

HARRIS ROSEN

PROFESSIONAL CORPORATION

The Legal Intersection Between Education and Immigration: A Practical Dilemma in Canada

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By
Harris Rosen

Managing Partner, Harris Rosen Professional Corporation,
Higher Education Lawyers

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“The nine most terrifying words in the English language are I’m from the government and I’m here to help”

Ronald Reagan, 40th US President

The Constitutional Dilemma



Section 93 *Constitution Act, 1867*: Establishes that education is a provincial responsibility.



Section 95 *Constitution Act, 1867*: Establishes that immigration is a concurrent power of federal government and provinces, but in cases of conflict, federal law prevails.

The dilemma:
immigration and higher education are inextricably linked.

Did Constitution contemplate globalization?



The Federal Government

**Does Federal
Government Have Duty
to Act in Best Interests
of People?**

Yes!



Peace, Order and Good Government Clause: Section 91 of the Constitution Act, 1867: federal government authority to legislate for the "Peace, Order, and Good Government of Canada" (POGG).



Courts have interpreted this to mean that the government has broad powers to act in the public interest, especially in matters of national concern, emergencies, or gaps in jurisdiction.



The Canadian Charter of Rights and Freedoms (part of the Constitution Act, 1982) protects fundamental freedoms, democratic rights, legal rights, and equality rights but also limits government actions that would infringe on these rights.

Federal Decision on Study Permits and Public -Private Partnerships



A two-year cap on international student permits, reducing the number issued in 2024 by approximately **35%** compared to 2023.



Provincial quotas, where each province was given a specific allocation of student permits based on population and capacity.



Stricter rules for post-secondary institutions, ensuring that designated learning institutions (DLIs) could support students properly.



Changes to the Post-Graduation Work Permit (PGWP) program, making it harder for students from certain institutions to qualify. End to Public-Private Partnership PGWP eligibility.

Rationale For Decision



Housing Shortages in Canada

See: <https://www.reuters.com/world/americas/canadas-housing-affordability-crisis-may-persist-years-despite-rate-cuts-2024-09-30/>

And: <https://www.cmhc-schl.gc.ca/blog/2023/estimating-how-much-housing-we-need-by-2030>

Strained Public Services: Health, Transit, Social Assistance Programs

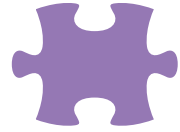
Fraud: credit mills, attendance fraud, immigration fraud

Some “bad” colleges operate “Above a Massage Parlour”
Immigration Minister, Hon. Marc Miller

How Federal Government Decision Was Received

Like a nuclear bomb!

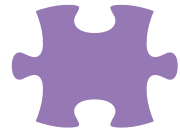
- to private post-secondary sectors and
- to public institutions over time



Problem 1: Private Post-Secondary Institutions were Scapegoated



Problem 2: Gave Canada Black Eye on World Stage: Can Students Really Distinguish Between Public and Private? Message They Heard: 'You're Not Welcome Here'



Problem 3: Revenue Erosion and Reduction of Program Offering/Choice in Canada



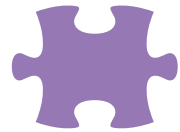
Problem 4: Actions of Federal Government Won't Resolve Stated Issues: No Rational Connection



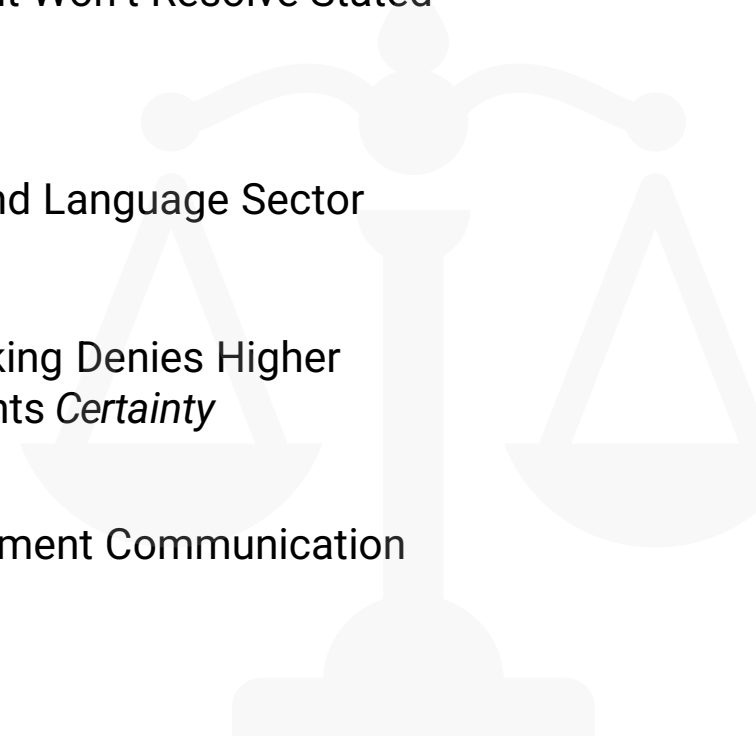
Problem 5: Complete Failure to Understand Language Sector

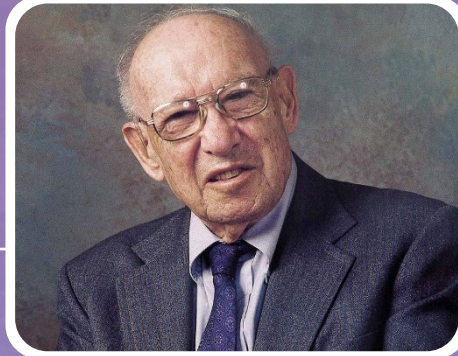


Problem 6: Inconsistency in Decision-Making Denies Higher Education Sector and International Students *Certainty*



Problem 7: Federal and Provincial Government Communication Failures





“If you can’t measure something, you can’t understand it. If you can’t understand it, you can’t control it. If you can’t control it, you can’t improve it.”

Peter Drucker

What Data Shows: A Case for International



In 2022, Canada's foreign enrolment¹ grew by more than 30% (Listen also to ICEF Podcast on this issue with Harris Rosen and experts from Australia and the United States at <https://monitor.icef.com/2025/01/icef-podcast-a-whole-new-world-international-student-recruitment-in-2025/>)

Mortgage Rates and Housing Shortages Are Culprits, Not International Students:²

International Students Scapegoated for Housing Crisis:³

Private Institutions Scapegoated for Housing Crisis:⁴

1. <https://monitor.icef.com/2023/02/canadas-foreign-enrolment-grew-by-more-than-30-in-2022/>

2. <https://www.reuters.com/world/americas/canadas-housing-affordability-crisis-may-persist-years-despite-rate-cuts-2024-09-30/>

3. https://www.thestar.com/news/canada/canada-to-stop-processing-study-permits-for-colleges-universities-that-fail-to-track-international-students/article_7c6e757e-3d7f-11ef-928f-d7f36ed5e070.html

4. <https://www.cbc.ca/news/canada/toronto/international-student-study-permits-data-1.7125827>

What Data Shows: A Case for International Students – Part 2

International Student GDP to Canada.
\$37B in 2022 based on Global Affairs' own numbers! ¹

Declining Birth Rates = Shrinking
Tax Base For Canada: ²



Labour Market Demand: ³

Language Sector Alone: Generates \$6.7B in GDP to Canada, creates 75,000 jobs, and prepares 35,000 students for higher education. ⁴

1. <https://www.international.gc.ca/education/report-rapport/impact-2022/index.aspx?lang=eng>

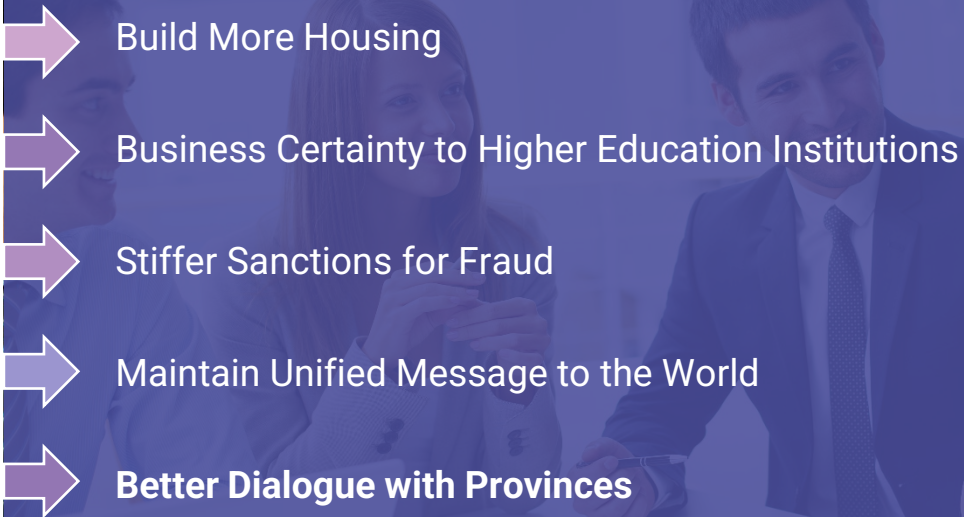
2. <https://nationalpost.com/opinion/canadas-birth-rate-has-dropped-off-a-cliff-and-its-because-nobody-can-afford-housing>

3. <https://nationalpost.com/news/world/canada-reckons-with-its-approach-to-labour-shortages>

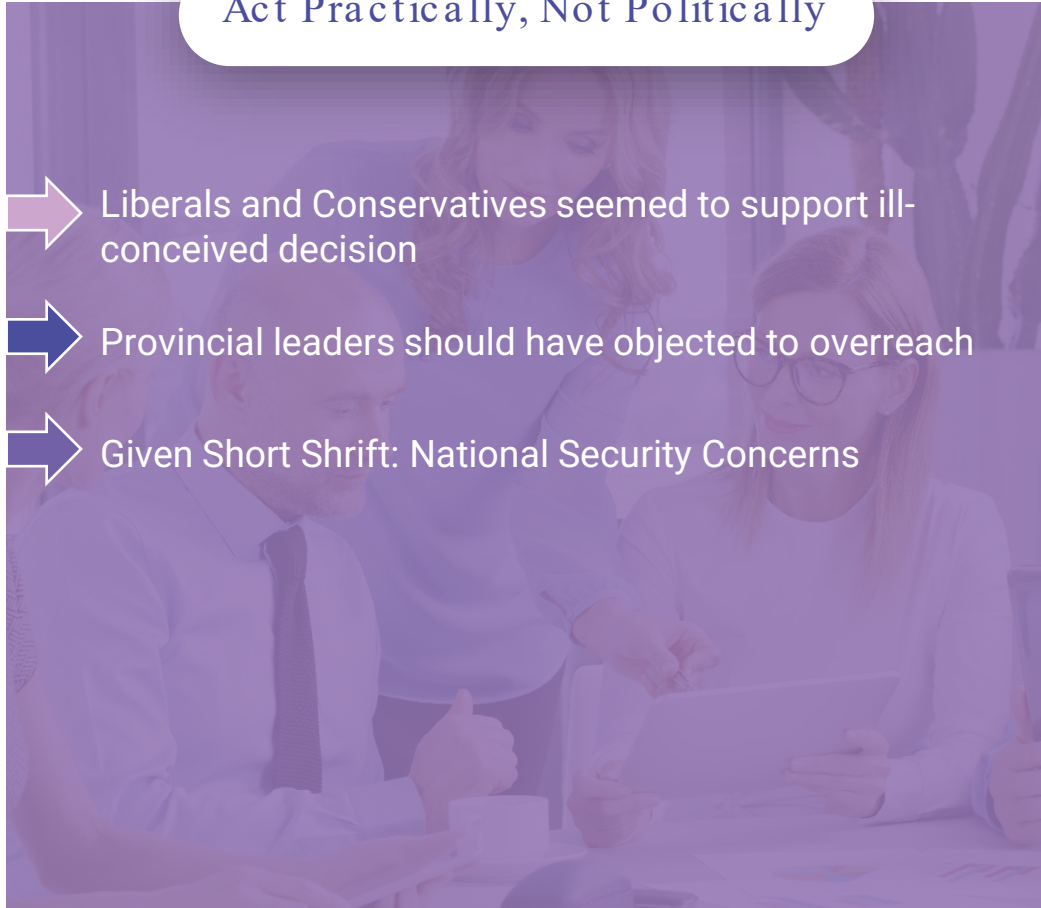
4. www.languagescanada.ca/web/default/files/research/comprehensive-economic-impact-international-students-language-programs-canada.pdf

Where the Federal Government Failed

Solve the Actual Problems

- 
- A background image of a business meeting with three people (two men and one woman) sitting around a table, looking at documents and talking. The image is overlaid with a semi-transparent blue filter.
- ➔ Build More Housing
 - ➔ Business Certainty to Higher Education Institutions
 - ➔ Stiffer Sanctions for Fraud
 - ➔ Maintain Unified Message to the World
 - ➔ **Better Dialogue with Provinces**

Act Practically, Not Politically

- 
- A background image of a business meeting with three people (two men and one woman) sitting around a table, looking at documents and talking. The image is overlaid with a semi-transparent purple filter.
- ➔ Liberals and Conservatives seemed to support ill-conceived decision
 - ➔ Provincial leaders should have objected to overreach
 - ➔ Given Short Shift: National Security Concerns

Interpreting Constitution to Canada's Benefit

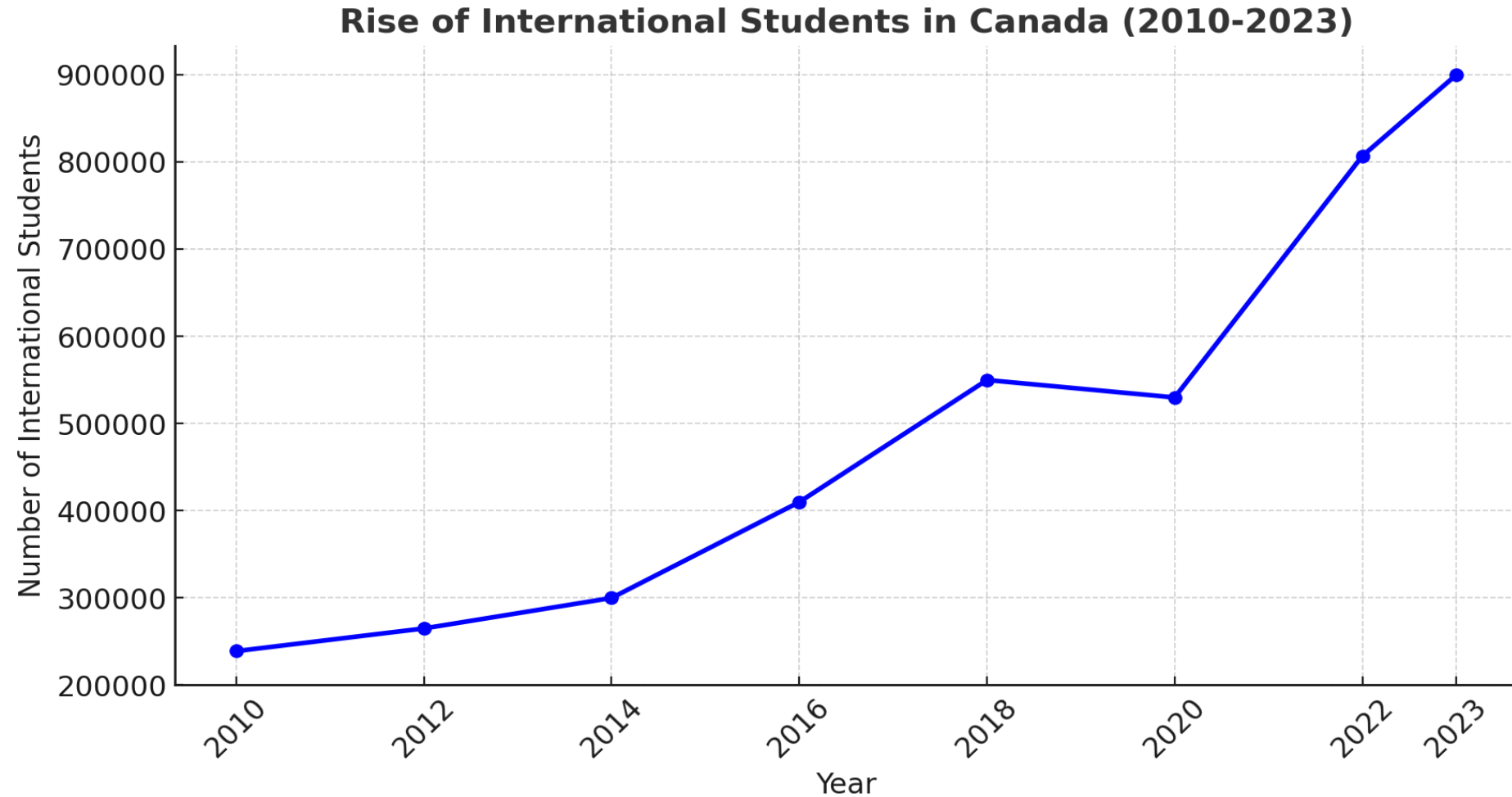
Exporting a "Unified" Higher Education Product Requires Collaboration

Create and agree on unified, high national pedagogical standards

- a. Banting and Best Discovered Insulin >100 years ago:
<https://www.thecanadianencyclopedia.ca/en/article/the-discovery-of-insulin>
- b. >100 years later we couldn't make a single vial of vaccine during COVID: <https://nationalpost.com/news/politics/every-covid-vaccine-manufacturer-passed-on-making-them-in-canada-federal-procurement-minister>



Rise of International Students in Canada (2010-2023)



Rise in number of international students in Canada from 2010 to 2023. Note that by some accounts the number of international students rose above 1 million. Source: ChatGPT

Contributions Made by International Students – Part 1

Economic Contributions



Tuition Revenue

International students pay significantly higher tuition fees



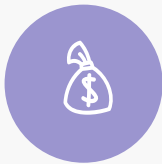
Consumer Spending

Housing, food, transportation, and other goods and services, supporting local economies.



Job Creation

In education, retail, hospitality, and other sectors.



Tax Revenue

Even though many don't stay permanently, they contribute through sales taxes and, in some cases, income taxes.

Filling Labor Gaps: Address labor shortages in key industries working part-time



Aging Population: Pool of young, skilled individuals replacing retirees

Workforce and Demographics

Contributions Made by International Students – Part 2

Innovation and Research



Many international students enroll in graduate programs: contribute to cutting-edge research in science, technology, healthcare, and engineering.



Provide diversity of perspectives that are not native to Canada

Strengthening Global Ties



Relationships:

They build lasting relationships with Canada, potentially leading to future trade, investment, and diplomatic ties between Canada and their home countries.



Citizenship:

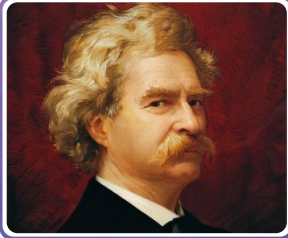
Many international students become Canadian citizens, enriching the country's multicultural fabric (food, art, culture)



Global Reputation:

Soft Power and Global Reputation makes Canada attractive destination for those wanting a better life.

What is the “right thing”?



“It is never wrong to do the right thing”

Mark Twain

Prorogue power was not the “right thing” in the wake of a tariff threat despite powers under s.38 of the *Constitution Act, 1867*

Painting international students as something negative despite the data, not the “right thing”

Security measures and screening are the “right thing”

Building more housing is the “right thing”

Listening to stakeholders and impacted parties is the “right thing”

Cooperation with provinces is always the “right thing”: took a tariff threat to galvanize such cooperation

Green Card Pathway (US) v. PGWP (Canada)

Trump's Past Immigration

(2017–2021)

- Restricted student visas, especially from certain countries.
- Suspended the H-1B visa program temporarily.
- Opposed policies that made it easier for international students to stay and work in the U.S.

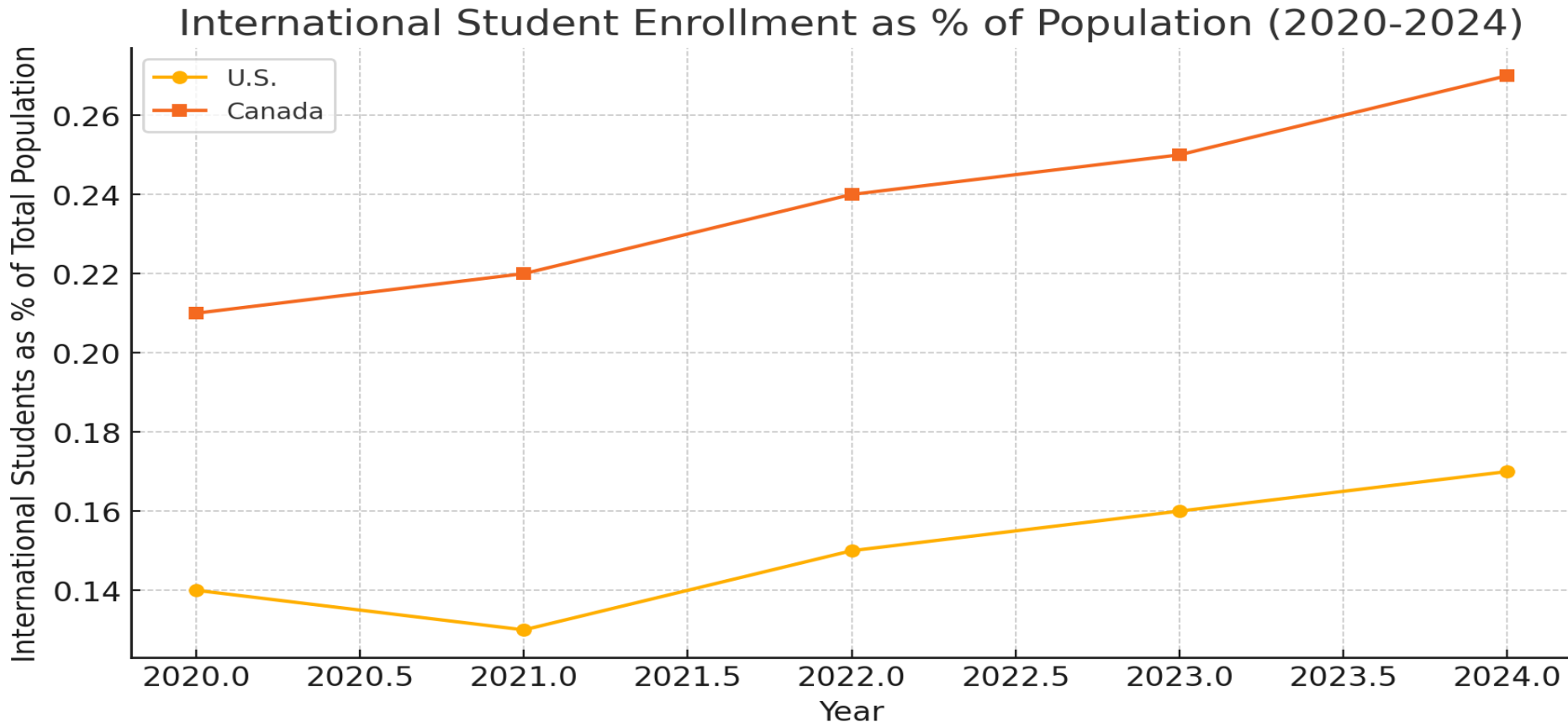


Second Term in Office

(2025–)

- Trump is focusing on border security and reducing illegal immigration, BUT...
- Don't bet against him using the lure of a Green Card to attract and retain top students
- US can deport millions of people considered a threat, and still dramatically increase the number of Green Cards it issues to students who are means tested e.g. high-skilled in STEM fields

International Students Enrollment



A visual line chart comparing the percentage of international students relative to the overall population in the U.S. and Canada from 2020 to 2024. The data shows that Canada consistently has a higher proportion of international students compared to the U.S.

Language Training and the Constitution



Canada has two official languages, English and French: sections 16 to 20 *Charter of Rights and Freedoms*

Canada is a country of immigrants: official languages are a second language for many.

Strong language skills are essential for economic, social, and cultural integration.

Many jobs require proficiency in official languages

Language training is vital for many occupations: first responders, health professionals, pilots, etc.

Strong language skills improve **academic performance** and access to post-secondary education

Post-secondary institutions require proof of language proficiency (e.g., IELTS, TOEFL, or TEF) for admission.

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To Contact Harris Rosen:
E: harris@harrisrosen.com
Tel: 416.931.5244

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