TIGHTER IMMIGRATION LAWS WILL SINK 'REFUGEE' SHIPS

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Scott Newark, The Globe & Mail, 17 August 2010
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There's no question that the voyage of the Sun Sea was yet another organized effort to subvert our immigration and refugee system. As was intended from the outset, the Sri Lankan citizens aboard this Thai-flagged ship are now claiming refugee status in Canada.
The fact that these people are claiming that status is not especially remarkable as Canada enjoys (or endures) an international reputation of unparalleled generosity in accepting refugee claims. Unfortunately, that generosity is combined with a systemic inefficiency in processing claims, allowing multiple appeals and effecting removals where claims are denied. Throw in a back-door provision that permits a "humanitarian and compassionate" override on a removal order because the bogus refugee has established a life in Canada while dodging removal, and you have the perfect storm for someone who wants to avoid the legal immigration process.

Phony refugee claims are made every day at our missions abroad, at Canadian ports of entry and even within Canada (when people who arrived as visitors, for example, suddenly decide they're refugees). Earlier this year, Immigration Minister Jason Kenney took steps to prevent such abuse by requiring visas for "visitors" from the Czech Republic and Mexico (such visas acting as a screening mechanism) and by strengthening the Safe Third Country Agreement with the U.S. to prevent what's known as "asylum shopping."

This is the practice where a person arrives in Canada claiming a need of protection in their home country even though they're actually coming from a place where they're clearly not at risk. In essence, such claimants are saying they prefer to be a refugee in Canada rather than, say, in Thailand. The rest of us would call this immigration, so get in line like everyone else.

While some organizations and refugee advocacy groups suggest the Sun Sea incident is no big deal and just part of Canada's "humanitarian tradition," it's important to appreciate that this ship's arrival was a deliberate avoidance of our Immigration and Refugee Protection Act, which requires visas for persons from Sri Lanka. Make no mistake: It's why the 492 Tamils didn't get on an airplane or a cruise ship. Those legitimate methods of transport would have required a visa. Absent that, illicit transport

is required – which is where the people charging the reported $30,000 to $50,000 a passenger come in. Engaging in such people-smuggling or human-trafficking activities is an offence under the Immigration and Refugee Protection Act, although the way the section is worded, there's no minimum sentence and probation is a possible sentence. Deterrence this isn't.

What makes this issue so operationally challenging is the fact that we are confronted with it at our border. Although the Immigration and Refugee Protection Act contemplated such circumstances when it was drafted and passed almost 10 years ago, recent events have made clear that more targeted measures are required.

This mass refugee arrival is a criminal business enterprise that also has potential security implications for Canadians. The voyage organizers aren't operating a charity, and those who couldn't pay the fee up front are expected to repay that money – which all too frequently means crime and exploitation of the most vulnerable. Did people in this country help finance any of this activity? All of these are legitimate concerns for Canadians.

A specialized process, potentially offshore, is necessary to deal with these circumstances of criminally organized attempts to deliberately exploit our compassion and our less-than-efficient refugee determination process. What also can't come too soon is for Canada to engage an international commitment to detect, disrupt and prosecute these criminal enterprises before they set sail. That can be done concurrent with a revitalized effort to help legitimate refugees overseas to engage legitimate processes to acquire safe refuge.

Inaction is not an option because, if we fail to act, there'll be another ship coming.

Scott Newark writes on security, immigration and justice issues for the Ottawa-based Macdonald-Laurier Institute. He is a former Alberta Crown attorney and executive director of the Canadian Police Association.