

## **Immigration Issues to Ponder this Election Season**

It's federal election season in Canada once again. Since immigration policy is within the federal jurisdiction, the outcome of the October 2019 elections will determine whether and what changes we can expect in this area of law and policymaking.

Hence, it is also an opportune time to recommend changes and raise problematic aspects of current immigration law and policy with the political parties and individual candidates who are trying to court our votes.

Although we have seen countless changes to Canada's immigration law and policy over the years, the current system is still far from perfect. And we can expect even more changes in the months and years ahead, depending on political expediency, societal pressure and/or practical realities.

Below are some of the immigration issues that I would like the parties and candidates to address during the election campaigns and beyond:

### *Family Reunification*

Despite the fact that this is one of the main objectives in Canada's Immigration and Refugee Protection Act (IRPA), the government has yet to fully resolve the various issues which prevent its full realization.

First, the notorious backlog in the family sponsorship process - whether for spouses and children, for parents and grandparents, or for other family members - continues to increase the wait and uncertainty for families to be reunited in Canada.

Second, the limited application of the pilot program regarding undeclared family members (sections 117(9)d and 125(1)d of the IRPA Regulations) still prevent the long-awaited reunification of disqualified Canadian immigrants with their previously undeclared family members.

Third, the limited definition of dependent family members prevents parents from being reunited with all of their children, or siblings from each other, simply because of age or marital status.

If Canada is truly sincere in promoting family reunification without any form of discrimination, the limited definition of "members of the family class" or of "dependents" must be revisited and totally overhauled.

### *Recognition of Foreign Credentials*

Stories of PhD graduates driving taxis may have become a worn-out cliché in Canada, but this continues to be a sad reality.

This may partly be attributed to the fact that the flagship program of Canadian immigration called the Express Entry system, still limits its intake to highly skilled immigrants. Upon being granted permanent resident status however, these highly-skilled immigrants are often surprised to learn that

the same credentials which earned them an “invitation to apply” for permanent residence, are not readily accepted in the Canadian work force after all. Instead, they are often expected to gain “Canadian experience” and/or “upgrade their skills” before they can obtain a job in their fields of expertise at the same level that they have been working in their countries of origin.

This often results in the underutilization of skills and/or deskilling as the new immigrants will often accept “survival jobs” to support themselves and their families and are eventually sapped of the energy and confidence to pursue jobs in areas of their previous expertise.

The exorbitant international student fee rates is another means by which people who are not originally from Canada are not only being discriminated against but also financially exploited.

The ongoing disconnect between immigration policies, the non-recognition of foreign credentials and exorbitant international student fees, must be fully addressed if Canada is truly intent on becoming an equitable society without perpetuating these various forms of discrimination and exploitation.

#### *Path to Permanent Residency for All Temporary Foreign Workers*

Canada prides itself to be one of the best places in the world in which to live and work. As such, it attracts numerous people from all corners of the world, who seek to enter Canada on a temporary or permanent basis. However, temporary foreign workers under the so-called low-skilled occupations, i.e. NOC C and D, still do not have a guaranteed path to permanent residency similar to what the Express Entry provides to those in the NOC O, A and B occupations. Worse, not all of these workers were made aware of this prior to coming to Canada and therefore often end up becoming misled or exploited by unscrupulous employers or agents.

#### *Paradigm Shift to Achieve a Truly Inclusive Immigration System*

“Immigration is a privilege, not a right.” This phrase coined by a Federal Court judge, is the prevailing mindset for immigration officers who are the initial point of contact for those who wish to come to Canada. Unfortunately, this mindset often leads to arbitrary decision-making and the presumption of wrongdoing, instead of innocence, until proven otherwise. Perhaps, it is about time that Canada recognizes that as a country built by immigrants, its survival will hinge on sustained population growth as well as adaptability to change and diversity. More than a privilege, it is a basic human right to move freely across borders, to be treated humanely and without any form of discrimination or exploitation. For instance, those who are without legal status must be given the chance to become full participating members of society without the fear of removal constantly hanging over their heads.

Let us take advantage of this election season to encourage present and future policymakers to promote a truly fair and just immigration system.

*This article is meant for information purposes only and not as specific legal advice. The author is a Filipino-Canadian immigration lawyer and may be reached at [deanna@santoslaw.ca](mailto:deanna@santoslaw.ca) or tel. no. 416-901-8497.*