

CANADA'S IMMIGRATION HEALTH INADMISSIBILITY AND THE CASE FOR DISABILITY DISCRIMINATION

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In Canada, immigration law restricts a foreign national from getting admitted as a permanent resident if the foreigner has dangerous or excessive health conditions. This law is codified in the Immigration and Refugee Protection Act, Section 38. Section II of this Article discusses Section 38 and how the provision has changed in modern times. Section III examines Charter challenge cases as it relates to Section 38's potential to discriminate against individuals with physical and mental disabilities. This Article will also explore whether those challenges have ever been successful. Given the 2018 Ministerial change to the health admissibility criteria, this Article discusses whether the new policy still has the potential to be discriminatory. After discussing the 2018 policy

change, Section III will review limitations to winning a Section 15 discrimination case. Section IV examines the international mechanism in circumventing the Charter challenge limitations. Lastly, this Article will discuss in Section V how, despite the lack of success for disabled claimants, Section 38 is still discriminatory when viewed from someone who is outside of the legal field.