

US Travel Ban, STCA and the ETA

As Canada's closest neighbour, a lot of what is happening in the United States can have a significant impact on our country. This is especially true in the area of immigration law and policy owing to our shared physical borders and a common official language.

Thus, when the new US President Donald Trump issued his extremely controversial and highly-questionable executive order suspending the entry of citizens of seven predominantly Muslim countries (Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen) to the US for 90 days and the entry of all refugees for 120 days (with an indefinite ban for Syrian refugees), widespread protests ensued not just in the US but all throughout Canada as well.

The resulting chaos has temporarily subsided after a US judge issued a restraining order against the implementation of the executive order pending the adjudication of its constitutionality. An appeals court upheld the restraining order, while the legal team of President Trump continues to explore the possibility of raising the matter to the Supreme Court or issuing a "brand new" executive order that will be less vulnerable to legal and constitutional challenge.

Among others, the current socio-political and legal climate in the US puts into question the continuing relevance and legitimacy of the Safe Third Country Agreement (STCA) between Canada and the U.S. which requires prospective refugee claimants to seek protection from the country where they first arrived (US or Canada), with very few exceptions allowed.

With the attempted imposition of a travel ban, Canada has become a much safer destination for potential refugees who face a genuine risk of persecution in their home countries but who fear that the growing anti-refugee rhetoric in the US will lead to their deportation to the very same countries that they fled. Hence there is currently a strong clamor from Canadian advocates for the government to cancel or at least suspend the STCA to allow Canada to admit the refugees affected by the travel ban, and to provide a safe haven for those whose lives are genuinely at risk if sent back to their home countries.

Since the Philippines is not a significant source of refugees, it is rare for Filipinos in Canada to be active participants in advocating for the rights and welfare of refugees. There appears to be an even stronger sentiment in favor of misguided "anti-terrorist" efforts which tend to feed "anti-muslim" biases and other types of prejudice.

In this regard, I have sometimes heard comments along the lines of: "why are they prioritizing refugees over the families of live-in caregivers who have been waiting for many years to be reunited in Canada?" While these may just be voices of frustration over the long delays in the processing of LCP permanent residence applications, we must be very careful not to use this as an excuse to be indifferent towards the plight of refugees or in supporting the unfair rhetoric being propagated against them.

We need to be reminded that refugees are literally fleeing for their lives. If given the choice, many of them would rather stay in their home countries rather than try to learn new systems, language and culture and "start from the very bottom" in another, as a Syrian refugee once put it.

Economic migrants such as caregivers on the other hand, voluntarily left their home countries to seek better opportunities. Unlike refugees, it is not a literal choice between life and death that led economic migrants to leave their home countries. Lest I be misunderstood, I am not minimizing the possible deadly impact of economic want, especially for the poorest of the poor. But there are far more effective ways to deal with these problems that do not involve pitting the interests of one group against another.

The recent turn of events in the US provides us with a vital opportunity to express concern for, and solidarity with, other vulnerable sectors and individuals. After all, an injustice committed against a particular group of people is an injustice committed against us all. If we will remain silent and allow the propagation of unjust and inhumane government policies, it will not be long before we will find ourselves at the receiving end of similar forms of injustice.

Clarifying the Electronic Travel Authorization (ETA) Requirement

Lately, I have been getting a number of queries relating to the ETA requirement from Philippine-passport holders. It seems that there is still a lot of confusion and misinformation surrounding this recent immigration requirement. Thus, it might help to provide a bit of refresher and clarification on the ETA once again.

The ETA requirement was introduced in August 2015 and strictly implemented starting 10 November 2016. This meant that all visa-exempt nationals who wish to travel to Canada need to obtain ETAs online (which costs \$7 per person) before they can be allowed entry to Canada.

Canadian citizens, permanent residents, US citizens and non visa-exempt nationals cannot apply for ETAs. US immigrants (green card holders) will need ETAs only if travelling to Canada by air.

Since the Philippines is not a visa-exempt country, ETAs cannot be issued to Philippine passport-holders (or to dual Canadian/Philippine citizens who wish to travel to Canada using their Philippine passports). Philippine citizens who are not permanent residents or citizens of Canada will need to apply for and obtain the applicable visas prior to entering Canada.

All Canadian citizens (including dual citizens), must always travel to and from Canada with valid Canadian passports.

As always, the above are meant for information purposes only and not as specific legal advice. counsel.

The author is an immigration lawyer in Canada and may be reached at deanna@santoslaw.ca or tel. no. 416-901-8497.