

In their place, there exists a generally accepted body of the rights and duties of foreign consuls. The assistance which foreign consular or diplomatic representatives in another country can give to their nationals, in general, is still based on longstanding international custom. More recently, the rights and duties of foreign representatives and of the states receiving them have been codified in the Vienna Conventions on Diplomatic and Consular Relations of 1961 and 1963 and, of course, in a number of bilateral agreements between nations. Because the Vienna Convention on Consular Relations contains certain provisions which involve provincial jurisdiction, the Government of Canada is not yet in a position to become a party to that Agreement. However, the Agreement is essentially a declaration containing general and long standing international law concepts with which Canadian consular practice is largely in conformity.

Article 5 of the Vienna Convention on Consular Relations specifies the various internationally accepted consular functions, including: "Protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits prescribed by international law". These limits referred to, have to do with the principle that States are sovereign entities and that the laws, customs and regulations of a particular country have no external status or authority, and thus do not apply inside another state.

This is a fundamental limitation which is important for Canadians travelling abroad to understand.

Canadian citizens residing or travelling in other countries are subject to the laws and regulations of those countries just as foreign citizens residing or travelling in Canada are subject to Canadian laws and regulations. When such persons run afoul of foreign laws and regulations, they must expect to be dealt with in accordance with local procedures and practices, just as foreign citizens in violation of laws in Canada will be dealt with in accordance with Canadian laws and regulations.

Unfortunately, many countries have laws, regulations and legal procedures which might seem severe, and even harsh by Canadian standards. Some countries, for example, permit almost unlimited detention without charges, pending an investigation of a case. Severe punishments are often imposed, particularly for trafficking in, or use of narcotics; conditions of detention, while perhaps considered adequate by local standards, are sometimes far below what we would consider to be even minimum standards in Canada.

Legally and officially, all that Canadian representatives abroad can usually do when a Canadian citizen becomes involved with the law in a foreign country is to ensure that he or she is treated no less fairly than other foreign nationals, or than the citizens of that country would be treated in similar circumstances; and to ensure that appropriate legal counsel is obtained.

Unofficially, Canadian representatives abroad can, and do, go much further. They can often assist by making representations to local authorities to consider possible mitigating circumstances; to speed up otherwise slow