



Jewish culture for a just world

Ending the Racist Wealth Test: Eliminate the Public Charge Provision

What is Public Charge? A History of Discrimination

Since the 1880s, US law has contained a provision for inadmissibility on the grounds of public charge. It applies to those seeking to enter the US or, once here, obtain permanent status, but it doesn't specifically define public charge. The application of the public charge provision was discriminatory from its inception, aimed at excluding "any convict, lunatic, idiot or any person unable to take care of himself or herself without becoming a public charge."

In more recent history, according to the National Immigration Law Center, a person was considered a public charge for immigration purposes if they were primarily dependent on the federal government for subsistence. Since 1999, "primarily dependent" has been defined as someone who "received federal, state, or local cash assistance for income maintenance or were institutionalized for long-term care at government expense."

The Trump Administration: Instituting a Racist Wealth Test

On February 24, 2020, a new rule went into effect despite court challenges that blocked implementation for several months. The US Supreme Court stepped in and, in a 5-4 decision, allowed the Department of Homeland Security's rule to go into effect. This new rule changed "primarily dependent" on federal government benefits to "likely to use" as the criteria for classifying someone as a public charge—drastically broadening the definition to include use of benefits such as SNAP, low-income housing assistance, Medicaid (under most instances), Supplemental Security Income, and other public benefits. Benefits used before October 15, 2019 would not be considered and, for people waiting to enter the US, there are new instructions that allow for consideration of use of public benefits by applicants, their families, or sponsors.

The State Department has also instituted a similar rule for visa applicants, denying visas to people considered "likely to use" public benefits. How will the State Department predict who is likely to use benefits? They plan to use factors such as age, education, language proficiency, and health. Visa applicants can buy an "exception" for \$8,000 — a fee that low-income applicants, many of whom are people of color, wouldn't be able to pay. This reinforces the contention that this new rule amounts to a racially motivated wealth test.

A Troubling Impact on Immigrant Families in the US

Even though the new public charge rule has not taken effect, it has had a chilling effect on immigrants in the US. Some immigrant families, confused and fearful about the implications of the rule on their status, are refraining from accessing much-needed benefits. Many have left government programs that help keep food on their family's table

and a roof over their heads. Given that one in four children in the US have at least one foreign-born parent, the impact is widespread. Providers report an increase in missed medical appointments, decreased participation in SNAP, and lower participation in WIC which serves pregnant women and families with infants that need assistance. DACA recipients have started withdrawing from colleges, incorrectly believing that student aid may prevent them from gaining ultimate citizenship. A friend-of-the-court brief filed by more than 60 public health and policy scholars asserts that the public charge rule would jeopardize public health on a national scale.

#WeWerePublicCharges: Why the Workers Circle Cares

We have our own public charge story. In 1900, the Workers Circle was founded by Yiddish-speaking Eastern European immigrants who came to the US with little or nothing in their pockets. They certainly wouldn't have been able to get to America if Trump's public charge rule were in effect. In fact, even then, many Jews were denied admission once they got to Ellis Island if they didn't have \$25 and a ticket to their final destination.

In the 1930s tens of thousands of Jews seeking to flee the rising danger in Germany and barred by the Nazis from taking assets out of the country were denied US visas because of the Hoover Administration's broad interpretation of the public charge provision in the immigration code. Even after President Roosevelt took office in 1933, opposition from the public and some State Department officials motivated in part by anti-Semitism prompted the Administration to maintain the harsh public charge exclusion.

The Workers Circle opposes the Trump Administration's new rule that redefines the public charge provision in the US immigration code. As long as there is public charge language in the US Immigration and Nationality Act, administrations may use it, as the Trump Administration is doing, as a justification for applying a racist wealth test or other draconian hurdles for immigrants seeking visas or permanent status in the United States.

As an organization that champions the rights and well-being of immigrants and fights for economic justice, we agree with Judge George B. Daniels of the New York Federal District Court. In his October 2019 ruling blocking the implementation of the Trump public charge rule, he called it, "...repugnant to the American Dream of the opportunity for prosperity and success through hard work and upward mobility."

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