

A Funny Thing Happened on the Way to the U.S.

Fraudulent claims make a sham of immigration law

by James Walsh

The following vignettes, which attest to the magnitude and diversity of immigration fraud, draw on my personal conversations and on court testimony. Each is an actual account of immigration fraud; each contains a moral for the nation to ponder.

The Latin Letter

A veteran INS attorney detailed to the New York City office to assist with a heavy deportation caseload got his comeuppance by means of a fraudulent letter handwritten in Latin. The case involved a 30-year-old illegal alien from the Peoples Republic of China (PRC), arrested during a narcotics raid on a noodle factory and held by the INS because he had no immigration papers and spoke no English.

He knew enough English, though, to immediately cry, "Asylum, asylum!" Through an interpreter, he asserted in his native Fujian dialect, fear of persecution in his homeland for being a Roman Catholic opposed to the PRC mandatory family-planning program. Once his claim was filed, the INS released him with a work permit until the government could schedule his day in immigration court. It took four years to get a hearing date, and then the INS had to detail in lawyers to handle it. He was just one of 400,000 aliens nationwide awaiting adjudication of asylum claims.

Shortly before the hearing began, the alien's attorney, from Catholic Charities, approached the INS attorney and complimented him on his reputation as a tough opponent. Amenities were exchanged. Having thus broken the ice, the alien's attorney handed the INS attorney a copy of a letter that he planned to introduce

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in evidence. It was an English translation of a letter originally handwritten in Latin and signed by a Roman Catholic bishop in China.

The INS attorney asked to see the original, stating that he would do his own translation — qualified for the task as he was by eight years of high school and college Latin. The letter, composed in perfectly grammatical Latin and signed with the proper inscription of a Roman Catholic bishop, stated that the presenter was a devout Roman Catholic active against the PRC family-planning program.

After the young Chinese man testified, his attorney offered the letter in evidence. The INS attorney, for the record, stated that he had translated the letter himself, declared it genuine. Even

the Bishop's seal was authentic. He agreed to the asylum claim, but not on the family planning claim, as that was not a legitimate claim. Rather, he agreed to asylum on the religious persecution claim, Communism against Catholicism. Thus, the United States received another political asylee.

Later, as the INS attorney was leaving with several of his New York colleagues, he described the day's events, and, with some self-satisfaction, mentioned translating the two page Latin letter. The New York attorneys glanced at each other and then began to laugh, explaining that the letter, once genuine, was now used routinely by immigration lawyers representing Chinese asylum applicants. It only worked on out-of-town INS attorneys, of course, and then only on certain egotistical ones who could read Latin; and so the legacy of the Latin letter lives on.

MORAL: The 33 largely autonomous INS districts in the United States and the 3 INS overseas directors need to develop better communication regarding fraudulent documents; intelligence-sharing should be immediate and agency-wide.

Guardian Angels

The INS is an agency that is overwhelmed with backlogs, political pressures and confused, overlapping legislation.

In 1991, the 22-year-old daughter of a wealthy Muslim import-export family, prepared to leave her parents' home in Kabul. The Afghan mujahidin had driven the Russians out, but fighting had broken out anew among the various ethnic groups and Muslim factions. Kabul, with its four ethnic quarters, was the scene of fierce and indiscriminate fighting; the government was unstable; and it was neither a safe place for a young woman nor for her wealthy family.

Later at her asylum hearing in the United States, the young woman described, through an INS interpreter, how one night her parents told her to pack a small suitcase and go with an armed driver to Pakistan. The dirt roads were jammed with Afghans fleeing the fighting, and the drive was long and dangerous. Once in Pakistan, the driver dropped her off at an airport. Since she spoke only Pashto and Dari (Afghan Persian), she was unable to purchase a ticket; but a man appeared who gave her a ticket to New Delhi, India. There, another man met her and took her to a house where the people spoke a language she did not understand, but they assured her they were Muslims.

She stayed with this family for several weeks, until one day a Pashto-speaking man arrived and took her to the airport and boarded a plane with her. After one short stop, they arrived at London's Heathrow airport, where they waited until the man took her to another plane bound for New York. As they boarded the plane, the man held all their travel papers and tickets, and then just before take-off he left the plane. Thus she arrived at New York's JFK airport with no ticket, no travel documents, no visa, or no passport.

The young woman continued her testimony. She was taken into INS custody but could not be interviewed because the agency had no Dari translators onsite. Suddenly a man appeared who spoke Dari. He told the INS that the young woman wished to claim asylum based on her fear of persecution in her homeland because she was a Pathan, Afghanistan's largest ethnic bloc. With her claim filed, she was handed an OSC (Order to Show Cause why she should not be deported). As the Dari-speaking man requested, her OSC hearing was set for two months later in the INS Washington, D.C., District; then he left.

She continued to relate how, walking through the airport, she noticed a man holding up a sign written in Dari telling her to come with him. He took her to his home in Arlington, Virginia. At her OSC hearing, through her attorney, she renewed her asylum claim and was released until an asylum hearing could be scheduled. She also received a green card and, during this interval, began work at a restaurant as a cashier.

Three years later, at her asylum hearing, an INS lawyer questioned her claim, stating that no religious persecution was shown, since all sides to the fighting were Afghan Muslims. She was a Pathan, but the U.S. State Department reported no government persecution of Pathans. The INS attorney argued that her journey

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followed the route frequented by Afghan drug smugglers, and that her journey without documents was highly suspect, with strange men helping her all along the way.

The immigration judge, however, declared that her deliverance from the fighting in Afghanistan was nothing less than a miracle. In granting her asylum, the judge observed that by going from one country to another without travel papers or passport, her story demonstrated that there are angels, guardian angels, in the world (albeit, well-paid Muslim angels). Once she became a lawful permanent resident (LPR) in the United States, she petitioned for her immediate family of eight to join her.

This bewildered young woman made a far more convincing asylum applicant than would her wealthy merchant parents who will thus enter the United States uncontested as LPR family members, on the coattails of their daughter's odyssey.

MORAL: An aura of ambiguity infuses the whole subject of refugees and asylees; the United States needs to work with the United Nations to recast the legal definitions of refugee and asylum-seeker and then stick by those definitions.

Zoroastrian Twin

For several thousand years, Iran (formerly Persia) has been at the crossroads of civilization; in comparison, the United States is a mere upstart. In the case of the Zoroastrian Twin, the ancient culture won out over Yankee ingenuity.

In 1979, when the Ayatollah Ruhollah Khomeini returned from exile to establish a fundamentalist government in Iran, thousands of Iranian students

demonstrated against the Shah in major cities across the United States. Initially, many wore ski masks alleging fear of the Shah's secret police (SAVAK) which they said was operating in the United States; but on the day that the Shah died, they threw off their masks and marched in jubilation.

During the Iranian take-over of the U.S. Embassy in Tehran, the number of Iranians who claimed U.S. asylum because they were identified with the Peacock Throne of the Shah as relatives, officials, functionaries, or servants reached astronomical proportions. Other than the rebellious college students, few Iranians residing in the United States claimed any affiliation with or even knowledge of the radical Muslim leaders in their homeland.

In 1991, an Iranian student, who had just earned a Ph.D. in engineering in the United States, faced the expiration of his student visa. Realizing that his newly acquired western attitudes would not find favor with the fundamentalist Muslim government in Iran, he decided that rather than return home he would file a claim for asylum in the United States. As grounds, he listed his fear of persecution by the Iranian fundamentalists because of his political support of the Shah. In response, the INS issued him a green card while he awaited his day in immigration court.

Several years passed, but finally the day of his asylum hearing arrived. In testimony, he detailed his activities in support of the Shah, his opposition to the fundamentalist government, and his affiliation with the Zoroastrian religion. This affiliation definitely marked him as a minority, since the Iranian population is 95 percent Shi'ite muslim and 4 percent Sunni muslim, with the remaining 1 percent divided among the Zoroastrian, Jewish, Christian, and Baha'i religions.

Unfortunately for the applicant, the INS attorney assigned to the case had reviewed hours of tapes of Iranian demonstrations and was able to produce not one but three different clearly defined photographs of the applicant demonstrating against the Shah without a ski mask. One photo showed the applicant carrying a crudely written sign supporting the Ayatollah Khomeini — an uncharacteristic action for a Zoroastrian.

The applicant, when confronted with the photographs, studied them for five minutes without saying a word. Finally he spoke: "That's my twin brother," he said, raising his hand to his face. "I am ashamed of him. He is to be pitied. My family has disowned him."

Calmly, the INS attorney asked, "Why is there no mention anywhere in your papers of a twin brother? You are required by law to list all relatives in your

papers." The applicant replied in an equally calm voice, "He has been disowned. We never even mention him. He is no longer a family member."

The immigration judge intoned, "I'm afraid he's got you, counselor." The INS attorney asked for a 3-week recess to allow verification of the applicant's statement; the judge denied the request, observing that the application was already three years old. Thus the quick-thinking Iranian engineer is now a lawful permanent resident (LPR) in the United States — assured of life, liberty, and the pursuit of happiness.

MORAL: The INS must verify the grounds for every asylum claim; applicants should not be waiting three years for a hearing, during which time they are taking jobs from U.S. citizens; fraudulent claims delayed are fraudulent claims condoned; expedited hearings are a must.

Laws Need Enforcement

The U.S. Congress and the U.S. Immigration and Naturalization Service (INS) may set numerical caps on legal immigration categories; they may write new reform laws and convoluted rules and regulations; but until they enforce these laws and stop the flow of fraudulent documents, foreign nationals intent on coming to the U.S. at any cost will continue to make a sham of U.S. immigration law.

It is true that each session of Congress layers puzzling legislation upon puzzling legislation, often contradictory, so as to completely negate any serious control of the U.S. borders. Add to this the INS, an agency completely politicized and out of control. Even with amnesty, family unity, refugee exceptions, asylum leniency, and student, tourist, and treaty trader visas, millions of foreign nationals seek admittance into the United States by any means and at any cost.

Fraudulent immigration documents range from complex hightech forgeries to simple passport tampering (the document is slit, a replacement photograph inserted, and the plastic covering resealed). Add "necessity being the mother of invention" to the unbounded and ingenious human mind, and the result is a free market in fraudulent documents operating under the very noses of the U.S. State Department and the INS.

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