

Disability and Rights for Citizens (DRC) Project

Convention on the Rights of Persons with Disabilities (CRPD)

Centre for Independent Living in Toronto (CILT)
Council of Canadians with Disabilities (CCD)
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Introduction

Q: What is the CRPD?

A: The CRPD is the first United Nations human rights instrument of the 21st century. The CRPD confirms that all persons with disabilities enjoy fully all human rights and fundamental freedoms.

The CRPD is important because, historically, other UN documents that deal with Human Rights have not explicitly included people with disabilities. Not only is the CRPD specific to people with disabilities, but people with disabilities were actively involved in developing this document. Countries have also agreed that persons with disabilities and their representative organizations must be consulted in the development of legislative and policy measures affecting their lives.

The CRPD is also unique in that it acknowledges the intersectionality (see Glossary) of rights and barriers for people with disabilities.

After almost five years of negotiations, the CRPD became part of international mandatory law on May 03, 2008. To date, it has been signed by 155 countries and ratified by 133. Canada signed the CRPD in March 2007 and ratified it in March 2010.

Now that Canada has signed and ratified the CRPD, persons with disabilities also have an important role in the promotion, implementation and monitoring of the convention.

Q: What is the purpose of today's presentation?

A: To provide information about the content of the CRPD based on a disability rights and independent living perspective. Persons with disabilities, their representative organizations and other civil society, or equality seeking groups must be aware of the content of the CRPD.

We must also clarify that the measures mentioned in CRPD are not automatically put into practice by Canadian jurisdictions, such as the federal and provincial government(s). This information is necessary in order to use CRPD effectively when meeting with politicians and other decision-makers to advocate for CRPD'S implementation. The content of this presentation, therefore, is not intended as legal advice.

In the CRPD, State Parties or countries, acknowledge that persons with disabilities continue to experience barriers in all parts of the world. Countries commit themselves to take action to ensure that barriers are removed and that persons with disabilities enjoy full equality.

Q: Does the CRPD take into account Canadian equality and nondiscrimination principles?

A: Canadian equality and nondiscrimination principles played an important role in the development of the CRPD. The CRPD is consistent with the Canadian *Charter of Rights and Freedoms*, which is part of the Canadian Constitution and protects the equality of persons with disabilities.

Q: How do we know that all levels of governments in Canada are included in the CRPD?

A: Article 4 of the CRPD explains the obligations Canada has accepted by signing and ratifying CRPD. Part 5 of Article 4 says that CRPD applies to all levels of a federal state like Canada. There are no exceptions. This means that the federal government of Canada, the provincial governments, including Ontario, and municipal governments are all bound by the CRPD.

Q: What issues do you think the CRPD addresses for people with disabilities?

A: The CRPD contains specific Articles on such critical issues as: accessibility, education, health, transportation, employment, and attendant services.

Q: What can people with disabilities do to help improve their living conditions?

A: In Canada, as in other countries, we must now work to make sure governments implement the CRPD. For example: becoming informed about the CRPD, advocating for our rights, talking to our MPP, each other, the media and the general public.

Key Articles

Article 1 - Purpose

Discusses the purpose of the CRPD, which is to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Article 3 – General Principles

Lists the General Principles of the convention which are:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;

- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 19 - Living independently and being included in the community

This article is unique and a key provision of the CRPD. According to this Article, Canada and Ontario have recognized that persons with disabilities have the right to live in the community. The federal and provincial governments have agreed to take effective and appropriate measures to make that right a reality. These measures must make sure that community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 28 - Adequate standard of living and social protection

Addresses issues of an adequate standard of living and social protection, including poverty-related issues and disability-related supports. Confronting poverty and enhancing disability supports are priorities for Canadians with disabilities.

Community Priorities

Below, we discuss some CRPD articles that can be helpful in addressing some community priority issues identified by CILT and grounded in the community experience.

Housing

Q: Does CRPD address problems people with disabilities face with housing?

A: Yes. In Article 28 the governments have recognized that persons with disabilities have a right to adequate housing.

It is important to understand that the right to adequate housing is included in Article 28. This article addresses adequate standards of living and social protection. Therefore, housing is understood to be part of related issues such as income, food and clothing.

It is also important to remember that having access to adequate housing is inextricably linked to being in the community. So, housing is also linked to Article 19 (Independent Living and being included in the community).

Let's look now at some specific issues people with disabilities face in Toronto.

Issue 1:

In Toronto anyone that needs a rent geared to income or (RGI) unit must apply to the Housing Connections. People with disabilities have often had challenges around the accessibility of the application process.

Response:

The Ontario Government and the City of Toronto governed by the Ontario Municipal Governments Act, according to the CRPD, are obligated to provide adequate, safe and accessible housing (Articles 9, 19 and 28). They have also agreed to consult with persons with disabilities in developing their policies and programmes (Article 4.3).

Issue 2:

The wait list for RGI units that are wheelchair accessible is long.

Response:

Government is obligated through the CRPD to use the maximum of its available money to provide adequate and appropriate housing for persons with disabilities (Articles 4.2 and 28).

Issue 3:

Some of the units are designated or identified as wheelchair accessible but in fact they are not fully accessible. For example, there may be a ramp at the door, and the building may have an automatic door but the unit itself does not have a wheelchair accessible roll-in shower.

Response:

The CRPD says that the government must use universal design principles in building or arranging for the construction of housing stock. Ideally this means that all new housing stock must meet the needs of persons with disabilities. (Article 3).

Issue 4:

Not all wheelchair accessible units have an attendant care service provider attached to that unit.

Response:

According to the CRPD, the government has to “take effective and appropriate measures” so that “Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community,” (Article 19).

Attendant Care Services**Q: Does CRPD acknowledge the issue of attendant care services?**

A: Yes. Attendant care services are specifically addressed in Article 19. In Article 19 the government has recognized the right of persons with disabilities to live independently and to be included in the community. In the preamble of the CRPD, the government has recognized the

need to protect the human rights of those persons who need intensive support, regardless of their level of need.

Issue 1:

Attendant services have long waiting lists.

Response:

Under the CRPD, We believe, governments are obligated to progressively improve services for persons with disabilities, including services that enable them to live in the community and carry out “their child-rearing responsibilities.” (Articles 19 and 23).

Issue 2:

Only certain persons with disabilities can apply for attendant services.

Response:

The government may not discriminate because of disability. Therefore, there should be a range of services, in addition to attendant services, available and the needs and disabilities of the individual should be the driving determinant or overriding factor.

Issue 3:

Attendant service programs are all limited to a maximum number of hours a person can receive under the program. If someone needs more hours because they don’t have family or other support that is not considered.

Response:

The government should try to meet the needs of persons with disabilities, regardless of family status (*Ontario Human Rights Code*, Section 1).

Issue 4:

Ontario has a Direct Funding program whereby people can hire their own attendants. In order to be a self-manager you need to be able to direct your care, and have a physical disability. People that may have multiple disabilities and the primary disability is an intellectual disability would not be eligible for the Direct Funding program, even though they do have a physical disability.

Response:

The government should provide persons with intellectual disabilities the services they need to live in the community.

Employment

Q: Does CRPD address employment-related issues?

A: Yes. In CRPD Article 27 (Work and employment), countries agree that persons with disabilities should have the same chances and rights at work as other people. Persons with

disabilities must have opportunities to work and make a living. Countries must take measures to protect persons who become disabled while already at work. Countries must make sure that persons with disabilities have effective access to general technical and vocational guidance programmes, placement services and continuing training.

Issue 1:

Many persons with disabilities are not employed, although they are employable. One problem is that employers do not think persons with disabilities can do the job.

Response:

The government has agreed to “promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;” (Article 8).

Issue 2:

Another problem is that employers claim they do not have enough money in the budget to pay for adaptive equipment. Employers also state that they do not have enough money to put in an accessible ramp, or an automatic door opener.

Response:

In Article 3 the government has agreed to make employers aware of their responsibility to accommodate the needs of persons with disabilities to the point of “undue hardship” (see Glossary). The *Ontario Human Rights Code* also places the responsibility on employers to accommodate the needs of persons with disabilities to the point of undue hardship. The government has the option of providing “incentives” to private-sector employers, to promote the employment of people with disabilities (Article 27).

Issue 3:

Persons with disabilities may not necessarily be employable because they do not have relevant work experience.

Response:

The government has agreed to take appropriate steps designed to “Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;” (Article 27.1 (d)).

Issue 4:

A person may have several disabilities and may not be open to having a job coach.

Response:

In cases where persons with disabilities, themselves, conclude that they are unable to work, the government has agreed to provide them with an adequate standard of living (Article 28). Of course, persons with disabilities must demonstrate their eligibility for financial assistance based on particular programme criteria.

Transportation

Q: Does CRPD provide for accessible transportation?

A: Yes. CRPD Articles 20 and 9 contain specific provisions in relation to transportation. Canada and Ontario have agreed to take effective measures to ensure mobility independence of persons with disabilities. The specific measures concern: choice, affordable cost, mobility aids, devices, assistive technologies and forms of live assistance and intermediaries. These measures also concern mobility training for persons with disabilities and professionals working with persons with disabilities. The government must also encourage producers of mobility aids, devices and assistive technologies to take into account the needs of persons with disabilities.

Issue 1:

Transportation systems still remain inaccessible to some degree.

Response:

Canada and Ontario are obligated to take actions to make transportation accessible. The governments must make constant progress. They must use the maximum of available resources and must consult persons with disabilities in priority-setting.

Issue 2:

Transportation is too costly, especially when intercity travel is involved, for example, because of employment-related requirements.

Response:

Article 20 of CRPD, which addresses the mobility of persons with disabilities, calls for the availability of affordable mobility facilities. The above example shows interconnection between inadequate employment opportunities, transportation inaccessibility and/or costs, and, ultimately, poverty. By ratifying CRPD, Canada and Ontario have recognized these interrelated issues and must now take action, progressively but steadily, to address them.

Issue 3:

In Toronto, wheelchair users still experience difficulties getting an accessible taxi when they need it. Further, some accessible taxi rides are disproportionately costly, taking into account the distance traveled.

Response:

Canada and Ontario have accepted the obligation under Article 4 “To undertake or promote research and development of universally designed goods, services, equipment and facilities...which should require... the least cost to meet the specific needs of a person with disabilities, to promote their availability and use...”

Article 9 states that governments must take appropriate measures to ensure to persons with disabilities have access to transportation and other facilities and services open or provided to the public, both in urban and rural areas.”

Accessible Information

Q: Does CRPD acknowledge the issue of access to information.

A: Various CRPD articles discuss parts of accessible information and communication. For example, Article 2 defines what “communication” means, and is focused on accessible alternative modes and formats. Article 9 states that countries need to make sure that persons with disabilities have access to information and communications. Article 21 is focused on enabling persons with disabilities to look for, get and share information and ideas.

Issue 1:

There is a lack of access to medical information in alternate media. For example: A person with a disability may be diagnosed with cancer. This person's doctor has print information about the type of cancer but does not have the information in alternate media. This type of information can help people to make informed choices about their treatment path.

Response:

Article 9 is concerned with persons with disabilities being able to live independently and participate fully in all aspects of life. Therefore, they need equal access to:

- (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- (b) Information, communications and other services, including electronic services and emergency services;
- (c) Forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- (d) Other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (e) New information and communications technologies and systems, including the Internet;
- (f) The design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Issue 2:

In Federal elections, persons with disabilities often have difficulty voting and sometimes cannot independently verify their ballot.

Response:

In Article 29, participation in political and public life by persons with disabilities is addressed. The article says that governments must ensure that voting procedures, facilities, and materials, are accessible and easy to understand and use. Governments must also allow persons with disabilities choose a person to provide them assistance when they are voting.

Issue 3:

None of the Toronto Community Housing Corporation applications, for example, is in alternative formats. Government funding applications are often provided in inaccessible formats which cannot be completed by people who use screen readers.

Response:

Under Article 4 of the CRPD, Ontario has the following obligation:

“(d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;”

The provisions of Articles 9 and 21, already mentioned above, also apply in relation to this issue. Therefore, the government has an obligation to make all forms and applications accessible to people with disabilities

Conclusion

We hope that we have been able to give you some understanding of what CRPD is all about. We have tried to relate some of its provisions to pressing issues faced by persons with disabilities in Toronto. We have attempted to do that in the belief that only if persons with disabilities are informed about our rights and take action to claim them, can we build an inclusive and accessible society.