

**THE CANADIAN HEARING SOCIETY  
LA SOCIÉTÉ CANADIENNE DE L'OUÏE**



**Submission to the  
Standing Committee on Citizenship and Immigration  
with respect to Bill C-11:  
*An Act respecting immigration to Canada and the  
granting of refugee protection to persons who are  
displaced, persecuted or in danger***

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## INTRODUCTION

In 1997 the Supreme Court of Canada granted intervenor status to The Canadian Hearing Society (CHS), the Council of Canadians with Disabilities, the Canadian Association of the Deaf, and the Advocacy Resource Centre for Persons with Disabilities in the case *Eldridge v. British Columbia*. The Court ruled that the failure to provide sign language interpretation where it is needed for effective communication in the delivery of health care services, social services, education and training and employment, violates the rights of deaf consumers. The Court further stated that governments cannot escape their constitutional obligations by passing on the responsibility of policy implementation to private entities not directly under the jurisdiction of the *Canadian Charter of Rights and Freedoms*.

Recently, along with the Canadian Hard of Hearing Association and the Canadian Association of the Deaf, CHS was an intervenor in a case deaf lawyer Scott Simser planned to take before a tribunal of the Canadian Human Rights Commission against the Tax Court of Canada. Negotiations prior to the hearing date resulted in a mutually satisfactory out-of-court agreement. On September 5, 2000, the Tax Court announced a landmark policy that acknowledges and accepts responsibility for arranging and paying for accommodation for deaf, deafened and hard of hearing lawyers, articling students and any parties they represent. Accommodation not only comprises sign language interpretation and real-time captioning, but also embraces any other widely recognized method of accommodating the translation needs of deaf, deafened or hard of hearing persons. The Canadian Human Rights Commission is being encouraged to act systemically and have other court systems adopt similar policies

CHS is pleased to have a further opportunity to advocate on behalf of our consumers and is encouraged that the federal government is contemplating legislation to strengthen Bill C-31, *An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger*. The recommendations we put forth in this paper support those contained in position papers being submitted to the Standing Committee on Citizenship and Immigration by the National Citizenship and Immigration Law Section of the Canadian Bar Association, the Canadian Association of the Deaf and the Coalition of Canadians for a Fair and Just Immigration Policy.

## **CONCERNS**

Recently a number of deaf applicants and parents of deaf children have been denied permanent entry into Canada under the medical inadmissibility provisions contained in s.19(1) (a)(ii) of the Immigration Act which permits refusal on the grounds that admission could cause or might reasonably be expected to cause excessive demands on Canada's health and social services. It seems terribly out of date to slot deaf individuals into an "excessive demands on health or social services" category. There is no question that the arbitrary view that deaf individuals will put excessive demands on health and social services is depriving Canada of immigrants who can potentially add immeasurably to the Canadian economy and social fabric.

Further, contrary to the view that these individuals will cause excessive demands on health or social services, these individuals would likely enhance Canada. In fact, there are numerous deaf and hard of hearing individuals employed in a variety of fields, whether in skilled occupations such as carpentry or in professions such as medicine, law or business. The continued underemployment of deaf individuals is a result of deep-rooted discrimination that various organizations are striving to have removed.

Deafness is not a disease, disorder, or health impairment, nor is it a threat to the health and safety of others. Studies have shown that deaf and hard of hearing drivers have better safe-driving records and better punctuality and attendance records in the workplace than their hearing counterparts. The record also shows that if a few simple precautions are followed, deaf, deafened and hard of hearing employees pose no greater safety risk on the job than employees with normal hearing.

Furthermore, deaf and hard of hearing workers have the lowest workplace accident rate. Recent studies indicate that hearing drivers and workers are at greater risk of accidents when they indulge in auditory distractions that are not available to deaf persons, such as talking into cell phones or playing with car radios or CD players. Indeed, according to the Canadian Medical Association, soundproof cabs pose a greater danger to driving safety than deafness.

## **BARRIERS**

Most offices of Citizenship and Immigration Canada, including consular offices (i.e. Embassies and High Commissions) in other countries and customs offices at international borders and airports are in violation of the Supreme Court of Canada's Eldridge decision. They have failed to provide sign language interpreters and TTYs (telephone devices for deaf people) to make these offices accessible to deaf and hard of hearing Canadians living or travelling abroad who require communication accommodation, as well as deaf applicants seeking admission to Canada.

Most offices lack TTYs. They need to install this equipment and provide adequate training to staff in their use. When applying for landed immigrant status, most deaf, deafened and hard of hearing applicants are rejected by Citizenship and Immigration

Canada offices during interviews without sign language interpreters or computerized notetakers/captioners and sometimes with unqualified interpreters (e.g., a relative). The relative is not able to provide professional information to Citizenship and Immigration front line staff and deaf and hard of hearing immigration applicants. There is no toll-free TTY number in Canada to determine the status of one's application.

Several reports completed by medical officers described some applicants as "deaf" and "mute". This is a complete misrepresentation of the actual situation of deaf individuals. Implicit in the description is an assumption that all deaf individuals are mute and that if an individual cannot communicate by voice, they are mute. Deaf individuals communicate by a variety of means, in some cases auditory, in other cases through sign language, and in other cases through easily understood gesturing.

The characterization of deaf individuals as mute severely diminishes confidence that the medical officers reviewing the cases of applicants to Canada have a competent appreciation of deaf individuals. The medical officers need to be trained by providing them with in-service training to give them a better understanding of the implications of psychological testing procedures for deaf children and adults, as well as the legal implications of the Canadian Human Rights Code and the Supreme Court of Canada's Eldridge decision.

## **RECOMMENDATIONS**

CHS recommends that Bill C-31 and its regulations be amended to include the following:

1. Citizenship and Immigration Canada must ensure that new regulations and the proposed Bill C-31 permit the Ministry to grant landed immigrant status to deaf applicants when their families have been granted this status;
2. Citizenship and Immigration Canada must clearly demonstrate a commitment to include equity and multicultural issues, including efforts to include hearing loss and deafness perspective in pre-service training, as hearing status does not confer the requisite knowledge for working in a professional capacity with nontraditional populations;
3. Medical officers employed by Citizenship and Immigration Canada must be provided with in-service training to give them a better understanding of the implications of psychological testing procedures for deaf children and adults, as well as the legal implications of the Canadian Human Rights Code and the Supreme Court of Canada's Eldridge decision.
4. Citizenship and Immigration Canada must produce a clearer definition of excessive demands on health and social services on the grounds on the status of mental and physical disability. Using the condition of mental and physical disability should not automatically result in a medically inadmissible assessment

5. Permanent residents and refugee claimants should be removed only after judicial review of the removal determinations is completed

Furthermore, CHS recommends that the Bill C-31 (*An Act Respecting Immigration to Canada and the Granting of Protection to Persons who are Displaced, Persecuted or in Danger*) be amended to include the following practical suggestions:

1. Establish an action plan to remove existing barriers and prevent the creation of new barriers in Citizenship and Immigration Canada offices, including Canadian Embassies, High Commission and Consulates.
2. Implement cultural and disability sensitive training that addresses the legal rights of persons, who are deaf, deafened and hard of hearing.
3. Remove communication barriers that prevent deaf, deafened and hard of hearing persons from accessing Citizenship and Immigration services.
4. Staff each regional office of the Citizenship and Immigration Canada with access and accommodation coordinators.
5. Implement procedures to accommodate Citizenship and Immigration Canada staff who are deaf, deafened or hard of hearing.
6. Remove legislative and other barriers that prevent deaf, deafened and hard of hearing persons from serving as staff of Citizenship and Immigration offices.
7. Ensure prompt availability of qualified sign language interpreters and other communication supports for deaf, deafened and hard of hearing persons.
8. Inquire about and satisfy the communication needs of deaf, deafened and hard of hearing consumers.
9. Become familiar with and use appropriate terminology to describe disabilities including hearing loss and deafness.

CHS supports efforts to create fair and just immigration legislation. Our experience suggests that the current Act is ineffective because it lacks the appropriate authority and the necessary funding to ensure compliance. Equal access by deaf, deafened and hard of hearing Canadians, including landed immigrants and visitors, can only be achieved if these recommendations are implemented.

## **APPENDIX: ABOUT THE CANADIAN HEARING SOCIETY**

The Canadian Hearing Society (CHS) is a non-profit charitable organization incorporated in 1940. We provide services that enhance the independence of deaf, deafened and hard of hearing people, and encourage prevention of hearing loss.

CHS currently has 24 offices in Ontario supported by a staff of 254 employees. We support the aims of our consumers through a broad range of services.

### **Principles of Service**

CHS strives to develop high quality and cost-effective services in consultation with national, provincial, regional and local consumer groups and individuals.

In addition, we value the right to freedom of choice and self-identification by persons who are deaf, deafened and hard of hearing and respond with professionalism and sensitivity towards their individual issues, cultural identity and values.

To achieve our purpose, we work to ensure

Accessibility	Deaf, deafened and hard of hearing people should have equal and equitable access to all aspects of life including employment, education, recreation, housing, health care and social services. Similarly, CHS services should be accessible to the multicultural community it serves.
Advocacy	CHS is committed to promoting the rights of deaf, deafened and hard of hearing people.
Awareness	CHS should provide individuals and community organizations with as much knowledge as possible to promote informed decision-making and program development. This includes information about hearing health care, Deaf culture and issues relevant to the deaf, deafened and hard of hearing communities.
Consumer Involvement	Deaf, deafened and hard of hearing people should be involved in the planning and decision making processes for all services relevant to their lives.
Employment Equity	Consistent with its ambition to advocate full access for deaf, deafened and hard of hearing persons and to reflect the racial and ethnic diversity at large, CHS is committed to internal employment equity.
Independence	CHS services support deaf, deafened and hard of hearing people in achieving individual, maximum independence and in facilitating self-help.

Quality Services	CHS is committed to providing its services to an optimum level.
Respect	CHS is committed to respecting the variety of perspectives and cultural outlooks of our consumers.
Service Options	CHS encourages the availability of service options so that deaf, deafened and hard of hearing individuals and their families can select the program best suited to their needs.

### **Summary of Programs and Activities**

CHS supports the aims of deaf, deafened and hard of hearing consumers with a wide variety of services and activities. Some of these are provided throughout the province, while others are confined to certain regions because of an isolated need or scarce resources. Some of our most common programs and activities are

Audiology	assessing auditory function and providing non-medical management to facilitate hearing, listing and aural communication.
Equity Training	providing education and skills to managers in non-profit organizations that serve deaf, deafened and hard of hearing people.
CONNECT Services	providing specialized mental health and counselling services for deaf, deafened and hard of hearing people and their families.
Educational Support Services	providing part-time students who are deaf, deafened and hard of hearing with the support services they require to take credit courses at post-secondary institutions in Ontario.
Employment Services	working with deaf, deafened and hard of hearing individuals to enable them to access employment opportunities.
General Social Services	providing personal counselling, advocacy and referral to deaf, deafened and hard of hearing individuals in need of support.
Hearing Aid Program	dispensing, fitting, repairing and maintaining hearing aids and accessories; providing consultation and making referrals.
Hearing Care Counselling	providing communication and hearing care support services to enable people with acquired hearing loss to carry out daily living activities independently, safely, and with reduced communication difficulties.
Hearing Help Classes	offering hard of hearing individuals a step-by-step approach to coping with hearing loss and improving communication skills in business and social settings.

Marketing Communications	raising consumer and public awareness of issues related to deafness and hearing loss.
Interpreter Service	providing access to visual language interpreters.
Life Skills and Literacy	providing individuals with limited language ability the ASL communication and English literacy skills necessary for daily living.
Sign Language Services	coordinating classes in American Sign Language and training sign language instructors.
Speech-Language Pathology	providing assessment, training and support for communication improvement to deaf, deafened and hard of hearing persons with speech and language difficulties (perception and expression).
Technical Devices	marketing devices which facilitate communication and promote independent living for deaf, deafened and hard of hearing individuals.