a series of rich, empirical studies on particular age and immigration groups, but less attention to structural biases and patterns related to social age. In other words, the literature is starting to provide insights into particular case studies, but lacks a comprehensive overview of the Canadian policy context in which these specific cases are located.

Most studies focus specifically on children. The Canadian Council for Refugees (CCR), an umbrella group of non-governmental organizations working on refugee issues, undertook a comprehensive analysis of the impact of the Immigration and Refugee Protection Act (IRPA) on children, shortly before IRPA became law (Canadian Council for Refugees 2004). This is one of the few examples of a systematic analysis of Canadian law, with corresponding policy recommendations. As such, it is a very important starting point. However, it focuses on only one generation group (children) and does not take into account recent changes to IRPA. It is recommended that the Government of Canada build on CCR’s important initiative by analyzing the current Canadian legislation and policy from an age perspective across generations.

Much of the remaining research on children and migration in Canada focuses on

a particular group: those under the age of eighteen who migrated without a parent or guardian, often called “unaccompanied minors.” In policy contexts, such children are usually presented as particularly vulnerable: as refugees, children, and minors without parental care and supervision (Clark 2007). Some studies in the Canadian context have highlighted the difficulties faced by unaccompanied or separated children (Ali 2006; Ali, Taraban, and Gill 2003; Bhabha 2001; Kumin and Chaikel 2002). However, Bryan and Denov contend that, in the context of recent “anti-refugee” and “anti-youth” discourses, the focus has shifted from the risks faced by separated refugee children to the construction of these children as “risky” to Canadian society (Bryan and Denov 2011). They and others have also argued that the vulnerability discourses underlying the notion of “unaccompanied children” undermines their agency and capacity for self-protection (Denov and Bryan 2012; Orgocka 2012). Consequently, some have advocated for the more inclusive term *independent child migrants* to emphasize the agency of children in contexts of migration (Clark-Kazak and Orgocka 2012).

There are also studies on education and migrant children and young people in Canada. Most of this literature has focused on young people’s performance in school (Anisef et al. 2010; Derwing et al. 1999; Shakya et al. 2011), and job prospects (Wilkinson 2002; Wilkinson et al. 2012). However, some scholars have also analyzed teachers’ perceptions and knowledge of migration issues in relation to refugee and newcomer students and their parents (Dippo, Basu, and Duran 2012; Stewart 2011). Other studies assess the physical (Hossain 2011) and psychological health of migrant children and young people in Canada. Studies also address identity issues among young people (Kumsa 2006; Young 2013).

At the other end of the age spectrum, there are emerging studies on older migrants. This focus is important, given the historic invisibility of seniors in migration literature, policy, and practice (Durst 2005; Durst and MacLean 2012). Recent studies have highlighted the productive and reproductive labour roles undertaken by older migrants (Hochbaum 2012; VanderPlaat, Ramos, and Yoshida 2012). This evidence is particularly relevant in the context of recent legislation changes to limit sponsorship of parents and grandparents (Neborak 2013). Other research provides insights into violence and abuse of older migrants (Anetzberger, Korbin, and Tomita 1996; Guruge and Kanthasamy 2010; Tyyskä et al. 2012).

The category-specific approach to immigration and age has some shortcomings. First, it tends to overlook intra- and intergenerational power relations. While some studies analyze intergenerational relations within the family unit (Hynie, Guruge, and Shakya 2012; Noh 2012; Pratt 2012), there is little recognition of the overarching age hierarchies, which partially shape people’s migration experiences. Second, there is a dearth of research analyzing the intersectionality of age with other identity categories and subject positions, such as gender, class, race, and citizenship status (Lightman and Gingrich 2012). Finally,

attention to particular age categories (often in relation to particular migration status) can result in a silo approach, obscuring systematic age discrimination. Indeed, contributors to a special issue of *Canadian Ethnic Studies* (volume 4, number 3) on age and migration in Canada commented on the tendency to limit themselves to analysis within specific age groups (Clark-Kazak 2012).

## Towards Age Mainstreaming in Canadian Migration Law and Policy

In response, this policy brief presents social age mainstreaming as a way to more holistically address age issues within migration to Canada. This should enable policymakers, practitioners, and analysts focusing on a particular age and/or immigration group to situate their findings within a broader institutional and theoretical framework, thereby reducing the risk of ghettoized approaches to particular age-based migration categories.

Social age refers to the socially constructed roles and experiences attributed to different stages of the life course, as well as intra- and intergenerational power relations (for more details, see Clark-Kazak 2009b). As such, social age as a concept complements the dominant focus on chronological age employed by many practitioners, policymakers, and scholars working on migration issues. Chronological age is codified in many international legal documents with provisions relating to migration, such as the Convention on the Rights of the Child (CRC) (United Nations General Assembly 1989), the United Nations Convention Relating to the Status of Refugees (United Nations 1951), and the Convention on the Civil Aspects of International Child Abduction (also known as the Hague Convention 1980). In Canada, federal law, including IRPA, contains references to chronological age. Provincial governments also have different chronological age caps for access to different services, such as admission to secondary education (Wilkinson et al. 2012).

Chronological age is administratively efficient because it provides a clear eligibility criterion for inclusion in (and exclusion from) migration programs and processes. It is also a convenient, albeit imperfect, proxy for biological development: length of time of existence gives some indication of human development, despite individual variations. Moreover, many child rights advocates have invested political capital in chronological age, having tirelessly worked to ensure that minimum age standards were incorporated into such legally binding documents as the CRC. The latter guarantees refugee and immigrant children in Canada access to education and protection against detention, for example.

On the other hand, many scholars and age advocates critique this dominant emphasis on chronological age for a number of reasons. First, given non-existent or inadequate birth registration in many developing contexts, migrants arriving in Canada may not know

their exact chronological age. Indeed, many countries in Europe and the United States have resorted to biomedical procedures, including X-rays and dental assessments, in an attempt to determine chronological age of migrants (Smith and Brownlees 2011). However, ignorance of chronological age may also reflect cultural norms in which chronological age is less important than biological (e.g., puberty) and/or social (e.g., marriage) markers of aging. Many have thus provided a second critique by emphasizing the social construction of age across time and place. Third, chronological age implies homogeneity, despite the diversity across individuals and groups. For example, the under-eighteen definition enshrined in the CRC lumps together individuals at very different stages of development: from an infant to post-pubescent young person who may already be married with children of his or her own, and thus socially and culturally considered to be an adult. Similarly, many definitions of older people set fifty-five or sixty-five as the threshold, despite low life expectancies in many countries of origin and, conversely, longer life expectancies in Canada. As Tyyskä and colleagues (2012, 60) have argued, “The boundaries of old age, and indeed all age categories, are flexible and context-specific.” Finally, chronological age is arbitrary and inconsistently applied across different levels of government, and even within the same legal document. For example, in IRPA, a minor applicant is defined as under fourteen; for permanent residency, applicants aged fourteen years or older but less than eighteen must co-sign their application along with one of their parents or a person legally responsible for them, while those under the age of fourteen have the form signed on their behalf by a parent or adult responsible for them. In contrast, in relation to detention, the threshold for a minor child is set higher—at under eighteen.

Is it possible to move beyond chronological age, without abandoning it altogether? One way forward is to make an analytical distinction similar to sex and gender. While sex refers to biological realities, gender is the socially constructed roles and attributes attributed to males, females, and those who identify as neither. Similarly, chronological age can be considered to be an imperfect proxy for biological development. It should be complemented by an additional analysis of social age. Indeed, the absence of a conceptual umbrella term and theoretical approach to age comparable to *gender* has resulted in a disparate and silo approach, with too little dialogue amongst those working with groups at different points in the life course. Social age analysis may thus lead to a more systematic and effective mainstreaming of age issues within migration research, policy, and programming in Canada.

Mainstreaming social age analysis within migration law, policy, and programming would result in a more comprehensive analysis of age and generational issues. Such an approach would recognize both the utility of chronological age-disaggregated data, as has been done for recently resettled Syrians, for example, as well as the importance of social age, particularly local meanings ascribed to the life cycle and generational power relations.

First, social age analysis requires the collection and/or generation of basic demographic

information, including chronological age, biological development indicators such as infant mortality and life expectancy, and marital, familial, and employment status (since the last are important social age markers). These age-disaggregated data should be collected for the population as a whole, as well as for the specific migration phenomenon under study. Such information will provide researchers, practitioners, and policymakers with an overall portrait of the age profile of migrant groups. For example, research by VanderPlaat and colleagues (2012) reveals that many sponsored parents and grandparents are under sixty-five and thus still pre-retirement age, in contrast to stereotypes of older, family-sponsored immigrants as inherently dependent.

Second, social age analysis involves an investigation into the social meanings ascribed to biological human development and/or chronological age. What are the culturally specific definitions of childhood, youth, adulthood, and old age? Are there socially prescribed roles for different generations, which may be codified in norms or laws? These questions are particularly salient in cross-cultural migration contexts. For example, Tyyskä et al. (2012) and Hochbaum (2012) have demonstrated how ageism is differentially interpreted in different contexts, and in relation to other factors like gender and race. In other words, while age is socially constructed, it still has tangible consequences for migration experiences.

Thus, a third element of social age analysis entails an exploration of how biological and socially constructed differences may affect differential experiences and impacts of migration for children, young people, adults, and elders. Studies by Hynie and colleagues (2012) and Tyyskä et al. (2012)—while focused on young people and elders, respectively—both demonstrate how different age groups within the same migrant family (thus controlling for race, class, and immigrant status) may experience life in Canada differently. In some cases, these differences lead to violence and conflict, but intergenerational strife should not be assumed as a given.

Fourth, social age mainstreaming involves an analysis of the generational division of labour. Productive and reproductive roles will also be informed by other power relations, particularly gender, education, and class. The division of labour is important in understanding power structures within a given family, household, and/or community, as well as the differential opportunities and time available to participate in educational, economic, social, and political activities. VanderPlaat and colleagues (2012) demonstrate how sponsored parents and grandparents play important roles that may not be remunerated or recognized. Similarly, an analysis by Lightman and Good Gingrich (2012) reveals age discrimination for both young and older migrants within the Canadian labour market.

Finally, social age analysis requires an analysis of dynamic intra- and intergenerational relationships. These social age power relations—and their intersectionality with gender, class, ethnicity, etc.—provide the context for migration experiences. In turn, migration may provoke changes in these relationships. For example, Hynie and colleagues (2012)



argue that refugee young people's increased familial responsibilities occasion some changes in intergenerational relationships, but that these changes are not necessarily negative or conflictual. Dippo, Basu, and Duran (2012) contend that teachers need to better understand these dynamic family relationships within a sustainable emancipatory school-community framework.

## Next Steps

As chair of the UNHCR Executive Committee and with a federal government that has clearly prioritized both immigration and youth issues in its first year of its mandate, Canada has an opportunity to leverage its historic leadership on gender to focus more specifically and holistically on age and migration. In order to do so, the Government of Canada should adopt an approach to age that goes beyond chronology to recognize social roles and generational relationships. This social age analysis should first be applied to IRPA and its regulations, to expose and correct any age discrepancies and biases in Canada's migration legislation. Then, tools should be developed to assist public servants in undertaking a systematic age analysis of all future policies and programming. In short, age can be mainstreamed into Canadian migration policy and practice in ways similar to that for gender analysis. Such an approach would also more systematically address the intersectionality of age with gender and sexual orientation, and potentially other diversity issues to ensure a more inclusive approach to migration.

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