

Exploring Racism within Canada's Immigration Laws

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Through centuries of selectively exclusive education and the reinforcement of particular narratives, Canadian governments have consistently reproduced a seemingly benevolent image of Canada as an accepting “nation of immigrants” (Jakubowski & Comack, 2014, p. 88). Canada's diverse population and purported acceptance of multiculturalism have led to its widespread reputation as a country free of prejudicial attitudes towards immigrants, especially in direct comparison to the United States (Price, 2013, p. 635). Due to the economic prosperity and enhanced cultural awareness often associated with increased immigration, Canadians are expected to embrace new immigrants regardless of their ethnic or racial characteristics; however, a close examination of Canada's past and current treatment of non-white immigrants reveals that this has not been the case (Jakubowski & Comack, 2014, p. 88).

While there have been significant legal amendments in an attempt to formally eradicate the discriminatory nature of Canada's immigration policies, the harmful consequences of past legislation as well as the contemporary issue of implicit racism continue to perpetuate the unjust treatment of immigrants (Jakubowski & Comack, 2014, p. 89). In addition, the persistent failure of Canadian governments to fully acknowledge the historical mistreatment of non-white immigrants has led to the provision of inadequate reparations for individuals who were directly or indirectly affected by discriminatory immigration policies or laws. In this essay, I will argue that the inherently racist nature of Canada's immigration laws and policies work to falsify the pervasive narrative that fabricates Canada as an accepting and impartial nation; furthermore, I will discuss how the abundance of such explicitly racist legislation can be attributed to the state's desire to maintain a predominantly White nation. In my analysis of discriminatory immigration laws within a Canadian context, I will primarily focus on the Chinese Head Tax, the purposeful construction of Chinese immigrants as the

“other”, as well as the failure of the Canadian state to accept accountability for its actions against marginalized groups.

Despite Canada's colonial history, its establishment as a White settler state was not predetermined; however, an increase of anxieties within the British elite community as well as their intrinsic desire for maintaining their dominance led to the subsequent efforts towards building and preserving a “White Canada” (Price, 2013, p. 629). In an attempt to sustain the British influence within the Canadian population, authoritative figures focused their initial recruitment efforts towards immigrants from Great Britain whilst blatantly neglecting countries that were comprised of non-white populations (Jakubowski & Comack, 2014, p. 90). However, such targeted efforts were proven ineffective in securing the large influx of immigrants that was required to occupy Canada's prairie lands and meet the demands of the expanding labour market (Jakubowski & Comack, 2014, p. 90). Nevertheless, authorities were reluctant to grant admission to non-white immigrants, seeing as White people were considered to be more capable of integration into Canadian society (Jakubowski & Comack, 2014, p. 90). This assumption relates to cultural racism, as the Canadian state is intentionally excluding Chinese immigrants on the basis of cultural incompatibility (Ramachandran, 2009, pg. 35). At the same time, the completion of the Canadian Pacific Railway project exponentially increased the need for cheap labour; consequently, the Canadian government unwillingly accepted a large number of Chinese immigrants in order to supply labourers for the construction of the railway (Jakubowski & Comack, 2014, p. 91). The discrepancy between the grounds used to justify the admission of White immigrants, in contrast to those used for Chinese immigrants is explicitly linked to racial bias; the government allowed Chinese immigrants as a last resort mainly to exploit them for cheap labour, while White immigrants from preferred countries were immediately granted the opportunity for permanent settlement. The government's decision to support Chinese immigration during this period of

time instigated a series of successive events, all of which augmented the discrimination against immigrants of Chinese origin.

Although the government had approved the entrance of Chinese immigrants as labourers, these immigrants were not well-received by their White counterparts. Due to the significantly lower costs associated with hiring Chinese immigrants, employers began exhibiting an explicit preference for employing Chinese labourers instead of the higher-paid White workers (Jakubowski & Comack, 2014, p. 91). This led to widespread frustration amongst White workers and later induced a public outcry against the lenience of immigration policies, ultimately resulting in the development of exclusionary legislation. One example of such legislation was the *Immigration Act* of 1910; this Act provided an arbitrary statement on the types of immigrants that were considered undesirable for gaining entrance to Canada. Interestingly, this Act lacked any indication of the specific nationalities of such undesirable immigrants. The ambiguous wording thus provided immigration officials with the discretionary power to reject any individual on the basis of a variety of personal attributes such as race or ethnic origin (Jakubowski & Comack, 2014, p. 95). This piece of legislation clearly demonstrates the Canadian tendency to prioritize the desires of the White population, as well as the inclination to respond to their demands in ways that negatively impact marginalized groups.

In an attempt to preserve its character as a White settler state, Canada has engaged in numerous expressions of overt discrimination against Chinese immigrants. The most notable, and arguably the most harmful form of exclusionary legislation against the Chinese community was the enactment of the *Chinese Immigration Act* of 1885 by the federal parliament (Moran & Dyzenhaus, 2005 p. 6). This Act served as the precursor to a series of subsequent legal strategies that would be employed by the Canadian state as a weapon against Chinese immigration. In essence, the purpose of the Chinese Immigration Act was to deter

individuals of Chinese origin from immigrating to Canada through the enforcement of a “head tax”; the head tax refers to the hefty monetary fine imposed on Chinese immigrants who sought admission into Canada (Moran & Dyzenhaus, 2005 p. 6). By 1903, the original \$50 tax had been raised to \$500; this shockingly high increase came about as a result of persistent lobbying by White officials who intended to prohibit the admission of as many Chinese immigrants as possible. Prime Minister Wilfred Laurier was one of those officials, as he proposed that increasing a \$50 tax to \$100 would not sufficiently discourage Chinese immigrants; in fact, he boldly stated that there was no place left for Chinese immigrants within Canada, as he believed their arrival would lead to the displacement of “good British subjects” (Moran & Dyzenhaus, 2005 p. 7). The prejudicial bias that presents itself in Laurier’s statement was also embraced by most authorities of the time, seeing as the tax was successfully raised from \$50 to \$500 as a temporary measure to halt Chinese immigration. Prime Minister Mackenzie King also exhibited this prejudice by claiming that the Canadian nation had every right to exclude undesirable immigrants, and instead admit those that fit with Canada’s fundamental character (Jakubowski & Comack, 2014, p. 97). The unwavering opposition of the Canadian government to Chinese immigration thus becomes less surprising when there is consideration of the fact that most of the authoritative heads of government were White elitists with a racially biased agenda.

The head tax and its legislative successors were not the only forms of discriminatory measures taken against the Chinese Community. The racist ideologies embraced by the Canadian state were manifested into every aspect of the Chinese immigrant’s life. For instance, in British Columbia, there were multiple statutes that prohibited Chinese immigrants from obtaining liquor, mining or building licences (Moran & Dyzenhaus, 2005 p. 24). In addition, individuals with an Asian background were excluded from assuming professional roles as pharmacists or lawyers (Moran & Dyzenhaus, 2005 p. 28). The race of

Chinese immigrants also impacted their ability to seek unemployment relief, seeing as such assistance was primarily reserved for White applicants (Moran & Dyzenhaus, 2005 p. 28). Through such exclusionary practices, the government established the notion of the Chinese immigrant as “the other”; through explicit discrimination, Chinese immigrants were forced into subordination while White immigrants were treated with utmost respect. Although this discrimination initiated within immigration law, its influence extended into the arenas of entrepreneurship, education, suffrage and social access (Moran & Dyzenhaus, 2005 p. 28). Therefore, not only did Chinese immigrants have to overcome more challenges to gain admission into Canada, but they also had to tolerate the unbearable disenfranchisement of their rights and opportunities.

Between all of those encounters with discrimination, the implementation of the head tax prompted some of the most significant consequences for Chinese immigrants. Primarily, the amount required was equivalent to two years of wages for Chinese Canadian labourers (Moran & Dyzenhaus, 2005 p. 6). More importantly, the imposition of the tax led to the separation of many families, thereby inhibiting the expansion of the Chinese Canadian community (Chu, 2016, 336). The head tax ultimately degraded the dignity of Chinese individuals by solely accepting them on the basis of their economic contributions. This legislation placed more value on Chinese men with the ability to help improve the economic circumstance of the nation; by doing so, the state implicitly declared that Chinese people are not valuable unless they are financially reliable, and it also precluded Chinese women as eligible immigrants. In contrast, immigrants of European descent or those who possessed “White” characteristics were not constrained by such restrictions or derogatory laws. In spite of the repercussions, the head tax was proven ineffective in decreasing the influx of Chinese immigrants; however, the federal government continued its evidently racist efforts through the enactment of the *Chinese Exclusion Act*. As referenced in its name, this piece of

legislation was put forth to impede the entry of virtually all Chinese immigrants into Canada (Moran & Dyzenhaus, 2005 p. 7). Despite the Canadian government's tireless abuse of its legislative authority over Chinese immigrants, the Chinese Canadian community began to grow. However, the financial and emotional trauma that resulted from the racist legislation continues to negatively impact the lives of Chinese Canadians.

In order to seek reparations for the harm done by the head tax, in December 2000, three plaintiffs brought forth a class action lawsuit on behalf of all head tax payers as well as their surviving spouses (Moran & Dyzenhaus, 2005 p. 7). The plaintiffs demanded restitution for the violation of their community's rights to equality, as guaranteed by the *Canadian Charter of Rights and Freedoms* (Moran & Dyzenhaus, 2005 p. 7). Instead of taking accountability for their wrongful actions against the Chinese people, the federal government responded by bringing a motion to shut down the lawsuit due to a lack of reasonable cause for action. Retrospectively, the government's actions are consistent with its recurrent resistance to acknowledging the mistreatment of racialized minorities. In fact, there is an evident parallel between the government's inability to recognize its oppression of Indigenous communities, as well as its reluctance to provide redress for head tax payers. In July 2001, the Ontario Superior Court of Justice sided with the government and dismissed the plaintiffs' claims; the reasoning behind this decision was that the Charter could not apply retroactively, meaning that there must be a contemporary violation of its laws. Given that the head tax was repealed in 1947, the plaintiffs were not able to receive rectification for the violation of their rights on the basis of Canada's constitutional law (Moran & Dyzenhaus, 2005 p. 7).

However, the judge importantly emphasized how the dismissal of the case should not be taken as an endorsement of the government's actions. Despite his belief that the matter had no legal claim, the judge encouraged Parliament to provide redress for Chinese Canadians who were directly or indirectly affected by the head tax (Moran & Dyzenhaus, 2005 p. 7).

Nonetheless, the Chinese Canadian community would not have been coerced into involving the courts if their initial complaints were heard and attended to by the government.

Despite the unfavourable outcome of the lawsuit, *Mack v. Attorney General of Canada* (2002), head tax claimants continued to advocate for their rights to formal redress. Due to their persistent lobbying, in 2006, Prime Minister Stephen Harper finally issued a public apology in addition to symbolic rectification payments to head tax payers or their surviving spouses (Chu, 2016, p. 336). Although the payments provided some relief for many affected by the head tax, some continue to claim that financial restitution was not an adequate method of providing redress; instead, they maintain that the payments should have been supplemented with education and social programs that dismantled the same racist ideals often promoted by the Canadian state (Moran & Dyzenhaus, 2005 p. 14). It is also important to consider the groups that are intentionally excluded from such discussions of reparations. The process for determining how redress payments were allocated was highly gendered, seeing as Chinese women who had not been directly subjected to financial harm by the legislation had to depend on the head tax paid by their husbands (Chu, 2016, p. 336). The emotional consequences endured by Chinese women were purposefully ignored and overshadowed by the state's focus on providing remedies to direct victims of monetary loss. The government's failure to acknowledge the particularities of the experiences of Chinese women can be attributed to its own patriarchal values; Chinese women were continuously branded as passive, indifferent and naturally inclined towards domestic rather than productive work (Chu, 2016, p. 339). For this reason, instead of considering the various conditions that prevented Chinese women from immigrating to Canada in the past, the government falsely assumed that these women were simply not impacted by the head tax. Therefore, although there may have been some acknowledgement of the harm imposed upon the Chinese

Canadian community, the government's response was not inclusive nor considerate of all those who had suffered from the repercussions of the head tax.

Canada's treatment of Chinese immigrants as well as its problematic history of avoiding accountability have ultimately tainted its claim to being an accepting and inclusive nation. While Canadian law has ostensibly cleansed itself of explicitly discriminatory legislation, a closer examination of contemporary immigration patterns reveals that racism continues to flourish (Jakubowski & Comack, 2014, p. 88). Canadian law's claim to inclusivity may have enabled more people of racialized backgrounds to immigrate to Canada, but the persistent discrimination against such individuals becomes especially apparent when contrasted with the easier transition process experienced by White immigrants. As supported by the introduction of the 1962 *Immigration Act*, the Canadian state only exercises leniency in immigration matters when an increase in immigrants would favour its own economic interests (Jakubowski & Comack, 2014, p. 90). Although the purpose of this Act was to produce a set of standards under which all immigrants can be equally assessed, the government implicitly continued its efforts to make immigration more accessible for White individuals by opening more immigration offices in preferred countries (Jakubowski & Comack, 2014, p. 101). Even when they do manage to gain admission into Canada, just as the White workers blamed the Chinese labourers instead of the capitalist corporations for their loss of jobs, non-white immigrants are subjected to constant demonization and blamed for every social, moral or political problem that troubles the country (Jakubowski & Comack, 2014, p. 114). These immigrants come to Canada for a better life, and yet, they are coerced into a lifetime of hardship and discrimination at the hands of a state that values White supremacy.

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