

## **Preserving the Integrity of Canada's Immigration System**

By Maria Deanna P. Santos

Last month, I ended my column with the following paragraph:

“I have often heard CBSA officers justifying their strict enforcement actions as simply meant towards “preserving the integrity of Canada’s immigration system.” I am not sure that this objective is truly met if the sole action is to punish the victims while the culpable ones remain scot-free. But that can be the subject of another column...”

Please allow me to discuss this matter further.

Recently, I was made aware of the case of construction workers recruited from the Philippines after having been supposedly sponsored by a Canadian company. Upon arrival at the airport, two of the workers were not issued work permits on the ground that their Labour Market Opinions (LMOs) have expired. They were subsequently detained at the Immigration Holding Centre until released on bail and under strict terms and conditions while their immigration status is being determined.

Meanwhile, another worker sponsored by the same company and whose LMO has also expired, was released on conditions but whose passport was seized by the CBSA and asked to report on a regular basis pending the determination of his immigration status.

Yet another worker recruited by the same company with a similarly expired LMO, was readily issued a work permit without going through any difficulty that his three compatriots experienced.

A fifth person, who knew of what happened to his four compatriots, took the risk and also flew to Canada several days later, hoping that he would be as “lucky” as the fourth worker who was issued a work permit. Unfortunately, he ended up being detained and only later released on bail and under strict terms and conditions that were imposed on the other three workers.

Without going into further details, it may appear that there is something terribly wrong and inconsistent with the way that Canada’s immigration laws were applied to these workers. However, it would not be proper to simply make a sweeping judgment based on these hazy details.

There is one thing though, that this scenario clearly underscores: that immigration matters are dealt with on a case-by-case basis, and by individual reviewing officers of varying backgrounds and inclinations. No one-size-fits-all prescription or remedy applies. One could not predict with utmost certainty the outcome of a particular case or application until it is individually and independently assessed. No matter how one thinks

that two or more cases have exactly the same facts, there can never be perfectly identical cases. Each can only be properly evaluated on its particular merits.

And this, I believe is the most important reason for the continued exercise of reasonable discretion on the part of frontline immigration officers who deal with temporary and permanent migrants on a daily basis. This is also the reason that section 25 of the *Immigration and Refugee Protection Act* (IRPA), i.e. allowing humanitarian and compassionate considerations, should be retained and further strengthened. It not only allows flexibility; it also humanizes the otherwise cold and harsh application of black letter law. After all, immigration officers are not mechanical robots - each is endowed with reason and compassion just like any other human being. On the other hand, the immigrants coming to Canada are not mere statistical units – each has a life story to tell and an ability to contribute to the colorful fabric of Canadian society.

It is thus disheartening to hear recent proposals to amend immigration laws which appear to go against the spirit of humanizing and improving the system. For instance, the proposal to require official English/French language testing for all permanent residence applicants, regardless of origin and educational/work background, is not only totally unfair for those who are native speakers or who have used English/French extensively in school or at work, but is also a way of dehumanizing the screening of applicants. It is being proposed to reduce the screening of applications to the mere calculation of raw scores and lifeless numbers, rather than evaluating the individual merits of the applicants. It may sound more “efficient” that even robots and machines can do, but it certainly lacks humanity or even common sense.

Another proposed amendment is that of limiting the use of Section 25 (humanitarian and compassionate) considerations, e.g. not providing this option for applications made from outside of Canada. Clearly, this will unjustly close the door for many who have otherwise no legal way of reuniting with family members in Canada or escaping from a persecutory environment, among many other negative consequences.

True, there is a huge backlog in the processing of immigration applications and something must be urgently done to resolve this problem. But there are various ways to do so without sacrificing the values that Canada stands for, and for which reasons the immigration and refugee laws were enacted in the first place.

After all, the best way to preserve the integrity of the Canadian system is to restore its sense of humanity.

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