

BRIEF TO THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION
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Immigration Consultants: The Role of Immigration Consultants in International Student Support.

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The Importance of International Students to Canada:

A major part of Canada's Economic Action Plan in recent years has been Canada's "Study in Canada" initiative. Canada's International Education Strategy targets attracting 450,000 students by 2020.ⁱ The program is the product of an advisory panel's report published in August ,2012 which made apparent the importance of international education to both Canada's immigration and labour force needs as well as the tremendous economic benefit to the Canadian economy, which was at that time, in excess of 8 billion dollars per year.ⁱⁱ

The internationalization of education in Canada is also strongly connected with research and development initiatives. Such research and development initiatives are represented by thousands of articulation and exchange agreements between Canadian post-secondary research institutions and their foreign counterparts, research and funding organizations like Mitacs, as well as international federally negotiated student exchange initiatives like Science Without Borders (Canada- Brazil) and the Emerging Leaders of the Americas program (Latin America – Caribbean).ⁱⁱⁱ In Canada's 2016 budget, the Canadian government allocated 95 million dollars a year to the Tri Council (the name for Canada's three main government funded/controlled research agencies)^{iv} and an additional 2 billion dollars was earmarked for Canada's Post-Secondary Institutions Strategic Investment Fund (used to develop research facilities at Canadian Universities). Hundreds of millions of additional dollars are also being funneled to independent research organizations such as Mitacs with co-operative connections with Canadian post-secondary institutions.^v The point is there is a lot of government funding connected to research, a significant portion is reserved for reciprocal exchange programs involving international students.

Not only does promoting reciprocal international research programs allow Canadian students international research opportunities, it also helps us attract (and in many cases, retain) extraordinary talent to Canada.

The promotion of Canada's "Study in Canada" brand has been a tremendous success, as of 2016 there are 353,570 international students studying in Canada (a 92% increase from 2008 levels).^{vi}

International students have been classified as high valued targets for transition to long term immigration by IRCC. International graduates have a unique ability to successfully transition to life in Canada because of their recognized Canadian education credential, their familiarity and experience with the country and thanks to Canada's Post Graduation Work Permit program experience working for Canadian employers. Statistically more than half of the international student coming to Canada declare transitioning to Permanent Residence post-graduation as one of the primary reasons for selecting Canada as a study destination in the first place.^{vii} IRCC has recently (November 2016) made changes to Canada's Express Entry system to facilitate the transition rates of international graduates to Permanent Residency.^{viii} With the new bonus points conferred to Canadian International graduates this demographic is anticipated to be the largest source of economic class immigrants by 2018.^{ix}

The above should provide some indication of how intimately Canada's international education strategy is tied our social policy objectives and domestic economy. **Disruption of this process would almost certainly cause irreparable harm** especially considering the competitive nature of this global industry, where most leading economies are jockeying for position in international student recruitment numbers.

The Role of Immigration Consultants in International Student Support:

It is important for the committee to consider the important role licensed immigration practitioners as opposed to lawyers play in supporting Canada's international student initiative. **There are in fact very few lawyers involved in providing support for this very important demographic.** While all post-secondary institutions in Canada employ lawyers for other functions their institutional roles are rarely connected with international student support, an area that falls under the jurisdiction of international departments serviced by International Student Advisors (ISA's). **I can comment through my experience working as an ISA at the post-secondary level, that this is an area that lawyers employed by institutions tend to lack experience and adequate knowledge of due mainly to their detachment from International Departments.**

In response to the legislative changes related to S 91 of IRPA that came into effect June 30, 2011 **some two years later**, on May 24, 2013 the Department of Citizenship and Immigration Canada wrote an open letter to post-secondary institutions in Canada informing institutions of the need to make institutional changes to ensure compliance with the IRPA as it related to providing immigration support for

international students. Caught off guard in many cases institutions scrambled in many cases to comply with the *new* “authorized representative” requirement although the general feeling was that International Student Advisors had been functionally providing support for many years in most cases, acquiring a significant degree of specialized knowledge in the day to day ability support of international students on university and college campuses. Regardless, from the period of notification to now licensing became a requirement for this position and the RCIC (Regulated Canadian Immigration Consultant) designation was clearly the designation of choice as it could be achieved much faster than a law degree and at much less cost. Cost associated with hiring lawyers rather than RCIC’s was another major factor in the consideration of which direction to move forward with. **The cost of hiring lawyers for immigration assistance is preventative.** Hundreds of ISA’s struggled to balance their heavy workloads with the requirement to now complete compulsory education requirements (offered at that time, by a select few institutions) necessary to prepare for the ICCRC’s Full Skills licensing exam.

Similarly, post-secondary institutions struggled with conundrum of budget limitations and the ability to newly hire licensed ICCRC’s to fill the role of ISA’s, most of whom had no experience dealing with **international students (a demographic with specific needs and sensitivities that goes far beyond the practical application of law or regulations)**, and most of whom had no experience working in a post-secondary environment.

The struggle to comply with regulatory requirements of S 91 balanced with the need to maintain the specialized support necessary to protect service standards for international students led to the development of the Regulated International Student Advisor (RISIA) designation by ICCRC, at the bequest of the Department of Citizenship and Immigration sometime in 2014.

As a former member of the RISIA exam preparation committee, I can attest to the hard work and effort put into this project by the ICCRC’s Director of Education Dr. Hafeeza Bassirullah, who worked tirelessly assembling a panel of experts, the vast majority of which were RCIC’s, currently working as ISA’s at post secondary institutions across the country. Meticulous efforts were made by the Director and her assembled panel of experts to identify the specialized scope of practice and education needs of ISA’s who would operate under this designation, as well as the specialized needs of international students.

Initially there was a window for trained ISA's currently employed in this area, because of their established expertise, to write a licensing exam. Now the requirement is to first complete a highly specialized training program (ISIEP) managed by the Canadian Bureau for International Education (CBIE) before attempting the Entry to Practice exam, necessary to obtain the designation. ^x **No similar or parallel initiative that takes into account the specialized needs of international students, a particularly vulnerable demographic, has been attempted by the Canadian Bar Association.** There are currently 63 RISIA's working as ISA's at post-secondary institutions across Canada. ^{xi} There are well over one hundred RCICs employed as ISA's, **the number of lawyers employed in such positions at post-secondary institutions is extremely minimal.**

Problems with Enforcement and Lack of Support from Industry Partners:

Many witnesses and briefs before this committee have expressed their concern over the lack of enforcement that exists to support the existing legislation. The law is on the books so to speak but compliance remains an issue, **this point at least is agreed by all parties.**

As an overseas licensed consultant working in the Philippines, far removed from the legal reach of S 91 of IRPA, I have felt at times extremely frustrated by the lack of support for compliance initiatives from industry partners. **There are many players in the field of international student acquisition and support that certainly could be working together towards the goal of consumer protection in this area, whether it is their delegated duty or not.**

With over 120,000 international students arriving yearly and a comparable additional number of applications filed unsuccessfully or abandoned a large number of international student applications that are handled, **with the vast majority of these applications being filed overseas.**^{xii} There are no global combined stats from embassies abroad in terms of how many are processed by consultants as opposed to self-prepared, but **the same complexity factors and language limitations that affect in-Canada applicants, prompting the need for assistance are only accentuated in the overseas environment.**

In the Cebu City (the second largest city in the Philippines) where I practiced for almost three years starting in 2013, I was at the time the only RCIC as well as Authorized Representative in the city (**there were no lawyers, which is typical internationally, especially practicing in international student facilitation**) since then Cebu City has acquired one more RCIC (who is Filipino). There were however a minimum of 15 well known agencies, that were dedicated to Canadian immigration consultation in business practice. These *ghost agencies* included well established internationally operating Education Agents such as IDP as well as numerous privately owned firms. In addition to this there were two very large firms operated by licensed Ontario based lawyers who operated their business through unlicensed agents and office staff on the ground. In my two and a half years of practicing in the Philippines, dealing with dozens of former clients from said agencies **none of the clients I dealt with had ever met, talked to or had been otherwise in consultation with the lawyers who operated these organizations**. In all cases they only ever were met, consulted and were directed by front line local unlicensed staff who in each and every case, directed them to “the appropriate” immigration stream, took their money and completed all form work and supporting documentation requests. **Comparatively, you can imagine with only three (3) licensed RCIC’s in Manila where most applications come from, this problem is in magnitude.**

In support of Citizenship and Immigration’s May 24, 2103 open letter to Canadian post-secondary institutions (previously mentioned), ICCRC published a notification on their website which cautioned post-secondary schools in Canada form dealing with unlicensed education agents abroad, who as part of their service complete and submit immigration applications for their clients (a clear violation of S 91 because of the established business practice of compensating educational agents 12-20% commission for each student that successfully arrives). **Unfortunately, despite the warning posted on the ICCRC website and the direct warning from the Department of Citizenship and Immigration Canada (now IRCC) the vast majority of post-secondary institutions in Canada continue to use unlicensed educational agents for this purpose** (see appendix). It seems that enforcing compliance is not the designated function of the regulatory body nearest this issue, although the ICCRC have been effective in guiding the development of the RISIA designation to assist with compliance.

Further in this regard the pressure on embassy Trade Commissioner staff to facilitate inbound Canadian student numbers seems to be so persuasive that they overlook the fact that their partners for “Study in Canada” embassy sponsored events are bad actors in this process. I sent several emails to then Trade Commissioner in the Philippines questioning the wisdom of having unlicensed education agents attend (and sponsor) “Study in Canada” events organized by the Manila embassy. Through my emails the Trade Commissioner was made aware that these education agents were acting in clear violation of S 91 of IRPA, but I received no response. Eventually after thorough follow up I did receive a well appreciated letter from the Ambassador which failed to recognize the inherent conflict of values and justified the association for other purposes. (see appendix)

Post-secondary International Recruitment Directors and overseas Trade Commissioners are both examples of uncooperative active partners in this process. For objectivity purposes, I must note that there are international recruitment directors that I know who are mindful of this issue, however the vast majority are bad actors on this premise.

The use of **Visa Application Intake Centres (VACs)**, managed by VFS Global, which represent a vast network of third party outsourced intake agents for the majority of Temporary Resident visa (TRV) applications (ie study permits) to Canada, has been in operation since the year 2000.^{xiii} Unfortunately, since the inception of S 91 of IRPA and the Canadian governments strict guidelines indicating that overseas travel agencies (without authorized representatives) are no longer able to facilitate applications on behalf of clients, **VAC’s still allow intake from such parties. Further for a small fee these intake offices themselves offer application submission assistance and advice, a clear violation of S 91 (IRPA)**, The Philippines VAC, for example freely accepts travel agency submissions despite the ban (see appendix). There is a recent example of education agents (*ghost consultants*) submitting applications being summarily rejected out of China (57 applications refused), but these “refuse to process” initiatives (which is the technically correct outcome) are few and far between.^{xiv} **VAC’s and embassy staff (which can easily identify submissions from ghost agencies) are examples of uncooperative partners in this process.**

The Canadian Bureau of Education (CBIE), post secondary institutions, and organizations intimately involved with research and development co-operative projects such as Mitacs and U15 are active partners in this field, yet their voice remains unheard. No witnesses nor any briefs thus far have been submitted from these entities which should show how far removed they are from these issues , which could have such a significant impact on their futures. **They chose to remain passive as if exempt from regulation or effects thereof.** These are other examples of uncooperative partners in this process.

Conclusion: International students coming to Canada represents an enormous area of opportunity for both Canada's economy and future. The current regulator ICCRC, RCICs and RISIAs **NOT immigration lawyers** are the main players in this field. Disruption of this phenomenon, which would surely occur with regulatory adjustment would cause irreparable harm to the Canadian economy and research initiatives underway. Further CBA and its members are far removed and poor solutions in their ability to provide a quick fix to the void that would be left by a regulatory change in this area.

As mentioned in other submissions to this committee, sincere complaints exist against industry partners who might not bear the obligation to enforce the current regulations, but surely could do so in good faith. **Perhaps they need stronger direction.**

ⁱ http://www.international.gc.ca/education/assets/pdfs/ies_report_rapport_sei-eng.pdf (page 17 et al.)

ⁱⁱ http://www.international.gc.ca/education/assets/pdfs/ies_report_rapport_sei-eng.pdf (page 14)

ⁱⁱⁱ <https://www.mitacs.ca/en>

<http://www.canadainternational.gc.ca/brazil-bresil/study-etudie/swb-ssf.aspx?lang=en>

<http://www.scholarships-bourses.gc.ca/scholarships-bourses/can/institutions/elap-pfla.aspx?lang=eng>

^{iv} <http://www.science.gc.ca/default.asp?lang=En&n=F6765465-1>

^v <http://u15.ca/what-we-are-saying/budget-2016-strong-commitment-scientific-research>

^{vi} CBIE "A World of Learning: Canada's Performance and Potential in International Education 2016" at pp 14-18.

^{vii} <http://cbie.ca/media/facts-and-figures/>

^{viii} <http://www.gazette.gc.ca/rp-pr/p2/2016/2016-11-30/html/sor-dors298-eng.php>

^{ix} IRCC Panel Analysts speaking about recent changes to the Comprehensive Ranking system scores (Express Entry points system) at the Law Society of Upper Canada Immigration Summit (Day 1, November 22, Toronto).

^x <http://cbie.ca/isiep/>

<http://registration.icrc->

[crcic.ca/admin/contentEngine/contentImages/file/Registration_Guide_2016001_RISIAENG.pdf](http://registration.icrc-crcic.ca/admin/contentEngine/contentImages/file/Registration_Guide_2016001_RISIAENG.pdf)

^{xi} http://secure.icrc-crcic.ca/docs/risia_en.pdf

^{xii} http://open.canada.ca/data/en/dataset/052642bb-3fd9-4828-b608-c81dff7e539c?_ga=1.13736503.1615327609.1468412891

^{xiii} <http://www.cic.gc.ca/english/pdf/pub/visitor-visa.pdf>
<http://www.cic.gc.ca/english/department/atip/pia/global-vac-network.asp>

^{xiv} <https://www.thestar.com/news/immigration/2017/02/17/immigration-department-cracks-down-on-unlicensed-ghost-consultants-in-china.html>