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Can immigrants be told where they must live in Canada?

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Immigration Minister [John McCallum](#) has been speaking recently about ambitious plans to significantly increase the number of immigrants admitted to Canada. Whether Canadians are open to such an increase is questionable; yet, the minister has mentioned an intriguing possibility for raising the numbers: He would like newcomers to settle in small towns and rural areas, rather than big urban centres, such as Toronto and Vancouver.

He acknowledges the constitutional limitations to this idea, given the mobility rights of citizens and permanent residents that are protected by Section 6 of the Charter of Rights and Freedoms. However, he does not follow this prudent reminder by mentioning that the protection granted to permanent residents is not absolute, because the Charter includes qualifications in the same section, along with a more general clause on reasonable limits.

It may not be obvious in our liberal democracy, but the issue of controlling where new immigrants can settle for their initial years in Canada is important in terms of securing public support for increased immigration.

Can the government legally require some immigrants to settle in small towns and rural areas?

We do not have the answer for the simple reason that our courts have not been asked to deal with this question and how it is affected by the relevant Charter subsection. If it is determined that such a limitation is indeed a violation of mobility rights, then it would have to pass what is known as the Oakes test.

The federal government would have to show there is a pressing and substantial objective in settling some immigrants in small towns and rural areas. Mr. McCallum's statements so far suggest he is taking an economic perspective that emphasizes business concerns about labour shortages in remote areas. Courts would likely consider this a justifiable purpose.

Similarly, the actual restrictions imposed on these newcomers would have to limit their mobility rights as little as is reasonably possible. Courts would have to be convinced that the benefits of the measure outweigh the seriousness of the infringement.

The fact that the limitation would be temporary (for the duration of the immigrant visa, for example) would help the government's case. And by structuring the immigrant-selection criteria in a way that grants more points for applicants willing to work in small towns or rural areas, it could also be presented as one option among many available to potential immigrants, who could otherwise apply under the regular economic stream. In other words, the limitation accepted voluntarily by some immigrants would be balanced by the fact that their choice would give them a better chance of obtaining permanent resident status.

Along with clarifying the constitutional question around mobility rights, the policy could play an important role in reinforcing the notion that immigration is not only about the personal well-being and advancement of foreign applicants, but also about the needs of the receiving country.

This latter point is crucial in securing public support for any increase in admissions envisioned by Mr. McCallum. Canadians will naturally be more supportive if they believe new arrivals are helping their huge country with its specific challenges involving underpopulated regions and demographic distribution.

Two of Canada's main competitors for skilled immigrants, Australia and New Zealand, provide incentives to encourage immigrants to find employment outside large urban centres. If such an approach with bonus points in the selection criteria is not possible in Canada given its constitutional protections, then a new category of temporary workers (who would not be covered by the Charter's mobility clause) could be created that would include geographic conditions and that would benefit from a more direct pathway to permanent resident status once the conditions were fulfilled.

Canada would be well served if Mr. McCallum were to champion the idea that some control on where immigrants settle is reasonable, in order to secure public support for immigration to this geographically challenging country.