

## Bill C 12: Reinforcing system integrity while testing the limits of immigration law

By **Sergio R. Karas**

Law360 Canada (April 1, 2026, 1:20 PM EDT) -- The passage of Bill C-12, the *Strengthening Canada's Immigration System and Borders Act*, reflects a reality that immigration lawyers increasingly confront in practice. Canada's immigration system faces persistent pressures from fraud, irregular migration and national security risks that legacy statutory tools were not designed to manage at scale. Against that backdrop, Parliament's objective in enacting Bill C-12 — strengthening border integrity, deterring abuse and maintaining public confidence — is not only legitimate, but necessary.

The legal question is therefore not whether Canada may act decisively in the face of these threats. It is whether the tools Parliament has chosen to remain consistent with administrative law principles, constitutional safeguards and the structure of the *Immigration and Refugee Protection Act* (IRPA) itself.



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### National security and fraud deterrence as foundational objectives



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Canadian immigration law has never treated admission or continued presence as an unqualified right. In *Canada (Minister of Employment and Immigration) v. Chiarelli*, [1992] 1 S.C.R. 711, the Supreme Court of Canada affirmed that non-citizens' presence in Canada is conditional on compliance with Canadian law, including national security requirements.

Fraud and security threats undermine not only enforcement capacity but the credibility of the immigration system as a whole. As the SCC later held in *Medovarski v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51, Parliament is entitled to prioritize public safety and system integrity when structuring immigration decision-making.

Bill C-12's architecture must be understood against this jurisprudential backdrop: preventive, systemic responses to organized abuse and security risk are not aberrational — they are embedded

in Canadian immigration law.

### **Executive discretion as a necessary response to systemic abuse**

Bill C-12 authorizes the governor-in-council to suspend, cancel or impose conditions on classes of immigration documents where systemic fraud or security concerns are identified. While this marks a shift away from exclusively individualized adjudication, it responds to a practical enforcement reality: case-by-case decision-making is often ill-suited to addressing coordinated, high-volume abuse.

The Supreme Court has long held that discretionary immigration schemes may legitimately prioritize efficiency and risk management. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the court acknowledged that the content of procedural fairness is variable and must be assessed contextually, including the nature of the decision and the statutory scheme.

### **Refugee protection, irregular migration and deterrence**

Bill C-12's refugee-related amendments have generated significant debate. Yet deterrence of irregular migration is not foreign to Canadian refugee law. The Supreme Court's decision in *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177 established that refugee claimants physically present in Canada are entitled to s. 7 Charter protections, including a meaningful opportunity to be heard. At the same time, *Singh* did not constitutionalize any particular access model to the refugee determination system.

More recently, the Supreme Court in *Canadian Council for Refugees v. Canada (Immigration, Refugees and Citizenship)*, 2023 SCC 17 held that the regulations designating the United States as a safe third country do not infringe refugee claimants' rights to liberty and security of the person under s. 7 of the Charter.

Bill C-12 reflects a policy judgment that timely, orderly claims are essential to preserving the viability of Canada's refugee system, particularly in the context of cross-border coordination and sustained claim volumes. The legal vulnerability lies not in deterrence per se, but in the retroactive application of certain exclusions, which may invite scrutiny under s. 7 principles of arbitrariness and fairness.

### **Administrative law after Vavilov: Efficiency with accountability**

From an administrative law perspective, Bill C-12's reliance on regulation and executive action must be assessed through the framework articulated in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65. There, the SCC emphasized that administrative power must be justified, transparent and intelligible, even where discretion is broad.

The SCC has reinforced this requirement in immigration matters. In *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21, it held that under the framework in *Vavilov* the appropriate standard of review of administrative decisions is reasonableness.

Bill C-12's challenge, therefore, is not that it empowers the executive to act decisively, but that regulation-driven decisions risk diminishing the availability of reasons, thereby weakening the accountability mechanisms contemplated in *Vavilov* and *Mason*.

### **Data-sharing and the enforcement imperative**

Bill C-12 also expands Immigration, Refugees and Citizenship Canada's (IRCC) authority to collect and share personal information. In an environment where fraud and security threats are increasingly data-driven, such information-sharing is operationally indispensable.

The Federal Court of Appeal has clarified that fairness concerns arise not from data-sharing itself, but from reliance on undisclosed or unchallengeable information. In *Qin v. Canada (Citizenship and Immigration)*, 2013 FCA 263, the court held that where information is central to the decision, applicants must have a meaningful opportunity to respond.

Bill C-12 therefore places heightened importance on procedural safeguards surrounding the use of shared information, rather than on limiting the state's capacity to collect it.

## **Strong enforcement requires legal discipline**

Bill C-12 represents a deliberate effort to reinforce national security, deter fraud and restore public confidence in Canada's immigration system. These objectives are not only legitimate — they are essential. As the jurisprudence confirms, immigration law has always balanced generosity with control, and openness with enforcement.

The task ahead is ensuring that enhanced executive authority is exercised with transparency, restraint and respect for constitutional limits. If implemented with discipline, Bill C-12 can strengthen both system integrity and legality. If not, it risks shifting too far from adjudication toward administration, inviting precisely the judicial intervention it seeks to avoid.

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