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## Screening Out: HIV Testing and the Canadian Immigration Experience by Laura Bisailon

Rachel Cruz

*Osgoode Hall Law School of York University (Student Author)*

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Book Review



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## Screening Out: HIV Testing and the Canadian Immigration Experience by Laura Bisaillon

### Abstract

IN 2002, CANADA'S FEDERAL IMMIGRATION DEPARTMENT enacted a new policy regime that mandated HIV testing in the immigration medical examination.<sup>3</sup> This moment provided the primary motivation for the research that underlies Professor Laura Bisaillon's first book, *Screening Out: HIV Testing and the Canadian Immigration Experience* ("Screening Out").

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## Book Review

# *Screening Out: HIV Testing and the Canadian Immigration Experience* by Laura Bisaillon<sup>1</sup>

RACHEL CRUZ<sup>2</sup>

IN 2002, CANADA'S FEDERAL IMMIGRATION DEPARTMENT enacted a new policy regime that mandated HIV testing in the immigration medical examination.<sup>3</sup> This moment provided the primary motivation for the research that underlies Professor Laura Bisaillon's first book, *Screening Out: HIV Testing and the Canadian Immigration Experience* ("Screening Out").

Informed by her background as a community services worker for an AIDS organization, Bisaillon provides a detailed and intimate investigation into the specific medico-legal and administrative practices that govern the Canadian immigration system. Through employing the powerful tool of narrative and centering the lived experiences of HIV-positive (im)migrants<sup>4</sup> as they undergo the immigration application process, Bisaillon problematizes the state's ideological work regarding its HIV policy and mandatory screening. She ultimately argues that the immigration system and the medical inadmissibility regime are structured in a way that systemically disadvantages HIV-positive applicants.<sup>5</sup> In doing so,

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1. (UBC Press, 2022).

2. JD Candidate 2024, Osgoode Hall Law School.

3. See Bisaillon, *supra* note 1 at 30.

4. I use the term (im)migrant to encompass all immigrants and migrants, including refugees. In the immigration sphere, migrant is often used to describe someone who moves temporarily away from their place of residence and immigrant is someone that settles and stays permanently. I believe this term is most suitable because citizenship status is not guaranteed at the outset for HIV-positive applicants looking to achieve permanent residency.

5. See Bisaillon, *supra* note 1 at 5.

she provides valuable insight into the ways that citizenship status and health intersect across time and place to produce unique forms of disadvantage. Her analysis brings this hidden discrimination to the forefront and provides new knowledge about HIV-related social policy. In addition, Bisaillon proposes a triad of actionable strategies for legal reform.<sup>6</sup>

*Screening Out* contributes to an ongoing discussion regarding the gaps in Canada's immigration system and the ways this system engages in the categorization and social construction of (im)migrants seeking entrance into Canada. Though other research and academic scholarship similarly unpack immigration law's systemic prejudice against certain identities such as race, citizenship, and gender,<sup>7</sup> Bisaillon leverages this work to inform her own inquiry into the less explored topic of health-based prejudice, specifically through the immigration practices of HIV-positive applicants.

This book is wide in scope and robust in information. It alternates between experience, explication, and engagement with social science research to unpack the ways media, legal, medical, education, and immigration systems engage with one another to produce marginalization.<sup>8</sup> However, Bisaillon's work is most notable for its human-centred, institutional ethnographic<sup>9</sup> approach towards this topic, as she gathers experiences to inform a larger conversation about the institutional practices of immigration HIV testing.

Existing research surrounding immigration-related HIV medical testing often focuses on abstract quantitative measurement or an analysis of policy.<sup>10</sup> Therefore, there is a gap in the use of qualitative data and a lack of information on how those who are actually subject to such testing perceive their own experiences

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6. *Ibid* at 227-28.

7. See e.g. Constance Backhouse, *Colour-Coded: A Legal History of Racism in Canada, 1900-1950* (University of Toronto Press, 1999).

8. See Bisaillon, *supra* note 1 at 26.

9. Institutional ethnography can be defined as a method of inquiry that aims to explore how people's everyday experiences are linked to institutional arrangements and governing relations. See Maria Norstedt & Janne Paulsen Breimo, "Moving Beyond Everyday Life in Institutional Ethnographies: Methodological Challenges and Ethical Dilemmas" (2016) 17 Forum Qualitative Sozialforschung 1. In her book, Bisaillon describes institutional ethnography as a distinctive Canadian school of sociological analysis influenced by Dorothy Smith. See Bisaillon, *supra* note 1 at 18. See generally Dorothy E Smith, *Institutional Ethnography: A Sociology for People* (AltaMira Press, 2005).

10. See e.g. International Task Team on HIV-related Travel Restrictions, "The impact of HIV-related restrictions on entry, stay and residence: an annotated bibliography" (May 2009), online (pdf): <[www.unaids.org/sites/default/files/media\\_asset/jc1729\\_bibliography\\_en\\_0.pdf](http://www.unaids.org/sites/default/files/media_asset/jc1729_bibliography_en_0.pdf)> [perma.cc/5JWZ-KC2B]; Alana Klein, *HIV/AIDS and Immigration Final Report* (Canadian HIV/AIDS Legal Network, 2001).

during the process of seeking permanent residency. As such, knowledge of the actualities that occur outside of what is written on paper is largely lost, contributing to the lack of transparency and public knowledge surrounding Canadian immigration procedures.

Bisaillon's research effectively bridges this gap, as she performs a substantive walkthrough of the most important steps involved in the process—the application, the mandatory HIV testing, and the post-test HIV counselling—through the eyes of those living with HIV.<sup>11</sup> As Bisaillon quotes, “The significance of the voice of witness is that the witness has been there, has seen what happened.... The witness's narrative is only one of many, albeit one less heard.”<sup>12</sup> While she takes care to ground this research in people's everyday experiences, she focuses her analysis on governing relations rather than individual experience. Through ethnographic fieldwork in Gatineau, Montreal, Ottawa, and Toronto, she relies on observations in various settings, such as medical waiting rooms and immigration offices.<sup>13</sup> In addition, she uses an analysis of private and publicly available text, as well as qualitatively organized open-ended interviews and focus groups, to inform the bulk of this book.<sup>14</sup>

Bisaillon gathered her qualitative data through interviews with thirty-three applicants, who described their experiences with mandatory HIV testing in the immigration medical examination.<sup>15</sup> This was followed by interviews with twenty-eight people, who either had first-hand experience performing professional work with HIV-positive applicants, or whose work contributed to the bureaucracy within the larger immigration system.<sup>16</sup> Readers of *Screening Out* are observers of the interactions between applicants and various actors, including Bisaillon herself. Bisaillon's exploration provides important insight into the “publicly unknown bureaucratic process” that is the Canadian immigration system—one that is not even understood by the individuals who work within the immigration process.<sup>17</sup> Ultimately, the diversity of these sources allows for Bisaillon's wide and thorough exploration into the “medico-legal borderlands” where people with HIV reside within the immigration process, and they reveal

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11. See Bisaillon, *supra* note 1 at 219.

12. *Ibid* at 21, citing Shahram Khosravi, *'Illegal' Traveller: An Auto-Ethnography of Borders* (Palgrave Macmillan, 2010) at 6, DOI: <<https://doi.org/10.1057/9780230281325>>.

13. See Bisaillon, *supra* note 1 at 17-19.

14. *Ibid* at 17.

15. *Ibid* at 18.

16. *Ibid* at 19.

17. *Ibid* at 219.

the depth of discrimination within Canada's practices, procedures, and laws that has previously remained invisible to the larger public.<sup>18</sup>

The book is divided into three main chapters, alongside an introduction and a conclusion. The introduction acts as a methodological chapter, explaining the motivation behind Bisaillon's work, establishing the research methods used, and most importantly, introducing Martha, the main protagonist through whom the book's narrative-driven analysis develops. Each main chapter of *Screening Out* builds on the one before to create a comprehensive picture of the Canadian immigration experience for those with HIV; the reader moves alongside HIV-positive applicants in space and time as they progress through monumental steps in the immigration process, witnessing the systemic barriers and social stigma that permeate their interactions with the medical inadmissibility regime and the immigration system.

In the first chapter, Bisaillon introduces readers to the first obstacle that (im)migrants with HIV meet by exploring the reality of what the immigration application process looks like and consists of. She highlights how immigrating acts as its own form of physically demanding work, one that immediately begins as soon as the decision to apply is solidified.<sup>19</sup> However, through foregrounding the experiences of Martha, along with those of other (im)migrants and refugees, Bisaillon also demonstrates a wider problem at the institutional level. She transitions the discussion into the particular ways that (im)migrants must accept being classified or medically acted upon and how this categorization shapes the way they see and talk about themselves. Various interviewees express their alignment, or their quest to align, with what they perceive by the state as the "ideal" or "good" (im)migrant.<sup>20</sup> Bisaillon also shows the reader that these perceptions are not unfounded; cost-oriented reasoning and the idea of "burden" underlie health-based exclusion, forcing (im)migrants to work to prove themselves in their application.<sup>21</sup>

In a convincing first chapter, Bisaillon is detailed in her careful examination of this first stage in the immigration process. The use of narrative provides the reader with a familiar starting point, from which Bisaillon builds her argument to shift focus to the greater social and institutional implications that these applicants' experiences pose. She continues to do this throughout the remaining chapters of the book, building layers of knowledge for an uninformed reader

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18. *Ibid* at 25.

19. *Ibid* at 53.

20. *Ibid* at 36-93.

21. *Ibid* at 61-62.

that, by the end, have shaped a thorough awareness of the prejudicial interplay of institutional practices that lie within this HIV-specific immigration process.

Chapters two and three closely relate to one another, as Bisaillon contextualizes the mandatory HIV screening that is required of applicants and the following check-in appointment with the immigration doctor. The biographical re-telling of the experiences between applicants and doctors in the medical examination room transitions to a broader critique of this institutional worksite. The main takeaway from these chapters is that the practices of immigration doctors are constrained to favour the interests of their employer, Citizenship and Immigration Canada.<sup>22</sup> She argues that doctors' organizational consciousness, along with their work practices, are strategically structured to contribute to the state's work of assessing immigrant applications.<sup>23</sup> This requires categorization through documents and medical charts, through which the person is "defined and distinguished through diagnostic categories, pathologies, and the cost of services that state medical officers anticipate the person will impose on the Canadian public purse."<sup>24</sup> In turn, immigration doctors act as "fact finders" and "agents of surveillance for the state" that connect to a greater set of bureaucratic HIV-specific practices prioritizing interests of the pharmaceutical industry, state finances, and intellectual property.<sup>25</sup> Bisaillon frames the medical examination and associated doctor's appointment as more akin to a medical *interrogation*, one that forms the basis for medical inadmissibility decisions that deeply shape the outcomes and lives of those with HIV.

One of this book's greatest strengths is the ways in which it encompasses the nuance and complexity of the HIV-applicant experience through its emphasis on the applicant-focused narrative. Bisaillon demonstrates that storytelling, when done well, can bring value and depth to the topic at hand. While the use of narrative can often be criticized for its narrow focus on commonalities, which may fail to represent or even disqualify other experiences, Bisaillon acknowledges and navigates this obstacle formidably, ensuring that her findings and claims are supported with additional empirical data. Rather than simply focusing on what HIV-positive people have in common to forward her argument, Bisaillon takes care to capture and acknowledge other accounts, such as those who showed

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22. At the time of the author's writing, the federal immigration department was called Citizenship and Immigration Canada. At present, the department is now called Immigration, Refugees and Citizenship Canada. *Ibid* at 34.

23. *Ibid* at 116.

24. *Ibid* at 118.

25. *Ibid* at 175, 185, 194.

gratitude for the HIV-related services they were granted in Canada, which they “valued” or found “helpful.”<sup>26</sup> Yet, Bisaillon also notes that this does not discount the overall harm endured by those with whom she spoke, and that this gratitude does not change nor diminish the fact that their health condition exposed them to scrutiny and categorization under the state.<sup>27</sup>

In this vein, Bisaillon does an impressive job of addressing the intersections of citizenship and health status, and the way in which both identities may inform how HIV-positive people perceive their immigration process. A challenging finding, she notes, is that immigrant and refugee applicants themselves did not problematize their absence of choice in the matter of mandatory testing.<sup>28</sup> Instead, their need to conform to state-based constructions in order to present themselves favourably for the best chances of attaining citizenship informs a particular dynamic and tension that, while perhaps outside the scope of this book, warrants a deeper analysis.<sup>29</sup>

Most importantly, Bisaillon also engages with the ways that citizenship and health status intersect with race, class, and gender to complicate the mandatory medical screening and the immigration process for certain individuals. For example, through the experience of Winnie, another HIV-positive applicant that Bisaillon interviews, she problematizes how the immigration agent denied Winnie’s refugee application because they perceived Winnie’s accomplishments to be incompatible with her claim that she was persecuted on account of her gender.<sup>30</sup> This account provides an instance for Bisaillon to acknowledge that ideas of poverty, deservingness, citizenship, and bodily status are highly gendered.<sup>31</sup> Through her engagement with various, complex experiences, Bisaillon gives agency to those she writes about. They are not just one flat, indistinguishable, unknown category of people; Bisaillon shows readers that HIV-positive applicants are not a monolith. Not only do they have varied experiences with the immigration application process, but they also have widely differing perceptions of similar experiences with the process.

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26. *Ibid* at 230-31.

27. *Ibid*.

28. *Ibid* at xv.

29. *Ibid* at 49, 60. Through these accounts, Bisaillon demonstrates how applicants in this immigration process learn to perceive themselves through the cost-benefit risk assessment model of the state; they learn of dichotomies such as “abnormal” versus “normal” and “good chickens” versus “bad chickens” that the state utilizes to form its basis of decision-making.

30. *Ibid* at 79.

31. *Ibid*.



At the book's conclusion, Bisaillon offers three strategies for change that she argues are empirically supported and actionable: 1) to collectively pay attention to the inner workings of the medico-legal-administrative practices regulating state immigration; 2) to commit to changing these inner workings regulating the medical inadmissibility regime *within* state immigration; and 3) to repeal the organization of the current inner workings of the medico-legal administrative practices governing HIV in Canadian immigration.<sup>32</sup> She also calls for the abolition of the mandatory HIV screening test altogether. While these solutions are all plausible and a logical conclusion to the robust research Bisaillon presents throughout the book, it is not necessarily clear *how* these changes should specifically be implemented and *where* exactly to start. While Bisaillon notes that the answers are concretely mapped throughout *Screening Out*,<sup>33</sup> this is not necessarily made clear or visible to the reader. This is one area that could, perhaps, have benefitted from more direction and specificity.

Nevertheless, the framing of anecdote and experience within every chapter of *Screening Out* creates a sense of authenticity and intimacy that, at the same time, critically and comprehensively interrogates the inner workings of the medico-legal administrative practices that have shaped immigration to Canada. In doing so, it effectively encourages its readers to criticize and unpack the logic of exclusion on the basis of health. Bisaillon makes an important contribution to the existing literature on this topic with her inquiry into the large gap between the state's understanding of its HIV-related policies and the ways it operates in practice for HIV-positive people. With her findings, she is successful in both demonstrating to and convincing readers of the systemic prejudice underlying the immigration system and the medical inadmissibility regime that furthers a myriad of harms against HIV-positive applicants.

While this book centres its analysis and inquiry on the Canadian system, it is in no way confined to a Canadian audience. As Bisaillon asserts, "the effects of the state's immigration medico-legal administrative processes are generalizable across the world where medical examinations are carried out on behalf of Citizenship and Immigration Canada."<sup>34</sup> Her aim to engage a wide array of readers unfamiliar with the subject matter is reflected in her use of narrative, as well as the accessibility of her language, style, and argument. Whether (im)migrant or Canadian-born, the knowledge and insight that *Screening Out* provides into the previously hidden inner workings of Canadian immigration policy and practice would significantly benefit all audiences.

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32. *Ibid* at 227-28.

33. *Ibid*.

34. *Ibid* at 233.

