

Canada on the grounds of excessive costs and threat to public health (Canadian HIV/AIDS Legal Network 2001). If this proposal is adopted, a new category of people with disabilities may be excluded – those who are HIV positive, even if they themselves are not aware of their positive status. This would be a step backwards on the inclusion of people with disabilities in immigration policies and could, as Klein (2001, 61) notes, lead to an increasing amount of testing of potential immigrants, including genetic testing.

The approach taken by Canada's immigration policy is one which excludes on the basis of medical judgements about the experience or existence of disability as well as the perceived costs associated with these disabilities. A human rights approach to immigration policy would recognize the commitments Canada has made to various international conventions on human rights as well as its own Charter of Rights and Freedoms. Indeed Sections 3 (d) and (f) guarantee that the proposed Act would be applied in light of these human rights frameworks.

(d) ensures that decisions taken under this Act are consistent with the Canadian Charter of Rights and Freedoms, including its principles of equality and freedom from discrimination ...

(f) complies with international human rights instruments to which Canada is signatory.

Yet the experience of discrimination or exclusion by people with disabilities and the more recent discussions of possible exclusion on the basis of HIV status, illustrate that the application of our immigration policy does not necessarily treat potential immigrants as equal using the human rights framework relevant within Canada (Klein 2001, Mosoff 1999).