

10 reasons to be concerned about proposed amendments to Immigration and Refugee Protection Act (IRPA) in Bill C-50

1. Arbitrary power

The amendments give too much arbitrary power to the Minister to make up the rules as she goes along. With these amendments, the Minister can introduce “instructions”, without Parliamentary oversight or mandatory consultations. The instructions will make important changes to which immigrants are processed and accepted. Having the rules for who gets in made and changed by ministerial fiat creates uncertainty, lacks transparency and makes the immigration selection process vulnerable to inappropriate political pressures.

2. Applicants’ legal right eliminated

The amendments eliminate the right to permanent residence for applicants who meet the requirements of the Act.

The proposed amendment in IRPA s. 11 from “the visa **shall** be issued” to “the visa **may** be issued” dramatically reduces the rights of applicants. The current wording allows an applicant to seek the intervention of the courts if Citizenship and Immigration Canada is not meeting its responsibility to process the application and issue a visa, if the applicant meets the requirements of the law. Under proposed amendment, the applicant will no longer have the same legal basis to demand that the processing be finalized in a timely manner. This applies to **all applicants**, whether in Family Class, Economic Class or Refugee Class.

3. Overseas humanitarian and compassionate applications

The amendments eliminate the right to have an overseas application for humanitarian and compassionate (H&C) consideration examined. Instead, the law will permit such applications to be returned unexamined or simply shredded.

Currently, H&C is the only recourse for many people with compelling reasons for seeking permanent residence in Canada. This includes cases involving family reunification for children (e.g. [families separated by the “excluded family member” rule, Regulation 117\(9\)\(d\)](#), and refugee children in Canada whose parents are overseas).

The government has suggested that they do not intend to use the shredding option for family-related H&C applications. However, the amendments permit the shredding of these applications, so this remains a possibility, under this or a future government.

4. Intentions are not law

The government has made a number of statements about how they intend or don’t intend to use the new powers that the amendments will give them. Expressions of current intention are no protection against future uses of the powers in very different ways.

Recent experience with IRPA s. 117 shows the dangers of relying on ministerial promises. When IRPA was debated in Parliament, the Minister promised that s. 117, which criminalizes people smuggling, would never be used against humanitarians helping refugees. Despite those promises, in 2007, a church worker, [Janet Hinshaw-Thomas, was arrested and charged with people smuggling](#) under s. 117 for accompanying refugees to the Canadian border.

5. The amendments do not belong in the budget bill

IRPA amendments should not be included in the budget bill, but rather dealt with through separate legislation, studied by the Standing Committee on Citizenship and Immigration and debated on their own merits.

6. Lack of explanatory information

The government has failed to provide adequate information to explain the proposed changes, leading to widespread confusion and uncertainty. It is regrettable that the Minister, rather than providing clearer supporting materials, is attacking critics of the amendments for being misinformed.

7. Failure to produce draft instructions

It is very difficult for the public to understand what the government is proposing to do given that draft instructions have not been made public.

8. Lack of consultation

The proposed amendments were introduced without the normal prior consultation with stakeholders. This means that the proposal has not had the benefit of the full range of perspectives.

9. There are other ways of addressing the backlog

There is wide agreement that there is a problem in the immigration system leading to backlogs, including in the Economic Class. There are better ways of addressing the problem than through the proposed amendments. In fact, the proposed amendments will not in any case resolve the existing backlog, since they only affect applications made after 27 February 2008.

10. The immigration program needs to value immigrants

The proposed amendments come in the context of – and contribute to – a disturbing shift towards the use of immigration primarily to meet Canadian employers' needs, without regard to broader Canadian interests. This includes the problematic increasing reliance on temporary work permits. Canada needs to consider immigrants as full participants in society, not simply as disposable units to fill currently available jobs. This means recognizing the need for effective and efficient family reunification policies and practices so that immigrants can be with their families. Yet the government is not addressing chronic problems that mean that [some children spend years separated from their parents](#).

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