## Out in the Open: Institutional Disregard for Bill C-35

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# Last week the Toronto Star published an article entitled “Despite growing complaints, few "ghost" immigration consultants are prosecuted”.[[i]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)The article details the ICCRC’s lack of mandate to enforce a crackdown on ghost consultants and the Canadian Border Security Agency’s (CBSA) lack of vigilance in upholding the law. Violations of Bill C-35 by individual agencies at home and abroad come as very little surprise to regulated immigration consultants in the field, but what is of far greater concern is the non-compliance demonstrated by larger institutions such as post-secondary institutions through their use of educational agents, and even the department of Citizenship and Immigration themselves through their improper monitoring of Visa Application Centers. In this environment of lip service it is no surprise that the protections purported by Bill C-35 bear very little bite and that would be immigrants remain unprotected.

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# Bill C-35 (March 2011), was the Conservative government’s highly publicized consumer protection legislation. It’s aim? Protect vulnerable would be Canadian immigrants from dubious unlicensed immigration agents. Ghost consultants , as they are called, have a long documented  history of duping many would be Canadian out of their life savings or more, by promising whatever is required to do so. The penalty? Significant; two years in jail and or a $ 100,000 fine for providing immigration related advice for compensation without a license to do so.[[ii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)  The bill was widely supported in parliament, although suspicion about ineffective implementation was highlighted from the outset.[[iii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)Overall, Bill C-35 was dubbed as a major “Crackdown on Crooked Consultants”, and bore this moniker, literally, during its readings in the house.[[iv]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)

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# Despite all the fanfare, things get considerably less exciting when one examines how this “crackdown” is implemented. Typically it is up to RCIC’s (properly licensed immigration consultants) to file reports against unauthorized practitioners (there is a codified requirement to do so). [[v]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)These complaints must be made by RCIC’s to the ICCRC, although the ICCRC itself has absolutely no authorization to take action other than to forward it to CBSA for investigation.[[vi]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)The public can also file such reports. A search on CIC’s website for the proper method of reporting “unauthorized immigration consultants”  encourages you to report such activities to such entities as the Canadian Better Business Bureau or the Canadian Consumer Gateway, not exactly the iron hammer of enforcement mechanisms one might expect. [[vii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)

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# Although it is understandably hard for the CBSA to “crackdown” on all of the individuals who chose to ignore the law, there are also deeply disturbing institutional violations, posing the same risks for the vulnerable, right out in the open that are similarly being ignored. More than two years after the implementation of Bill C-35 came into effect post-secondary institutions finally were notified by CIC that in fact they too had to follow the rules; they still aren’t[[viii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401).In May of 2013 CIC sent a letter to school’s recruiting international students informing them they could no longer provide immigration advice and assistance to prospective international students without employing “authorized representatives” (as defined by the legislation) to do so.[[ix]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)Some schools did retain the services of an RCIC, however for the most part,post-secondary institutions handed  the role of visa application support over to educational agencies overseas. These educational agencies under terms of contract with the institution (either explicitly or implicitly) are expected to assist the student with their visa application procedures. In return for a student’s successful attendance at the school (which necessitates the student being granted a study permit) the educational placement agency receives 15 to 20 percent of the student’s tuition as payment from the school, in addition to the money they collect from individual students using their services. This practice is widely known and is in direct violation of Bill C-35.

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# Perhaps the most shocking example of institutional disregard for Bill C-35 is Citizenship and Immigration’s willful blindness to the practice of its Visa Application Center network. Visa Application Centres (VACs) are widely touted by the Canadian government as a solution to ease the complications associated with complex immigration submissions and to provide easier access to would be immigrants applying abroad. There are currently over 130 VACs worldwide in over 90 different countries.[[x]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) The vast majority of, if not all, VACs do not employ an “authorized representative”and DO charge fees for their services. VAC’s are private companies that FOR COMPENSATION, have agreed to provide intake services for CIC and Canadian embassies overseas. VAC’s employ local foreign staff who lack the significant degree of training required of “authorized representatives”. For these reasons, VAC’s according to their mandate are expressly prohibited to provide immigration/visa related advice to clients. As is widely known by Citizenship and Immigration Canada, none of this stops VAC’s from providing advice and assistance with visa applications to clients. A brief examination of a random VAC websites shows the service fees associated with assistance at the particular office.[[xi]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)CIC’s disregard for its VAC center’s proper lawful role was highlighted when,in the above mentioned May 2013 letter to universities, CIC listed VACs as a possible solution to post-secondary institutions troubles suggesting VAC’s “are authorized to provide application advice”[[xii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)this too is in direct violation of Bill C-35.

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This problem seems almost too outdated and well documents to be a realistic concern, despite the loud legislative accomplishment that Bill C-35 self-proclaims. Multiple Parliamentary Advisory Committee reports (2003 and again in 2008) have bluntly addressed the problem of the lack of enforcement ability when dealing with ghost consultants.  [[xiii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)In testimony before those committees CBSA and Senior officials from CIC pointed out the “difficulty in addressing the problem of ghosts consultants because they are unlikely to be reported”  [[xiv]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)As the Toronto Star article points out this is far from reality, and in fact the problem in many cases is so out in the open that reporting isn't even necessary.

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[[i]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)[http://www.thestar.com/news/immigration/2014/10/11/despite\_growing\_complaints\_few\_ghost\_immigration\_consultants\_are\_prosecuted.html](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.thestar.com%2Fnews%2Fimmigration%2F2014%2F10%2F11%2Fdespite_growing_complaints_few_ghost_immigration_consultants_are_prosecuted.html&h=AAQE--pBp&s=1)

[[ii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) [http://www.cic.gc.ca/english/department/media/backgrounders/2011/2011-06-28a.asp](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.cic.gc.ca%2Fenglish%2Fdepartment%2Fmedia%2Fbackgrounders%2F2011%2F2011-06-28a.asp&h=IAQFvkIxX&s=1)

[[iii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) [http://justintrudeau.liberal.ca/en/bill-c35/](http://l.facebook.com/l.php?u=http%3A%2F%2Fjustintrudeau.liberal.ca%2Fen%2Fbill-c35%2F&h=NAQHTK41H&s=1)

[http://www.cba.org/cba/submissions/pdf/10-72-eng.pdf](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.cba.org%2Fcba%2Fsubmissions%2Fpdf%2F10-72-eng.pdf&h=BAQHfbvjp&s=1)

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[[iv]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)[http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills\_ls.asp?Language=E&ls=c35&Parl=40&Ses=3&source=library\_prb](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.parl.gc.ca%2FAbout%2FParliament%2FLegislativeSummaries%2Fbills_ls.asp%3FLanguage%3DE%26ls%3Dc35%26Parl%3D40%26Ses%3D3%26source%3Dlibrary_prb&h=mAQEO-wJn&s=1)

[[v]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) [http://www.iccrc-crcic.ca/admin/contentEngine/contentImages/file/Code\_of\_Professional\_Ethics\_\_Sept\_2011.pdf](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.iccrc-crcic.ca%2Fadmin%2FcontentEngine%2FcontentImages%2Ffile%2FCode_of_Professional_Ethics__Sept_2011.pdf&h=7AQHsKfzf&s=1)

[[vi]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)[http://www.thestar.com/news/immigration/2014/10/11/despite\_growing\_complaints\_few\_ghost\_immigration\_consultants\_are\_prosecuted.html](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.thestar.com%2Fnews%2Fimmigration%2F2014%2F10%2F11%2Fdespite_growing_complaints_few_ghost_immigration_consultants_are_prosecuted.html&h=fAQGANHFe&s=1)

[[vii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) [http://www.cic.gc.ca/english/information/representative/complaints.asp](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.cic.gc.ca%2Fenglish%2Finformation%2Frepresentative%2Fcomplaints.asp&h=mAQEO-wJn&s=1)

[[viii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)[http://www.universityaffairs.ca/university-staff-face-new-restrictions-on-how-they-advise-foreign-students.aspx](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.universityaffairs.ca%2Funiversity-staff-face-new-restrictions-on-how-they-advise-foreign-students.aspx&h=IAQFvkIxX&s=1)

[[ix]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) [http://overseasoverwhelmed.com/wp-content/uploads/2013/06/C-35-Letter-to-CCIEM-May-24-2013-1.pdf](http://l.facebook.com/l.php?u=http%3A%2F%2Foverseasoverwhelmed.com%2Fwp-content%2Fuploads%2F2013%2F06%2FC-35-Letter-to-CCIEM-May-24-2013-1.pdf&h=7AQHsKfzf&s=1)

[[x]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) [http://www.cic.gc.ca/english/information/offices/vac/list.asp](http://l.facebook.com/l.php?u=http%3A%2F%2Fwww.cic.gc.ca%2Fenglish%2Finformation%2Foffices%2Fvac%2Flist.asp&h=kAQEo31pF&s=1)

[[xi]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) <http://www.vfsglobal.ca/canada/philippines/service_charge_schedule.html>

[[xii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) <http://overseasoverwhelmed.com/wp-content/uploads/2013/06/C-35-Letter-to-CCIEM-May-24-2013-1.pdf>

[[xiii]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401)<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=3560686&File=21>

[[xiv]](https://www.facebook.com/notes/earl-blaney/out-in-the-open-institutional-disregard-for-bill-c-35/1489103071375401) <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=3444857&Language=E&Mode=1&Parl=39&Ses=2>