

# HOW DOES CHILD WELFARE ADDRESS IMMIGRATION STATUS?

## INTRODUCTION

This policy brief provides a snapshot of how child welfare policies in BC and ON address immigration status and emerging efforts to address this gap. There is a continued need to clarify how to support children and youth in care who have precarious status, given that there is little data to understand the magnitude of its impact. We conducted an intersectional discourse analysis of 24 policy documents from BC and ON to understand how provincial legislation, regulations, and practice guidelines address the immigration status of children and families involved in child welfare system and sought to understand how child welfare workers are directed to address immigration challenges. Our analysis shows a clear omissions and silence surrounding immigration status in child welfare policies and little understanding on how precarious status can shape a family's journey through the child welfare system.



• "Neutrality" misrepresents the OPPRESSION that is happening

le



## THE ISSUE

In July 2020, the Ontario government announced plans to make extensive changes to CYFSA specifically in reference to immigration status. These proposed changes include new requirements for identity documentation and regularizations of immigration status upon admission into care. However, these proposed changes fail to adequately address potential risks and impact on other family members and caregivers who may have precarious status, the consequences of sharing information with government authorities, isolating children from their families and kin, and attention to anti-racism standards in determining the "best interests" of children and families with unknown or precarious status.



## KEY FINDINGS

In our analysis, any reference to the term "immigration" appeared once in the BC documents and four times in the ON documents. In reference to immigration status, the CYFSA mentions "citizenship" when referring to the "other purposes" of the act and when defining best interests of the child. Citizenship (along with race, ancestry, place of origin, colour, etc.) is outlined as something that child welfare workers should "take into account" so long as they are consistent with the best interest, protection, and well-being of children.

Citizenship (along with race, ancestry, place of origin, colour, etc.) is outlined as something that child welfare workers should "take into account" so long as they are consistent with the best interest, protection, and well-being of children. Citizenship is also mentioned when discussing "removal to offer voluntary services" when the "child does not have Canadian citizenship and information about their immigration status is being used by another person to coerce the child into being sexually exploited," an inclusion made in response to the national action plan to combat human trafficking. In the CFCSA there is no reference to immigration status.

## KEY TERMS

**Precarious Immigration Status:** Forms of legal status within a state that are characterized by any of the following: lack of permanent residence or permanent work authorization, limited or no social benefits, inability to sponsor relatives, the potential to be deported.

**Systemic Racism:** The ingrained bias and racist lens baked into the policies and practices of established systems and institutions (such as child welfare, housing, and education). As a result, Black, Indigenous and People of Colour (BIPOC) experience exclusion and harmful treatment based on race.

This vagueness or complete omission around immigration status creates an invisibility of immigrants in policies, causing their challenges are left unacknowledged. This vagueness also creates barriers for child welfare workers as there is ample room for subjective interpretation making safeguarding around immigration challenges difficult. Specifically, the definition of best interests of the child is vague, allowing workers to use individual discretion to determine what needs to be considered in the best interest. Although vague language can be helpful in decision-making processes, language is a powerful tool that can often lead an individual to adhere to dominant ideologies, in this context shaping parenting and family norms.



## POLICIES BEING CONSIDERED ACROSS CANADA:

1. Bill S-215: provide citizenship for certain persons when they transition out of the care of a child welfare agency or foster parent (<https://parl.ca/DocumentViewer/en/43-2/bill/S-215/first-reading>)
2. Verify Citizenship or Immigration Status of Child (Ontario)
  - Societies must determine citizenship or immigration status of a child upon admission to care
3. Pursue Canadian Citizenship for Children in Care without Status (Ontario)
  - Societies must pursue Canadian citizenship for children in care without status if it is determined that it is in their best interest to do so.
4. In Nova Scotia, the Department of Community Services introduced a policy that requires social workers to note a child's citizenship when a child enters the care of the state.
5. Apart from the aforementioned occurrences in Ontario and BC, across Canada, references to immigration only appears in the provincial acts of Alberta, Manitoba, and Quebec.

## POLICY CONSIDERATIONS



### WHAT DOES THE POLICY SAY?

Services should take into account a child or young person's citizenship amongst other intersectional identities (CYFSA, Other Purposes)

- Where a person is directed in this Part to make an order or determination in the best interests of the child, the person shall consider any other circumstance of the case that the person considers relevant including the child's citizenship (CYFSA, Best Interests of Child)

In reference to best interests of the child, relevant factors including the child's cultural, racial, linguistic, and religious heritage must be considered (CFCSA, Best Interests of Child)

### GAPS IN POLICY

Lack of any mention of immigration status including any discussion of family and caregiver immigration status

Lack of guidance on how workers can safeguard the immigration status of children and families and a lack of direction on how to prevent undue separation & barriers from immigration status in families

Lack of discussion of how race shapes immigration status and lack of discussion on how race shapes immigration status

## WHAT WE STILL DONT KNOW

- What insights can be gained through an access without fear approach?
- How can we apply a family-centered or kinship approach to policy?
- How can anti-racist policies be integrated and direct the future work of immigration and child welfare policies?