



Casting Out the Disabled and Ill Immigrant: The Legacies of Australia's Immigration Restriction Act of 1901

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Collectively, immigration policies function to perform national sovereignty by reinforcing the division between citizen and migrant, usually conflated with 'native' and 'outsider.' While the work of preserving sovereignty is an



exclusionary act, in certain contexts it rests on particularly totalitarian governance practices. Such practices have their roots in longstanding racial and social hierarchies whose legacies continue to haunt the immigration policies of even liberal nation-states today. In Australia, for instance, immigration policies for several decades have excluded disabled and ill migrants by rendering them as biologically inferior and as economic burdens. I do not suggest here that Australia is a totalitarian state or that its approach to immigration fits neatly into a totalitarian framework. Rather, I posit that Australia's approach to managing the entry of disabled and ill migrants into the nation-state contains the ingredients for totalitarian tendencies and should be subject to close examination.

Australian policies toward disabled and chronically ill migrants have resonances with pre-World War II Europe. As political theorist Hannah Arendt has argued in *The Origins of Totalitarianism* (1973), the refusal to accept minorities reflected how emerging totalitarian regimes privileged nativism and national identity over human rights and legal protections. Excluding physically and mentally ill minority populations—many of whom had already been cast out as racialized others—was a key way European states cemented the idea that fulfilling physiological and biological 'norms' was a premise of one's capacity to assimilate. This mode of exclusion was taken to its logical extreme during the Nazi regime's establishment of German Eugenics science, which introduced ideas of racial and physiological purity in order to cultivate a genetically fit society. In this racialized utopia, the differently abled and the chronically ill were represented as inherently 'degenerate', less evolved beings, and an economic and cultural burden 'to the greater German 'Aryan' race.'



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While it is important not to create a false equivalence between pre-World War II Europe and Australia, there are analogous ideas at play that render differently abled and ill migrants as apriori threats to the nation—both its present and its future. Australia’s immigration policies make it virtually impossible for immigrants with a disability or illness to receive visas. Section 60 of the currently active Migration Act of 1958 states that applicants must demonstrate they will not pose a significant cost to the community or prevent Australian citizens and permanent residents from accessing healthcare or community services regardless of whether or not they would use such services (Section c(ii), Section 60, Migration Act of 1958). Thus, baked into entry requirements is the assumption that disabled immigrants always already pose a threat to citizens’ health and wellbeing—that the entry of the ‘other’ takes something away from the able-bodied citizen. This cost threshold is calculated through the state’s “hypothetical person test.” This test consists of the individual applicant’s projected healthcare costs over the course of their life span, based on standard metrics predetermined for different disabilities and health conditions. According to the Department of Immigration and Border Protection website, the following diseases or conditions



could result in significant costs and result in an application rejection, based on the number of projected medical tests, doctors' visits, pharmaceutical drugs and other adaptive and rehabilitative technologies the patient would require: intellectual impairment; HIV infection; functional impairment; renal disease or failure; and cancer. People with other diseases such as Tuberculosis are rendered ineligible for a visa until they can prove they have received treatment. Those who do have HIV and who plan to work as a doctor, dentist, nurse, or paramedic are also considered potential risks to public health.[\[i\]](#)

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In 2012, Australia introduced another element to its policy toward disabled immigrants. Immigration Minister Chris Bowen announced that under a new "net benefit" approach, the benefits that disabled migrants and their families brought to Australia would now be considered against the cost of their healthcare. An example of the fallout of this test is when Angelo Fonseka, a Sri Lankan man who was given a temporary work visa in Australia appealed to the Australian federal government to grant his 9-year old daughter, Eliza, who had Down Syndrome, a chance at legal entry into Australia. Angelo Fonseka was a Christian missionary working in Western Australia with the Shark Bay Christian Fellowship. His application for permanent residence for his family was rejected because of Eliza's Down Syndrome, leaving his wife Shanoline and Eliza back in Sri Lanka (Holland 2015). Part of the government's initial decision to deny her entry was based on the failure to meet the new "net benefit" policy. In this case, and in many other documented cases[\[ii\]](#), disabled migrants are represented as potential leeches on Australia's social welfare system. Here, containing invasive peoples means containing what will inevitably be parasitic behavior.



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Why is the state so concerned with how disabled and chronically ill immigrants could impact the lives of its resident population? As El Gibbs has recently written in *The Guardian*: “We don’t count other potential costs like this; we don’t ask migrants to tally up their potential road use and reject them on the basis they will be too much of a burden on our road supply. Nor do we make potential immigrants estimate a possible future cost to our family court system in case of future divorce, or the possible cost of a potential childbirth” (2019). According to Brandon Ah Tong, staff member of Vision Australia, the country’s largest provider of blindness and low vision services, Australia’s migration policies, since the Immigration Restriction Act of 1901, have always been focused on making judgments about the “fitness and desirableness of would-be Aussies” (Tong 2011).

The history of Australia’s ‘discriminatory cost’ justification goes back to the origins of Australian nationhood itself with its Australia’s Immigration Restriction Act of 1901. Also known as the White Australia Policy, its explicit refusal to accept non-European migrants constituted an effort to create a racially insulated white



able-bodied society. As a result, several of its sections take inspiration from eugenicist ideas on mental and physical health. According to historian Allison Bashford, the 1901 Act explicitly refused entry to immigrants who had been in insane asylums or had been diagnosed with Syphilis or Epilepsy. At the time, such migrants were seen as burdens on the social and economic system, but also as threats to the genetic makeup of the country itself; it was feared they would pass down undesirable traits to their offspring. In fact, eugenicist promoters globally saw the White Australia Policy as one of the greatest legally codified acts of eugenics at the time.

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The spirit of the policy itself is deeply tied to Australia's settler colonial origins, namely the idea among British settlers that Australia is where they could 'breed a whole new type of person from 'the stock of Mother England,' who was healthy and fit" (Bashford 2004). Such ideas of racial and physiological superiority were formed in conjunction with settler colonial attitudes toward Aboriginal communities who were deemed less evolved beings. Settlers saw Australia as a place where the evolutionary process could be manipulated to support the creation of a new society. It was thought that engineering a racially pure and physiologically advanced nation required the reproduction of higher-level humans (read white British immigrants).

Looking at totalitarian practices in Australia might be jarring, given the extent to which the country has served as a global example of progressive multicultural policies. While the 1901 Immigration Restriction Act is no longer in effect, the spirit of the Act has not been entirely shaken off. In fact, the attitudinal ingredients that see non-normative bodies as inherent threats are very much present and alive. Eugenicist ideas have served as the bedrock of the immigration policies of many nation-states. While policy language may have shifted from racial



and physiological purity to cost efficiency, the core principle that certain bodies and capacities are preferable over others—whether for the purposes of fostering a productive labor economy or preserving cultural homogeneity—has remained. The language of cost efficiency allows the Australian state to deny that its policies are ableist by design—it is no coincidence that *the currently operative Migration Act of 1958 is exempt* from the *Disability Discrimination Act* of 1992. Refusing to dismantle such ideas could lead to the further cementing of totalitarian practices in social policies well within the border of the nation-state.

References

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Bashford, Allison. 2004. *Imperial Hygiene: A Critical History of Colonialism, Nationalism, and Public Health*. New York: Palgrave Macmillan.

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Holland, Steve. 9 April 2015. "[Shark Bay missionary: Australia doesn't want my Down syndrome kid.](#)" *WA Today*.

Tong, Brandon Ah. 27 October 2011. "[Time to lift the blinders off disability and immigration.](#)" *Policy Online*. Accessed 1 April 2016,

Footnotes

[i] "[Threats to Public Health.](#)" Department of Home Affairs.



[ii] See for example, the following references:

Nader, Carol. 19 March 2010 .“[Legally blind social worker denied permanent visa.](#)” *Sydney Morning Herald*. Accessed March 2015.

Simmonds, Alecia. 17 September 2013. “[When disability discrimination is legal.](#)” *The Daily Life*. Accessed March 2016,

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