



MOSAIC

Keynote Speaker: Prof. Catherine Dauvergne, Faculty of Law, UBC



Good evening, and thank you.

It is an honour and a pleasure to join you this evening as you celebrate another year of commitment and accomplishment in serving and empowering newcomers to Canada.

This is a challenging time for everyone who works in this field, and more so for anyone who enters this field by entering Canada at this point in time.... Over the past two to three years, the legal and policy framework that determines who can come to Canada, how and on what terms, has undergone significant changes. Indeed, the present suite of changes is more far-reaching than at any time since the 1970s, when Canada's 'points system' was first constructed and the *Immigration Act of 1976* was passed. In terms of quantity alone, these changes are a significant challenge to the advocacy (and service) community because everyone needs

to commit the time and energy necessary to figure out the nuts and bolts of the changes, how they will affect our clients and our organizations in our day-to-day work.

It is a different kind of challenge to puzzle through what these changes mean for our broader advocacy work, for the politics of immigration in this country, and for the future. In my remarks this evening, I want to begin the process of grappling with these larger questions.

The recent series of changes can be summarized in four themes: velocity, insecurity, hostility and economy.

By **velocity** I mean more than simply that the changes have been coming fast and furious. In addition to the quick pace of change, an enormous number of the recent changes are themselves directed towards speeding things up. These changes include: the creation of a new process for changing the rules 'ministerial instruction' which eliminates the timely tedium of democracy; dramatically shorter time lines for all stages of the refugee claims process; faster processes for getting temporary foreign workers into the country; and, of course the *Faster Removal of Foreign Criminals Act*. While many of us, as advocates, have long been asking for many immigration processes to be speeded up, I believe we must now be careful what we wish for: the enormous backlog of federal skilled worker applications has been 'instantly' eliminated with the termination of more than a quarter of a million applications....we have to hope that the citizenship application backlog is beyond this kind of 'quick fix.'

By **insecurity** I mean that a number of these changes are aimed at reducing certainty in newcomers' immigration status. Most obviously this is the impact of the introduction of a 'conditional' spousal category. It is also an effect of shifting to 'supervisas' as a preferred solution for parents and grandparents as opposed to the 'old' solution of permanent residency. And the 'faster removals' legislation serves certainly to make permanent residency less secure than ever before. In addition to these formal changes in the law, ramping up the temporary foreign worker program means that there are a larger number of people than ever before who have a less secure place in Canadian society and even in the Canadian economy (– this is the express objective of temporary foreign work programs, in Canada as everywhere else.)

Another key theme in the retooling of our immigration system is **hostility**. And this is even more problematic. While 'speed' and 'insecurity' can both be valid policy objectives, [i might not agree with them, but they could/ can be articulated as values in a free and democratic society] hostility towards newcomers to Canada cannot be defended as a policy objective. And yet, a certain number of the recent changes defy interpretation in any other way. Two important shifts in this regard are the far-reaching cuts to healthcare for refugee claimants, and move to a younger cut-off age as the limit for the definition of 'dependent children'. While any number of the changes aimed at making the system run more quickly and ensuring that people are less firmly attached to Canada can ALSO be read as evincing a hostility towards newcomers, shifts like this do not plausibly have another purpose: cutting health care for refugees won't save money, nor will ensuring that adult children are not members of the family class. The principal function of these shifts is rhetorical. They send a message, and that message is "We don't want you."

And while I strongly believe that hostility is not a defensible policy goal, it is clear that the closely related idea of aiming to 'deter' asylum seekers from coming to Canada is one that the current federal government does not shy away from stating openly.

And finally, a strong theme in many of the recent shifts is that of the **economics**, or more specifically, the labour market. The reshaping [via ministerial instruction] of the federal skilled worker program, the (possibly) temporary suspension of investor and entrepreneurial class migration, the expansion and then study of the temporary foreign worker program, all of these shifts are aimed – ostensibly – at making immigration fit economic objectives more squarely. This is not new in the policy terrain. Even the slightly higher pitch of the economic discourse swirling around immigration policy can really be understood as turning something up a couple of notches.

Immigration policy, in Canada as elsewhere, has long been strongly about economic objectives. Even major policy shifts that clearly had other objectives – such as the move away from an overtly racist immigration system – ALSO had an economic justification. Two things are accomplished by turning up the economic strains of the immigration policy discourse. First: the other dimensions of the immigration conversation

become harder to hear. That is, there is less emphasis on social values, on family, on community, on settlement, when 'people' are understood as 'labour inputs'. Second: we are increasingly told that people should be kept out of the country 'for their own good' because they are not doing well here... and thus limiting their entry is (somehow) as much about shielding them, as it is about shielding us.

So then: the recent shifts in our immigration rules reflect the themes of velocity, insecurity, hostility and economics. What are the consequences of these shifts? What does this mean for immigration outcomes, for the politics of immigration in Canada, and for future directions.

What are the consequences of these shifts?

Some of the consequences of this spate of policy realignment have appeared quite quickly. For example, following the implementation of deep changes in Canada's refugee system that took effect in December last year, the numbers of people seeking refugee protection here have dropped dramatically. This is, of course, the expected, even the desired, result of these changes. And it probably won't last.

But there are also some follow on changes that are not directly and overtly stated objectives. One of the most important of these is that the size of Canada's undocumented population will increase. Informally, anecdotally, there is already much evidence that this is happening. Indeed, until very very recently, Canada had the smallest undocumented population of any similarly situated Western country (save Australia, which may or may not be similarly situated). This was in large part because of Canada's refugee system, which provided many good reasons for individuals to declare themselves to the state. Many of these good reasons are now gone. It is unlikely an objective of the current government was to increase the number of people living in Canada without immigration status, but it is certainly a likely result. And for any government there are advantages to having an undocumented population – for example, people without status tend to be very law abiding, and, because they are extremely reluctant to access labour law protections to which they are entitled, they fill 'gaps' in the 'labour market' more efficiently than any other category of worker.

A third important follow on consequence is that immigration law will become more litigious. I'd love to say on behalf of all immigration lawyers that this creates a 'growth industry', but it really doesn't. I know many of the people across the country who are working on testing these new laws in court – the vast majority of this work is being done on a pro bono basis, as I am sure I have no need to tell you. Whereas a democratic conversation about immigration law seems to have petered out, a judicial conversation about immigration law is just ramping up.

So what does this mean for the politics of immigration in this country, and for our work moving forward?

This period of very rapid change calls our attention to the shifting politics of immigration in this country. Immigration in Canada is much more politicized than it used to be. Canada is no longer singled out by its broad popular AND political support for immigration. This period of change is accompanied by shifting attitudes in many quarters, and with the result that it is now much more common than it used to be to encounter outright a simply stated opposition towards further immigration to the country, and, in tandem, towards newcomers themselves in mainstream political discourse. In this regard, the politics of immigration in Canada has become much more like that of Germany, or France, or Britain or Australia. And much less like the politics that many of us in this room feel 'at home' with.

Another very important political shift is that the politics of immigration is decreasingly democratic. By this I mean that the current change agenda has not been driven by the change in attitudes I just mentioned. It is vice versa at best. The policy shifts have by-and-large been generated by a closed-door process. This is a marked change for Canadian immigration policy making. The next most recent major shift – which culminated in the *Immigration and Refugee Protection Act* – was preceded by nearly a decade of wide ranging public consultations. The current shifts received the bare minimum of scrutiny required by the Parliamentary tradition, and some received less than that (being introduced as part of the Budget Omnibus). Just before Parliament broke for the summer this year, the official opposition successfully filibustered in Committee to prevent legal changes that would reduce the strength and security of Canadian citizenship for dual citizens – a process that the government was pursuing using the odd device of trying to amend a private members' bill.

This is, like the Omnibus, a clever device to escape even Parliamentary scrutiny.

Furthermore, as confirmed by Andrew Griffith's new book, the change agenda does not come from empirical evidence either. I might have hoped that if changes were being made without consulting anyone, that at least those changes were related to 'the facts', but that is not the case.

What this anti-democratic politicization of immigration means is that the battle for the hearts and minds of Canadians on issues of immigration is much harder than it used to be. It is no longer a matter of informing and educating people, and trusting in some core values about immigration that are long-held in our society. It is a sharper, nastier political time.

What Can we conclude?

The predictable and unpredictable consequences of the recent and on-going changes to immigration law have important implications for the support and advocacy work that everyone in this room does.

What exactly the best way forward is I am not certain, but there are some signposts visible:

Newcomers need all the same kinds of support as in the past, but also need more.

- how to welcome people to a more hostile society
- how to create community and family, when the thrust is towards temporariness and removal
- it is more challenging to advocate for human beings in a system organized around labour inputs

Advocacy work needs the same commitment as in the past, but it also needs more.

- facts don't work - consultation is not to be expected, so pre-emptive advocacy is vital
- advocacy outside democratic channels is going to be vital
- the fight is less fair

It is very difficult to give an uplifting message about the current climate of change. There is more work to be done than ever before, and that work is getting harder. What is remarkable, and truly uplifting, is that this work is getting done. You are doing it. MOSAIC, and its sister organizations around the country are more important, more vital, than at any time in recent memory. It is time to draw strength from successes and redouble efforts going forward. And so I offer you, MOSAIC, my congratulations this evening on *another* successful year of support and advocacy for newcomers to Canada, and I leave you with all my hopes and prayers for the future.

Thank you.