



NINETTE KELLEY and MICHAEL TREBILCOCK

THE MAKING OF THE MOSAIC

**A HISTORY OF
CANADIAN IMMIGRATION POLICY**

**SECOND
EDITION**

The Making of the Mosaic

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Ninette Kelley and Michael Trebilcock

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The Making of the Mosaic

A History of Canadian Immigration Policy

SECOND EDITION

In this second edition of *The Making of the Mosaic*, Ninette Kelley and Michael Trebilcock have extensively revised and updated their examination of the ideas, interests, institutions, and rhetoric that have shaped Canada's immigration history. Beginning their study in the pre-Confederation period, the authors interpret major events in the evolution of Canadian immigration policy, including the massive deportations of immigrants during the First World War and Depression as well as the establishment of the Japanese-Canadian internship camps during the Second World War. Additional chapters provide perspective on immigration in a post-9/11 world, where security concerns and a demand for temporary foreign workers play a significant role in immigration policy reform.

Widely recognized as one of the most comprehensive and authoritative works on the subject, *The Making of the Mosaic* clarifies the attitudes underlying each phase and juncture of immigration history, and in this new edition provides vital perspective on the central issues of immigration policy that continue to confront us today.

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The views expressed in this book are our own and do not necessarily reflect the views of the institutions with which we have been associated.

Contents

Acknowledgments vii

- 1 Introduction: Ideas, Interests, Institutions, and Issues Shaping Canadian Immigration Policy 3
- 2 From Wilderness to Nationhood, 1497–1867: ‘The Land God Gave to Cain’ 22
- 3 Immigration and the Consolidation of the Dominion, 1867–1896: Fulfilling the Destiny 62
- 4 Industrialization, Immigration, and the Foundation of Twentieth-Century Immigration Policy, 1896–1914 113
- 5 The War and the Recovery, 1914–1929: The Dominance of Economic Interests 167
- 6 The Depression Years, 1930–1937: Exclusion and Expulsion 220
- 7 The Recovery and the Second World War, 1938–1945: Closure and Internment 254
- 8 The Postwar Boom, 1946–1962: Reopening the Door Selectively 316
- 9 Immigration Policy, 1963–1976: Democracy and Due Process 352
- 10 Regulating the Refugee Influx, 1977–1994: The Fraying of the Consensus 380
- 11 Retrenchment, 1995–2008: A Return to Executive Discretion 417
- 12 Conclusion: Ideas, Interests, and Institutions 463

vi Contents

Notes 473

Select Bibliography 617

Index 663

The Making of the Mosaic

A History of Canadian Immigration Policy

Introduction: Ideas, Interests, Institutions, and Issues Shaping Canadian Immigration Policy

The Project

This book addresses a question that, throughout history, has confronted all individuals and groups who have chosen to live in a state of civil society with one another, and who view social, political, and economic relationships as integral to their self-definition. How does one define and justify the conditions for community membership? In the context of the modern nation state, this question directs our attention primarily to our immigration policies – that is, who may become citizens and who must remain strangers – for nations imply boundaries, and at some point boundaries imply closure. Contemporary public debates, in Canada, the United States, Western Europe, and elsewhere, focusing on the central features of domestic immigration policies, reflect the deep conflicts that immigration issues have always provoked.

While our examination of this issue focuses on Canada, it is nevertheless set against a backdrop of global migration trends. There are currently 192 million people, including 16 million refugees, living outside their place of birth,¹ more than twice as many as were estimated in 1975. Today, approximately one out of every thirty-five persons in the world is a migrant.² While this global number has increased substantially over time, the rate of increase has remained remarkably consistent. For example, between 1965 and 1990 the annual growth rate in migration was approximately 2.1 per cent as compared to its present rate of 2.9 per cent.

The distribution of migrants, however, has shifted dramatically. In 2000, migrants made up 10 per cent of the population of seventy countries as compared to just forty-eight countries thirty years earlier. Moreover, from

1980 to 2000, the number of migrants living in the developed world more than doubled, from 48 million to 110 million, as compared to a more modest increase from 52 million to 65 million in the developing world. Currently some 60 per cent of the world's migrants live in the developed world and account for more than two-thirds of the population growth in some regions. For example, from 1980–2000 immigration accounted for 89 per cent of population growth in Europe and approximately 75 per cent of population growth in North America.³

It is trite to observe that Canada is a country of immigrants, as is indeed the case for most of the countries of the so-called New World. However, this does not imply and has never implied that entry into our community is open to all. Indeed, central features of the social, political, and economic history of Canada have informed debates about what the terms of our immigration policy should be. It is equally trite to predict that immigration issues will be at the heart of future debates about what it means to be a Canadian and to be a member of the Canadian community.

In spite of the often central place of immigration in domestic law and policy, only in relatively recent years have philosophers, economists, sociologists, political scientists, lawyers, and other scholars begun to give serious attention to developing theoretical paradigms for analysing immigration policy and to testing the implications of those paradigms in rigorous empirical ways. However, this book is neither systematically theoretical nor systematically empirical. Its perspective is essentially historical. Moreover, its main focus is the history of immigration policy, not the social or cultural histories of various immigrant groups who have settled in Canada.⁴ Although the focus is primarily the history of post-Confederation Canadian immigration policy, it is impossible to understand the evolution of that policy from 1867 onwards without some perspective on the inheritances from prior periods: hence this study begins with a brief chapter on the pre-Confederation history of Canadian immigration policy.

The approach taken in this book is to describe and interpret the major epochs or episodes in the evolution of Canadian immigration policy with a view to uncovering the ideas or values, the interests, and the issues that engaged public debates, as well as examining the institutions through which these ideas, interests, and issues were mediated in each of these periods.

In this book, the story of Canadian immigration policy is told from the perspective of the major participants involved in the different stages in the policy's evolution. We have tried to avoid the temptation to be judgmental about their moral characteristics from the comfortable vantage point or supposedly enhanced sensibilities of the contemporary social and

intellectual milieu. However, a reflective re-examination of our collective past reveals a set of core normative and ethical values that have been fundamental in the making of the Canadian mosaic and, when rendered explicit, provide perspective on the central issues of immigration policy that confront us today and will do so in the future.

Because this project is primarily historical, it does not attempt to deduce a set of ideal immigration policies from a *a priori* analysis of first principles (philosophic, sociological, or economic). However, in the next two sections of this chapter we present a brief review of the central and enduring ideas and interests at stake and their relationship to the institutions involved in immigration policy generally as a basis for examining the critical and changing contours of Canadian immigration policy summarized in the third section of this chapter. The latter provides the reader with a general road map of the historical journey pursued in detail in later chapters, briefly tracing how ideas, interests, and institutions interacted in relation to specific issues in the evolution of Canadian immigration policy.

The Ideas⁵

In an oft-cited observation, John Maynard Keynes once remarked that, 'soon or late, it is ideas, not vested interests, which are dangerous for good or evil.'⁶

At the heart of debates over immigration policy, in all Western democracies, including Canada, now and in the past, lie two core ideas or values (we use these terms interchangeably) that stand, to some irreducible degree, in opposition to each other: liberty and community. Theories of liberty and community present themselves with almost endless variations, but, for the purposes of this book, the essence of the two ideas, in the context of immigration policy, can be fairly readily captured.

All theories of liberty, as Joseph Carens points out, 'begin with some kind of assumption about the equal moral worth of individuals. In one way or another, all treat the individual as prior to the community. Such foundations provide little basis for drawing fundamental distinctions between citizens and aliens who seek to become citizens.'⁷ Carens goes on to review three contemporary approaches to liberal theory: libertarianism, social contractarianism, and utilitarianism.

From a libertarian perspective, propounded by scholars such as Robert Nozick,⁸ individual property rights play a central role. In a state of nature, individuals have rights to acquire and use property and to alienate it voluntarily. The existence of the state is justified only to the

extent that it is required to protect property rights and facilitate their voluntary transfer. In this view, if citizens choose to enter into contracts of employment with aliens, or to sell them land, homes, or businesses, and if aliens wish to move to Canada, they should be free to do so, provided that, in doing so, they do not violate the rights of anyone by imposing involuntary burdens on others. The rights of both citizens and aliens would be violated were externally imposed constraints applied to such transactions.

From a social contractarian perspective, as exemplified prominently in the writings of John Rawls,⁹ an ideal social constitution would be constructed behind a veil of ignorance, where individuals know nothing about their own personal situations, such as class, race, sex, natural talents, religious beliefs, or individual goals, values, and talents. The purpose of the veil of ignorance is to nullify the effect of specific circumstances which put individuals at odds, because natural and social contingencies are arbitrary from a moral point of view and therefore are factors which ought not to influence the choice of principles of justice. Rawls argues that people in this original position would choose two principles. The first principle would guarantee equal liberty to all. The second would permit social and economic inequalities only so long as they were to the advantage of the least well-off (the 'difference' principle) and attached to positions open to all under fair conditions of equal opportunity. People in this original position would give priority to the first principle, forbidding a reduction of basic liberties for the sake of economic gains.

Applied to immigration, as Carens points out, specific contingencies that may set people at odds are whether one is a citizen of a rich nation or of a poor nation, and whether one is already a citizen of a particular state or one is an alien who wishes to become a citizen. A fair procedure for choosing principles of justice, applying the social contractarian view, therefore excludes knowledge of these circumstances. Rather than a national view of the original position, a global view should be taken ('the universal brotherhood of man'). Behind this global veil of ignorance, and considering possible restrictions on freedom, the perspective of those who would be most disadvantaged by the restrictions – in this case, the perspective of the alien who wants to emigrate – should be adopted. Very few restrictions on immigration can be morally justified, save those which, according to the Rawlsian view, are required for the sake of the liberty of all, such as maintaining public order and security. To cite a metaphor used by Carens, it does no one any good to take so many people into a lifeboat that it is swamped and everyone drowns.¹⁰ But short of a reasonable, as opposed to a hypothetical, expectation of this

prospect, largely unconstrained immigration would seem to be implied by Rawls's social contract theory.¹¹

From a utilitarian perspective, the utilities or disutilities experienced by both citizens and aliens would be entered in the utilitarian calculus. Some citizens would gain from being able to enter into employment or other contractual relationships with prospective immigrants. Others, such as consumers, might benefit from access to cheaper goods, services, or labour. Scale effects in the private and public sectors that derive from a larger population base might benefit citizens generally. Moreover, dependency effects might benefit local taxpayers if immigrants were over-represented in the wage-earning age category relative to existing citizens, contributing more in taxes than the costs entailed in providing them with social services. In contrast, some citizens could lose if they were displaced from their jobs or if their wages were depressed through the additional competition that immigrants may bring to labour markets. Other costs might include higher housing prices, congestion externalities of various kinds, and a negative dependency effect in the case of young, old, infirm, or unemployed immigrants who take more in social benefits than they contribute in taxes.

These costs and benefits accruing to citizens would have to be measured against the costs and benefits accruing to immigrants by being permitted entry. In most cases, one assumes that for them the benefits substantially outweigh the costs, otherwise immigrants would presumably not have chosen to resettle in another land. Moreover, to the extent that many immigrants will have made the wrenching decision to resettle because of economic privation or religious, ethnic, or political oppression or persecution in their homelands, the gains to them from being permitted to join a new and more congenial community could be very substantial. Thus, from a utilitarian perspective, which perhaps may provide more scope for restrictions on immigration than either the libertarian or the social contractarian perspective, relatively open borders would, in general, still be dictated.

In opposition to these liberal values stand the core values of community. Here, it is asserted, in the context of immigration policy, that controlling which strangers may enter is a powerful expression of a nation's identity and autonomy. Sovereignty entails the unlimited power of a nation, like that of a free individual, to decide whether, under what conditions, and with what effect it will consent to enter into a relationship with a stranger.¹²

A prominent articulator of this view is Michael Walzer.¹³ In justifying this view, he draws analogies among neighbourhoods, clubs, and families.

8 The Making of the Mosaic

While it is true that, in the case of neighbourhoods, people are free, in general, to enter and exit as they please, he argues that, in so far as nations may be analogized to neighbourhoods, permitting unconstrained entry by aliens in any numbers from anywhere in the world would destroy the concept of neighbourhood. He argues that it is only the nationalization of welfare (or the nationalization of culture and politics) that opens the neighbourhood communities to whomever chooses to come in. Neighbourhoods can be open only if countries are, at least potentially, closed. Only if the state makes a selection among would-be members, and guarantees the loyalty, security, and welfare of the individuals it selects, can local communities take shape as 'different' associations determined solely by personal preference and market capacity.

Walzer claims that if states ever became large neighbourhoods, it is likely that neighbourhoods would become little states. Their members would organize to defend the local politics and culture against strangers. Historically, it is claimed, neighbourhoods have turned into closed or parochial communities whenever the state has been open. Thus, Walzer rejects the analogy of states as neighbourhoods and instead analogizes states to clubs and families, where members are free to determine the conditions of membership. Walzer concludes that:

The distribution of membership is not pervasively subject to the constraints of justice. Across a considerable range of the decisions that are made, states are simply free to take in strangers (or not) – much as they are free, leaving aside the claims of the needy, to share their wealth with foreign friends, to honor the achievements of foreign artists, scholars, and scientists, to choose their trading partners, and to enter into collective security arrangements with foreign states. But the right to choose an admissions policy is more basic than any of these, for it is not merely a matter of acting in the world, exercising sovereignty, and pursuing national interests. At stake here is the shape of the community that acts in the world, exercises sovereignty, and so on. Admission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination. Without them, there could not be *communities of character*, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life.¹⁴

Unlike liberal theories, which imply no or few limitations on entry, Walzer's theory, at least without further qualification, appears to permit almost any limitations on entry that a state should choose to impose. Two

controversial features of his theory are the notion that political sovereignty is a near-absolute value – a view increasingly challenged by the evolution of international human rights norms – and the notion that the only communities of character are those that reflect ethnic, religious, cultural, or ideological commonalities¹⁵ – a view that many liberals would challenge on the grounds that common commitments to liberal civic institutions and mutual tolerance of intermediate subcommunities of interest can sustain communities of character. In any event, these two core ideas, liberty and community, clearly frame the major issues that must be confronted in the design of any country's immigration policies.

The Interests

An austere Public Choice perspective on the policy-making process asserts that, just as the functioning of private markets is widely assumed to be dominated by material self-interest, so should the political process be conceived of as an implicit 'market' where the relevant actors – voters and special interest groups (demanders), politicians, bureaucrats, regulators (suppliers), and the media (intermediaries) – tend to be motivated by material self-interest. For their part, politicians will adopt a policy not because it is thought likely to promote the broader public interest or some objective social-welfare function but because it will maximize political support.¹⁶

In any political community, the ideas of liberty and community are typically articulated by interest groups in the political process. Some interest groups will have a reasonably well-defined material self-interest in relation to the issues in question. Other interest groups will include community, church, and public interest groups with no direct self-interest in relation to the issue but a commitment in principle to particular ideas or values.

In decisions concerning the conditions of entry for immigrants, the rhetoric of public debate may often disguise the true interests and ideas at play. For example, it will often be strategic for an interest group to disguise its self-interest under the rubric of a broader normative idea in order to engage the support of other members of the political community who may share the idea but not the interest. Similarly, those who espouse particular ideas that are unappealing to other members of the community may disguise those ideas (e.g., racist values) under the rubric of other values (e.g., cultural homogeneity) that are more appealing to a broader segment of the community. Thus, an understanding of the real ideas and interests at play in each epoch requires a careful interpretation of the

rhetoric of public discourse. The material interests likely to be most directly engaged by immigration policy include the following groups.

Business groups, in general, are likely to favour a permissive immigration policy, in part as a way of relieving shortages or bottlenecks in the supply of skilled or unskilled labour, and in part because an increase in the supply of either kind of labour is likely to have the tendency to depress local wage levels. In addition, a growing population base is likely to increase aggregate demand for goods and services, and thus enhance the prosperity of the business sector. On the other hand, to the extent that some immigrants, particularly of the entrepreneurial or professional classes, may become a potential source of competition to local businesses or professionals, there may be less enthusiasm in some business quarters for an open immigration policy.

Labour groups are likely to favour an immigration policy biased towards family reunification, and perhaps admission of entrepreneurs with capital, and against the admission of skilled and unskilled labour in sectors where admitted workers are likely to be competing for jobs and wages with indigenous workers. Thus, the admission of workers would tend to be favoured only in instances where they are willing to perform jobs that the indigenous workforce is unable or unwilling to perform.

Ethnic groups comprising previous immigrants are likely to support an open immigration policy, especially one that stresses family reunification and that favours preferential access for individuals of similar ethnic, cultural, religious, or political backgrounds, especially during times when their countries of origin are experiencing political or economic stress. Previous decisions on admission policies may thus create a form of path dependency in terms of future policies.

While they are an amorphous class, taxpayers in general are likely to favour an immigration policy that imposes the fewest demands on the public purse. Such a policy is likely to entail a preference for immigrants who will be productive members of the community and contribute more, in the way of taxes, than the costs they impose on the community in terms of increased educational, health, unemployment, public housing, law enforcement, and social welfare expenditures. This preference would suggest a bias towards admitting skilled workers whose services are likely to be in high demand and entrepreneurs with capital, and less enthusiasm for admitting unskilled workers, relatives of other citizens (particularly very young, old, or infirm relatives), and many refugees.

While ideas and interests are clearly important determinants of public-policy outcomes, they must be mediated through institutions in order to