

It is a mistake to let sponsors off the hook

Ontario Court of Appeal ruling will lead to more immigration fraud, leaving taxpayers with the bill

BY JULIE TAUB, FREELANCE NOVEMBER 20, 2009

The Ontario Court of Appeal ruling allowing some sponsors relief from their contractual obligations for repaying the government, that is taxpayers, for the social-service costs of their sponsored relatives is unfortunate for many reasons.

First, it will further facilitate spousal sponsorship fraud that is epidemic in Canada. Sponsored spouses become permanent residents immediately upon arriving in Canada after the spousal sponsorship process has been approved.

Annually, hundreds if not thousands leave their sponsors within a few weeks or months of landing, often alleging spousal abuse, the most common ploy to leave their sponsor and not be blamed for marriage fraud.

However, in most cases, they had married their Canadian sponsors primarily for the purpose of acquiring permanent-resident status in Canada. Nonetheless, these fraudsters often then sponsor their own family members. After their family members arrive in Canada as permanent residents, it is not uncommon that they all conveniently go on welfare.

In the case before the court, two of the appellants were "women who left their husbands over alleged abuse and could no longer support their relatives." I think it would be reasonable to argue that sponsored spouses should not be able to sponsor their own family members until at least the three-year obligation period of the initial Canadian sponsor has expired.

And sponsored spouses who are accused of marriage fraud should not be permitted then to sponsor their own family members.

Second, this ruling will encourage Canadians and permanent residents to sponsor their family members, whether or not they actually intend to meet their financial obligations to these relatives. After all, it is not difficult to arrange for a change in financial circumstances. Going on social assistance in Ontario is a lark based on one's word that they have no work or money. It is not difficult to quit a job to return to school or simply to go on social assistance and transfer savings to a relative or send it back to one's home country. It happens all the time and with impunity.

Third, taxpayers will be responsible for supporting sponsored family members who go on social assistance and in time receive the old-age supplement. This is clearly not acceptable. Taxpayers have not signed on as contractual parties for supporting foreign nationals who are sponsored by their Canadian relatives.

Parents remain responsible for child-support payments regardless of their financial circumstance. Accumulated arrears survive bankruptcy, are never forgiven or assigned to taxpayers. This same rule should apply to Canadian sponsors to ensure that they remain faithful to their financial obligations as sponsors.

Fourth, contractual obligations will be eroded - signing a contract promising to support sponsored relatives will not be worth the paper it is written on if the sponsor knows he or she can always find a loophole for "exceptional circumstances" to avoid the obligation.

The issue of a sponsor's obligation for their relative's social-services costs is really a symptom of a dysfunctional family-reunification program.

The real solution is a complete overhaul of family-reunification legislation. Sponsored spouses should not be given permanent resident status upon arrival in Canada. The government should adopt policies similar to those in other countries, which make permanent residence for a sponsored spouse contingent on proof that the marriage is viable over a period of years.

Canadians and permanent residents who sponsor other family members should remain financially responsible for the entire 10-year duration of their contractual obligation, without exception. In the alternative or in addition, sponsored family members should not have access to any social services during that 10- year period.

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