

Brief Submitted to the House of Commons Standing Committee on Citizenship and Immigration (CIMM) Regarding Medical Inadmissibility

Brief submitted by: Disability Positive

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Introduction

Disability Positive (DP) is a working group of concerned members of disability and migrant communities and their families and allies, who are working to address immigration practices that discriminate against persons with disabilities.

DP formed around Dr Felipe Montoya in April 2016, after his son Nico Montoya was declared medically inadmissible by Canadian immigration authorities. Founding members of our Steering Committee include persons with lived experience with disability and migration, such as Dr Montoya and his family; legal practitioners, such as Hadayt Nazami, an immigration and refugee lawyer with Jackman and Associates; and disability researchers and advocates, such as Natalie Spagnuolo, a PhD Candidate at York University.

Disability Positive calls for the immediate repeal of S38(1)(c) of the Immigrant and Refugee Protection Act (IRPA), which discriminates against persons with disabilities and their families on the grounds of excessive demand.

Through detailed discussions, interviews, and written recommendations, DP and DP members have asserted that S38(1)(c) of the IRPA unjustly discriminates against persons with disabilities and their families. Our key points are summarized in this brief.

Summary of Argument

- S38(1)(c) contravenes articles 3 and 4 of the United Nations Convention on the Rights of Persons with Disabilities, to which Canada is a signatory
- S38(1)(c) undermines legislated definitions of disability which acknowledge that a) persons with disabilities are not a burden to their society; b) the provision of disability supports are a matter of justice and any failure to provide these supports can amount to discrimination; and c) disability is not an inherently medical condition, but an interaction that takes place between a person and their society
- The denial of permanent residency and citizenship to disabled people has a stigmatizing effect on all Canadians with disabilities
- Excessive demand determinations rely on a faulty economic logic that ignores the actual contributions of persons with disabilities to their society and relies on outdated and inaccurate cost assessments of disability supports and services
- The ostensible savings to health and social services that are to be gained by denying permanent residency and citizenship to persons with disabilities are negligible when compared to total government spendings in these areas

For further information, please contact:

Hadayt Nazami hadayt@rogers.com

Natalie Spagnuolo natalie.spagnuolo@gmail.com