

ImmQuest

"Qui bene interrogat bene docet" "He who questions well teaches well"

Editors-in-chief: Cecil L. Rotenberg Q.C. and Mario D. Bellissimo; Associate Editor: Edward C. Corrigan

Refugee Claims and Human Trafficking

Edward C. Corrigan, B.A., M.A., LL.B.

There is a lot of confusion and false information circulating over making refugee claims. There are also unscrupulous individuals that exploit refugees and charge huge fees for little or no service. I have been told that some individuals charge \$5,000 U.S., and sometimes as much as \$15,000 U.S., for providing basic advice on how to come to Canada and make a refugee claim.

This information is available for free from Citizenship and Immigration Canada and on the internet. When questioned about

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Victims of Immigration Fraud Reveal Hollowness of Federal Government's "Tough On Crime" Platform

Hilary Evans Cameron and Joel Hechter

A detailed Parliamentary committee report released in June following weeks of hearings confirmed what many newcomers to this country already knew: that the most vulnerable people in

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Please send your questions to *ImmQuest* care of Mario D. Bellissimo at mdb@obr-immigration.com. If you have any questions you would like asked of either Citizenship and Immigration Canada or the Canada Border Services Agency send it along and we will ask on your behalf.

Refugee Claims and Human Trafficking

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this high fee the individual, I have been informed, tells the refugee that this includes their legal fees and living expenses in Canada.

When the refugee comes to Canada the "coyote," as they are sometimes called, directs them to Legal Aid which is funded by Canadian taxpayers and the Law Society. They also direct them to Social Assistance which is generally available to those who require financial help, and includes refugee claimants, and is funded by the taxpayer. Hiding financial resources and obtaining social assistance on false pretenses is a serious offense and can lead to a conviction for welfare fraud and deportation from Canada.

The Immigration "coyote" pockets a huge sum of money for doing very little. The taxpayer, who pays the bills, and the lawyer who represents the refugee claimant on Legal Aid usually carry the cost. This so called "help" clearly is an abuse of both the refugee and the taxpayer and may be illegal.

HUMAN SMUGGLING AND TRAFFICKING

Charges can be laid under sections 117 to 121 of the *Immigration and Refugee Protection Act* for human smuggling and trafficking. These sections also cover bringing refugees to Canada for the sole reason of making money. The penalties are substantial and include fines up to \$500,000 for a first conviction and \$1,000,000 for a second conviction and a possible jail term of life imprisonment. The relevant sections are reproduced below.

PART 3

ENFORCEMENT

Human smuggling and trafficking Organizing entry into Canada

117. (1) No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act.

Penalties: fewer than 10 persons

(2) A person who contravenes subsection (1) with respect to fewer than 10 persons is guilty of an offence and liable

(a) on conviction on indictment

(i) for a first offence, to a fine of not more than \$500,000 or to a term of imprisonment of not more than 10 years, or to both, or

(ii) for a subsequent offence, to a fine of not more than \$1,000,000 or to a term of imprisonment of not more than 14 years, or to both; and

(b) on summary conviction, to a fine of not more than \$100,000 or to a term of imprisonment of not more than two years, or to both.

Penalty: 10 persons or more

(3) A person who contravenes subsection (1) with respect to a group of 10 persons or more is guilty of an offence and liable on conviction by way of indictment to a fine of not more than \$1,000,000 or to life imprisonment, or to both.

No proceedings without consent

(4) No proceedings for an offence under this section may be instituted except by or with the consent of the Attorney General of Canada.

Offence: trafficking in persons

118. (1) No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion.

Definition of "organize"@

(2) For the purpose of subsection (1), "organize", with respect to persons, includes their recruitment or transportation and, after their entry into Canada, the receipt or harbouring of those persons.

Disembarking persons at sea

119. A person shall not disembark a person or group of persons at sea for the purpose of inducing, aiding or abetting them to come into Canada in contravention of this Act.

Penalties

120. A person who contravenes section 118 or 119 is guilty of an offence and liable on conviction by way of indictment to a fine of not more than \$1,000,000 or to life imprisonment, or to both.

Aggravating factors

121. (1) The court, in determining the penalty to be imposed under subsection 117(2) or (3) or section 120, shall take into account whether

- (a) bodily harm or death occurred during the commission of the offence;
- (b) the commission of the offence was for the benefit of, at the direction of or in association with a criminal organization;
- (c) the commission of the offence was for profit, whether or not any profit was realized; and
- (d) a person was subjected to humiliating or degrading treatment, including with respect to work or health conditions or sexual exploitation as a result of the commission of the offence.

Definition of “criminal organization”

(2) For the purposes of paragraph (1)(b), “criminal organization” means an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence.

The Minister of Citizenship and Immigration has assured that individuals working for legitimate religious and humanitarian organizations would not be charged under these sections for assisting refugees. It is also assumed that lawyers also would not be charged for providing basic information in the course of their lawful duties.

COUNSELLING MISREPRESENTATION

It is also a serious offence under sections 126 to 128 of the *Immigration and Refugee Protection Act* to help a refugee create a false or misleading story or to give incorrect or incomplete information to Citizenship and Immigration Canada. A person who contravenes these sections is guilty of an offence and “liable on conviction on indictment, to a fine of not more than \$100,000 or to imprisonment for a term of not more than five years, or to both.” If it is a summary offence the penalty is “a fine of not more than

\$50,000 or to imprisonment for a term of not more than two years, or to both.” The pertinent sections from the *Act* are as follows:

Counselling misrepresentation

126. Every person who knowingly counsels, induces, aids or abets or attempts to counsel, induce, aid or abet any person to directly or indirectly misrepresent or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act is guilty of an offence.

Misrepresentation

127. No person shall knowingly

- (a) directly or indirectly misrepresent or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;
- (b) communicate, directly or indirectly, by any means, false or misleading information or declarations with intent to induce or deter immigration to Canada; or
- (c) refuse to be sworn or to affirm or declare, as the case may be, or to answer a question put to the person at an examination or at a proceeding held under this Act.

Penalties

128. A person who contravenes a provision of section 126 or 127 is guilty of an offence and liable

- (a) on conviction on indictment, to a fine of not more than \$100,000 or to imprisonment for a term of not more than five years, or to both; or
- (b) on summary conviction, to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both.

Individuals who try to take advantage of refugee claimants and those who help “bogus refugees” or “economic refugees” prepare false stories need to be aware of the possible penalties for such actions.

Edward C. Corrigan is a lawyer certified as a Specialist in Citizenship and Immigration Law and Immigration and Refugee Protection by the Law Society of Upper Canada in London, Ontario, Canada. He can be reached at corriganlaw@edcorrigan.ca or at (519) 439-4015.