

Dear Standing Committee on Citizenship and Immigration

I am writing this letter so that you may consider the immigration matters effecting people who have been told they will not be granted permanent residency due to the “excessive demand” clause within the Immigration and Refugee Protection Act that restricts immigration for those who are deemed to be a burden to the Canadian health care system due to a particular diagnosis or health concern. Specifically,

Current immigration law in Canada requires medical guidelines that state,
38. (1) A foreign national is inadmissible on health grounds if their health condition (a) is likely to be a danger to public health; (b) is likely to be a danger to public safety; or (c) might reasonably be expected to cause excessive demand on health or social services” (Immigration and Refugee Protection Act).¹

The current Canadian immigration guidelines include the following specificity: “Examples of “excessive demand” include ongoing hospitalization or institutional care for a physical or mental illness”. It has been well documented and researched that the Canadian immigration system has had an atrocious legacy of eugenic thinking, promoting ideas of human and racial hierarchy, and colonial forms of violence. The sovereign power of the colonial state was always predicated on the violent subjugation of indigenous people, slaves, or indentured labourers, as violence was integral to colonialism. Canada’s early asylum and colonial administrators were often one in the same and communicated with other asylum and colonial administrators both at home and abroad in the United States, the United Kingdom, and other parts of Western Europe regularly in the effort to share information on how to run asylums efficiently as part of world-wide colonial projects².

The Department of Immigration and Colonization was established in 1917. The Department of Immigration and Colonization was established to ensure that Canada’s colonial project was able to continue to monitor its regulation of immigrants and the colonization Canada so that its racial composition and employment composition privileged British Canadians and restricted those who were identified as undesirable, of an inferior race, or an “enemy”. The Department of Immigration and Colonization kept meticulous reports on their efforts to control the Canadian population.

Ian Dowbiggin, provides a detailed account of the history of Eugenic thinking and policy development within psychiatric and legal domains in Canada and the United States. Eugenics is a

¹Immigration and Refugee Protection Act (S.C. 2001, c. 27)

²Roman, L.G., Brown, S., Noble, S., Wainer, R., & Young, A.E. (2009). No time for nostalgia!: asylum-making, medicalized colonialism in British Columbia (1859-97) and artistic praxis for social transformation. *International Journal of Qualitative Studies in Education*, 22(1), 17-63.

term coined by a cousin of Charles Darwin, Francis Galton in 1883³. Galton defined Eugenics as “the study of the agencies under social control that may improve or impair the racial qualities of future generations”. Eugenacists argue that “the sterilization and institutionalization of the mentally disabled as well as laws restricting immigration and marriage would improve public health.” As Ena Chadha has documented (via Robert Menzies), that 1902 was a significant year, as it was the first time medicine and psychiatry authorities introduced themselves in to the “foray” of Canadian immigration⁴. By 1906, the Immigration Act was well developed with its eugenic and racial influence to include new reportable and inadmissibility criteria, specifically three classes were delineated: (1) the physically or mentally disabled,(2) those with infectious or dangerous diseases, and (3) paupers or destitute. Section 26 included the following:

26. No person shall be permitted to land in Canada, who is *feeble-minded, an idiot, or an epileptic, or who is insane or has had an attack of insanity within five years*; nor shall any immigrant be so landed who is deaf and dumb, or *dumb*, blind or infirm, unless he belongs to a family accompanying him already in Canada and which gives security, satisfactory to the Minister, and in conformity with the regulations in that behalf, if any for his permanent support if admitted into Canada.⁵

Under the section 3 of the Immigration Act of 1910, the “prohibited classes” are identified in the following order: “Persons mentally defective”, “Diseased persons”, “Persons physically defective”, “Criminals”, “Prostitutes or pimps”, “Procurers”, “Beggars and vagrants”, “Charity immigrants” and “Persons not complying with regulations”. In 1910, the House of Commons debates revealed that early 20th century psychiatry propounded the belief that persons with mental disabilities were *undesirable immigrants* because they were by nature *degenerates, dangerous and dishonest* in disposition. Immigration and immigrants were attached to ideas of criminality, mental and physical defectiveness, as burdensome and unwanted. All together understood as undesirables.

Dr. Helen MacMurchy was Ontario’s leading public health expert in 1914 and “inspector of the feeble minded” from 1906-1916⁶. In her role as first chief of the Division of Maternal and Child Welfare in 1920 she sought to effect public health needs in the areas of infant mortality, maternal mortality and feeblemindedness⁷. Her 1920 account, *The Almosts: A Study of the Feeble-Minded* promoted eugenic ideas that advocated for segregation and sterilization to eliminate the feeble-minded, their economic costs and their criminal threat society. MacMurchy declared at a conference in 1914 that “the problem of defective children could only be solved if special education and medical inspection were complimented by restriction of immigration”⁸.

The 1928 law based on Eugenic thinking in Alberta lead to the sterilization of over 2800 Albertan’s. Leilani Muir sued the province of Alberta in 1996 and was awarded \$750000 in compensation. A class action lawsuit soon followed in 1999 that resulted in an \$82 million-dollar settlement for 700 victims of this atrocious practice. By 1940 thirty American states had passed

³Dowbiggin, I. R. (1997). *Keeping America sane: Psychiatry and eugenics in the United States and Canada, 1880-1940*. Ithaca, N. Y.: Cornell University Press.

⁴ See: Ena Chadha. “*Mentally Defectives’ Not Welcome: Mental Disability in Canadian Immigration Law, 1859-1927*”. *Disability Studies Quarterly*, 28, No.1 (2008): 1-30.

⁵Ibid

⁶ Angus McLaren. *Our own master race: Eugenics in Canada, 1885-1945*. (Toronto: Oxford University Press, 1990).

⁷Ibid, p. 30

⁸Ibid, p. 46

sterilization laws for the handicapped and in the early 1920 both America and Canada passed immigration laws to regulate “aliens” from “southern and eastern Europe”. Alberta and B.C. also passed sterilization laws. The most famous Eugenics law of course was in July 1933, when Adolph Hitler’s Nazi Germany passed legislation to involuntarily sterilize over 400000 Germans. The eugenic project is often spoken about in relation to Hitler’s’ Nazi Germany and the carrying out of the eugenic principle in horrific realities beginning with the murder and exclusion of those deemed to have defective hereditary traits or those with disabilities.

Charles Kirk Clarke (after which the former Clarke Institute of Psychiatry in Toronto is named, now a site of the Centre for Addiction and Mental Health) “was arguably the most famous psychiatrist Canada has ever produced”⁹. C.K. Clarke “struggled mightily” to “ensure that mentally and physically handicapped immigrants could not enter the country and take advantage of Canada’s charitable institutions”. Clarke recommended policy for inspection and deportation for “the indigent classes of immigrants who show marked evidence of mental disease or defect, or criminal tendency”¹⁰. In 1906, “the Canadian government had made deportations legal for the first time. Immigrants, who within two years of their arrival in Canada ended up in a publicly funded charitable institution, were eligible for deportation”. In 1910, the law was amended from 2 years to 5 years with the help of Clarke’s advocacy. To this day, immigrants are ineligible for social assistance (including disability support program) income for the duration of their sponsorship which can be up to 10 years.

The story of C.K. Clarke and the influence of eugenic and racial thinking in Canada demonstrates the power of individual figures to influence criminal law, immigration law, and social policy. Evident in C.K. Clarke’s work is the dehumanizing discourse based on racial and eugenic thinking that is now institutionalized in currently existing systems and policies. Policies, laws and practices based on this thinking cannot produce outcomes that are beneficial to newcomers or anyone’s wellbeing as they are based on the assumption that newcomers and those labeled with any disability or mental illness are a threat to the “Canadian”, as they might “take undue advantage of Canada’s charitable institutions and organizations” and contaminate the race of “Canadians”. The rationale for these policies that continue to exist include the belief that newcomers carry some sort of “defectiveness” that is both a burden to society and a threat to the purity of the “Canadian” race.

The idea that mental and physical difference is burdensome to “Canadians” is both a product of eugenic ideas and a contemporary outcome of a social service system that sees differences in race, mental fitness, and physical ability as something external to the “normal”, and wasteful to address with public expenditure.

This law is 112 years old. It was not implemented for economic reasons, nor has any costing study been done then or now. If someone tries to bring up economics as an argument for this law, now you know the history. No one in Canada voted for this law either. The cost limit used to set what constitutes excessive demand is less than 6400\$. Would you ruin the life of a family or a child in need over 6400\$? A developmental disability. Mental health issue or physical disability is not an illness or sickness. It is always tied to a human being and described at this moment in time as a genetic difference. This is not about, has never been about, nor should it ever be about money. It was implemented to see eugenics within policy and law and to

⁹Dowbiggin, I. R. (1997). *Keeping America sane: Psychiatry and eugenics in the United States and Canada, 1880-1940*. Ithaca, N. Y.: Cornell University Press.

¹⁰ Ibid

control for all those that were defined as “undesirable” under the discriminatory practices of the Canadian department of immigration and colonization. The law of excessive demand exist under the same principles that saw the sterilization of people with disabilities all over the world and the rationale that lead to the first use of the gas chambers for the extermination of people with disabilities for Nazi Germany. This law is unjust, and has no place in today’s world. This is a law that needs to go. Information on the Liberal Party of Canada’s website states:

“We will restore Canada’s reputation and help more people in need through a program that is safe, secure, and humane”

“We will establish new performance standards for federal services.”

“We will make it easier for immigrants to build successful lives in Canada, and contribute to the economic success of all Canadians.”

There can be no safe, secure and humane Canadian immigration system that can be said to be compliant with any kind of contemporary performance standards that also makes it easier for immigrants to build successful lives while this law of excessive demand exists. If we change this now, we can render this law a vestige of a less humane time. If we allow it to continue, given our understanding of how and why this law exists, then be prepared to see your legacies beside those of Charles Kirk Clarke, Helen MacMurchy, and to be remembered as condoner of the eugenic principals and policies of violent colonizers, Nazis, and sterilizers that would rather deport people in need than support people in need. Look at what we are doing here, deporting, excluding newcomers and often uprooting people that have been in Canada for years. What good comes of this? This law must be abolished.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Ameil J. Joseph". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

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