




'Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation'

**A Sectoral Response by AMSSA's
Immigrant Integration
Coordinating Committee**

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About AMSSA

AMSSA is a province wide coalition of 80 agencies and associations providing multicultural and immigrant settlement services in British Columbia. Our mission is to promote a harmonious, just, and equitable society that values the diverse mix of the many cultures and peoples calling Canada their home. A list of AMSSA member agencies is attached as Appendix A.

AMSSA's *Immigrant Integration Coordinating Committee (IICC)* is comprised of senior management staff of agencies delivering settlement and integration services to new immigrants. As a standing committee within AMSSA, the *IICC* provides an effective medium to share information, act on issues that impact the settlement sector, and act as a resource to member agencies, AMSSA's Board of Directors, various levels of government, and the community at large.

The *IICC* is committed to improving immigrant integration services; ensuring community-based and client-centred policy; ongoing collaboration and communication; supporting research and information sharing; advocating for improved funding and programs; strengthening regional voices through consultation; and developing professional standards in service delivery.

A Word of Appreciation to the Minister

AMSSA would like to express our appreciation to the Minister for this opportunity to further consider the development of new legislation relating to immigration and refugee protection. Previously, we had expressed concern about the consultative processes used by the Legislative Review Advisory Group (LRAG) in developing its report, *'Not Just Numbers: A Canadian Framework for Future Immigration'*.

In our opinion, this additional opportunity to participate in a consultative process ensures open communication relating to the intended direction of the Government of Canada with respect to drafting new immigration legislation. We are concerned however that the document *'Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation'* lacks specific detail relating to actual changes to the legislation. It is therefore essential that further opportunity for consultation be considered prior to the adoption of any new legislation.

Partners in Consultation

The Citizenship and Immigration Canada (CIC) Advisory Committee of the BC/Yukon region was asked in January 1999 to facilitate a BC regional response to the *'Building on a Strong Foundation for the 21st Century'*. AMSSA's *IICC* member agencies supported the

proposed consultation process and agreed to ensure our representatives were informed of the various sessions proposed. On February 15th, 1999, a series of regional meetings throughout the Province of British Columbia was initiated to clarify issues and provide opportunity to achieve consensus relating to the report '*Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation*'. It was also agreed that the CIC Advisory Committee would provide a written summary of these proceedings for Canada's Minister of Immigration.

Unfortunately, the report of those proceedings was not available in time to critique its findings in relation to specific issues identified within the immigrant services sector. It was therefore decided to submit a sectoral brief that would supplement the CIC Advisory Committee response. This response paper reflects the supported views by AMSSA member agencies. However, AMSSA's IICC member agencies appreciated the opportunity to meet with other constituency members from across the Province of BC during the Advisory Committee consultations.

Global Issues & Concerns

While '*Building on a Strong Foundation for the 21st Century*' initially appears to have side-stepped a number of the more controversial recommendations presented in the report, '*Not Just Numbers*', the ambiguity of the document creates uncertainty as to the Government's intention in some of these areas. While we support the overall direction proposed in the document, we are concerned that the absence of specific detail outlining actual changes to current legislation makes responding to the report extremely difficult.

It is therefore strongly believed that draft legislation should first be prepared and then disseminated to enable broad community feedback. The value of this type of consultation is affirmed in the chapter, entitled '*Strengthening Partnerships*' (page 17), however, only regular consultations with provincial/territorial governments are formally recommended. The report's suggestion that '*...Efforts will continue to engage the broader public on key immigration and refugee protection policy issues*' does not address previous consultative process concerns. **It is our opinion that national and provincial NGO associations should be clearly identified in any proposed consultation strategy.**

In this regard, AMSSA would like to remind the Minister of the recommendations previously outlined in our written response to the '*Not Just Numbers*' report. These include:

Values and Principles

- That the values that should influence the development of new legislation include: self-reliance, compassion leading to collective responsibility, investment (particularly in children as the future generation), democracy, freedom, equality, and fiscal responsibility.
- That the seven value-based principles for program design and operation include: integration, accessibility, comprehensiveness, fairness and consistency, responsiveness, accountability, and democratization.
- That the principle of '*multiculturalism*' be clearly supported in any new legislation.

- That the Government of Canada support any effort to challenge assumptions and dispel myths relating to immigration in Canada and that such assumptions call for the development of much better information on the effects of newcomers on Canada.
- That ‘...legislative change...must be predicated on the active support of groups and institutions which have a direct interest in immigration and the protection of those seeking asylum’ (Page 26).
- That ‘...consultation assumes a high degree of mutual trust, a common set of data and adequate time to consider them, a willingness to listen, and outcomes that are not pre-determined’ (Page 27).

Sharing Responsibility: Innovative Approaches to Partnership and Cooperation

- The Immigration and Citizenship Act should include provisions for formal, structured consultations on significant policy developments at the regional and national levels with non-government organizations, municipalities, business and other interested groups. Citizenship and Immigration should develop and institute mechanisms that allow for structured consultations and proper research as part of the policy process.

Community Participation: Active Integration

- The federal government should acknowledge its enduring role in settlement and integration services; establish clear accountability guidelines; and provide adequate funding for settlement and integration services. As specified in the federal report entitled ‘Round II - Consultations on Settlement Renewal: Finding a New Direction for Newcomer Integration’, the participants in the consultation process concluded that the federal government must have an enduring role in: (1) providing funding for newcomer settlement and integration; (2) providing information abroad on Canada, and (3) providing information in Canada through research and serving as an information ‘clearinghouse’

Other Identified Issues and Concerns

AMSSA member agencies support several observations made within the following written responses to the ‘Building on a Strong Foundation for the 21st Century’: the BC/Yukon CIC Advisory Committee, the Ontario Council of Agencies Serving Immigrants (OCASI), and the Canadian Council for Refugees.

In addition, AMSSA’s Program Director and several IICC member agency representatives participated in a meeting hosted by the Vancouver Refugee Council in which a series of questions/issues were raised that require further clarification by the Minister. These include:

Strengthening Family Reunification (page 21)

- One of the points that received positive feedback in the LRAg was the idea of 3rd tier ‘designated significant other’ (i.e., a person recognized as important by the immigrant). Why was this category not included?
- Current proposal limits family to ‘core’ members only, ignoring a more extended family

or a different definition of a family (page 22). The proposed legislation does not allow a right of appeal for parents and grandparents.

- What about common-law adoption? Because in many countries adoption does not require legal approval, when the family tries to emigrate to Canada the children may not be recognized as belonging to the family.
- The proposed legislation recognizes common-law and same-sex couples and we support this inclusion. But what does common-law mean? What kind of documentation is expected? What will happen to couples from countries where same-sex couples are forbidden, so they may have been unable to establish a functioning common-law relationship within the Canadian definition (page 25).
- In the proposed legislation children under 22, not married and in full-time study can be sponsored. This increase in age from 19 years to 22 years is positive, however it is favored towards those who can afford tertiary education. What if the children are from countries where university education is not common and restricted to the very wealthy? In many countries, children up to the age of 22 who are not in full-time education are still dependent on their parents. How will it help those who have to complete mandatory military service before they can get a passport? What kind of proof will be required to show the child is still dependent?
- Allowing spouses and dependent children to make an inland application looks good. Some thought that the current system of allowing this anyway under H&C stream is in fact more flexible and can allow for more discretion than a narrow legal definition does (page 24). The proposed legislation has limitations (e.g., inadmissibility, out-of-status, etc.). Many immigrant counselors agree that it is very easy for someone to become 'out-of-status'. They would then lose this right to apply inland.
- What is 'excessive medical demand'?
- What kind of 'incentives' would be used to encourage overseas applications?

Modernizing the Selection System for Skilled Workers and Business Immigrants (page 27)

- The 'Live-In Caregiver Program' is not mentioned. Does this mean it has been discontinued? How will domestic workers be classified? If they are classified as skilled workers this will reduce the number of women from developing countries who will qualify to enter the country as there are many countries that do not provide for the education of women.
- On *page 30* it mentions shifting the focus from an occupational-based selection model. What does this mean for domestic workers and caregivers?
- Optional language testing. A fee for testing would eliminate many people from applying. This testing may be the only way to expedite an application and many job offers for domestic workers are dependent on the applicant getting through the process quickly. Therefore people would lose the job prospect.

Facilitating the Entry of Highly Skilled Temporary Foreign Workers and Students (page 33)

- If people come to Canada as temporary workers would this exclude entry into application for landing at a future date?
- Currently domestic workers and caregivers can utilize this option. What happens to the possibility of their applying for landing under the new proposal?
- What are the specific proposals regarding foreign students?

Transparent Criteria for Permanent Residence Status (page 37)

- Specifically what will the residency requirement be? (currently 6 months of a year)
- In the current process, landing is not removed if a person can prove they did not intend to abandon Canada. Will there be any discretionary provision to allow for such a situation in the new proposal?

Strengthening Refugee Protection (Page 39)

- Why is there no reference to human rights in this chapter?
- More responsive overseas resettlement program (page 43). What procedures will allow a family to be processed together? Will a family that was separated due to country condition be disadvantaged?
- How will NGO's help with pre-screening?
- How will cases of 'urgent protection' be determined? Will a Minister's permit still be used?
- Consolidated decision making (page 43). This should reduce the processing time and benefit the applicant. Will IRB members be re-trained to accommodate new levels of decision making which will be expected from them? Will the same person do all levels the same day?
- Streamlined process. Will a 30 day time limit apply to people who have been in the country (e.g., on a student visa and whose home conditions change, compelling them to make a refugee claim)?
- Who will carry out the pre-removal risk assessment for applicants who return after 90 days? CIC Removals or IRB?
- Could the refusal to hear a claim contravene Canada's obligation to provide protection?
- Manifestly unfounded claims (page 44). How will the CIC determine those whose claims have 'nothing to do with protection'? Wouldn't CIC have already initiated a process were this determination as simple and straightforward as would seem to be indicated?
- Increasing ministerial power. On what grounds would the minister be allowed to select cases for vacation without having to seek leave from the IRB?

Maintaining the Safety of Canada (page 45)

- Enhanced interdiction (page 47). Understandable concern for abuse of the system - reality is that many genuine refugees need to use false documents to effect an escape

from their country of persecution. Since the number of Canadian offices abroad has already been reduced, a person's opportunity to seek protection is even further limited by this move which concentrates on enforcement rather than the recognition of the need for protection.

- New inadmissible classes. Will there be different levels of seriousness in false declarations? Domestic workers who admit to having a husband or family are often rejected. Currently they can rectify this at a later stage. It would be easy to make a mistake on a form and have this considered a 'false declaration' For a comparatively minor misdemeanor applicants would be denied the rest of the process or face having their citizenship or landing status removed unless under special circumstances. What constitutes a special circumstance?
- Improperly documented arrivals. What will constitute 'refusal to cooperate'?
- Removals (page 48). Will there be any appeal for someone who is found to have an acceptable reason for not having attended the hearing and had the sentence passed in their absence?
- Specifically, what kind of measures will be taken against people smugglers? What is the process and timeline for changing the criminal code to reflect this?
- Health (page 49). For tracking and enforcement, will health information be stored on the new IMM 2000 Smart Card?

Refocusing Discretionary Powers (page 55)

- Removal of serious criminals from Canada (page 53 and 57). What constitutes a serious crime? Will the definition be based on the potential length of the sentence (as opposed to the actual sentence) or will it be based on the nature of the crime?
- The removal of a right to appeal for criminals may result in increased deportations of long-time residents.
- Removal of appeal rights from overseas applicants does not really offer them a parallel process to inland applicants, since inland applicants have a full hearing, not 10 minutes with an overworked visa officer. There is no comparison. Overseas applicants should also have the right to due process. Why is the right to appeal not being maintained?

Conclusion

AMSSA is pleased to provide this report for consideration by the Minister. We've outlined a number of issues/questions that we trust will inform in the development of changes to Canada's immigration and refugee protection legislation.

However, clarification is required regarding what the next steps will be. Who will be responsible for weighing the various comments received? How will we be able to learn of the Department's comments on the feasibility and the desirability of the recommendations? Will draft legislation be released for further consultation prior to implementation?

AMSSA would be pleased to assist the Minister in facilitating a process to obtain further feedback to any proposed legislation.

Appendix A
AMSSA Member Agencies