

The Convention on the Rights of Persons with Disabilities

Canada has ratified the Convention on the Rights of Persons with Disabilities but not the Optional Protocol to the Convention.

Adoption: The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007.

Entry into force: 3 May 2008.

Number of signatories and ratifications/accessions: There are 151 state parties to the Convention. An additional 31 states have signed but not ratified the Convention. There are 85 state parties to the Optional Protocol to the Convention on the Rights of Persons with Disabilities. An additional 31 states have signed but not ratified the Optional Protocol.

On this page

- [Summary information](#)
- [History](#)
- [Key Provisions](#)
- [Canada's Commitments and Responsibilities](#)
- [International Monitoring and Implementation](#)
- [References](#)

Summary information

The [Convention](#) promotes, protects and ensures "the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities" and promotes "respect for their inherent dignity." It is "intended as a human rights instrument with an explicit, social development dimension. It adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms." It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made to allow persons with disabilities to effectively exercise their rights. It also [identifies areas where their rights have been violated, and where protection of rights must be reinforced](#).

The Convention established the *Committee on the Rights of Persons with Disabilities* to receive reports from State parties on measures taken and progress made to give effect to obligations under the Convention, to consider those reports and to make suggestions and recommendations. The [Optional Protocol to the Convention](#) recognizes the competence of this Committee "to receive and consider communications from or on

behalf of individuals or groups of individuals,” that are subject to the jurisdiction of the State party and “who claim to be victims of a violation by that State party of the provisions of the Convention.”

The Convention on the Rights of Persons with Disabilities and its Optional Protocol were adopted by the General Assembly of the United Nations on December 13, 2006 and were opened for signature on 30 March 2007. On the day these legal instruments were opened for signatures, there were 82 signatories to the Convention and one ratification, as well as 44 signatories to the Optional Protocol. This is the highest number of signatories in history to a UN Convention on its opening day. It became the first comprehensive human rights treaty of the 21st century and the first human rights convention to be open for signature by regional organizations as well as UN member states. The [Convention and its Optional Protocol entered into force on May 3, 2008](#) after the Convention received its twentieth ratification and the Optional Protocol ten ratifications.

History

The Convention follows decades of work by the United Nations to change attitudes and approaches to persons with disabilities.

In 1976, [the General Assembly proclaimed 1981 as the International Year of Disabled Persons](#). It called for a plan of action at the national, regional and international levels, with an emphasis on equalization of opportunities, rehabilitation and prevention of disabilities.

A major outcome of the International Year of Disabled Persons was the formulation of the [World Programme of Action \(WPA\) concerning Disabled Persons](#), adopted by the General Assembly on December 3, 1982. The WPA was “a global strategy to enhance disability prevention, rehabilitation and equalization of opportunities, which pertains to full participation of persons with disabilities in social life and national development.” The WPA also emphasized “the need to approach disability from a human rights perspective.” In order to provide a time frame during which Governments and organizations could implement the activities recommended in the WPA, the General Assembly proclaimed 1983-1992 the United Nations Decade of Disabled Persons.

In 1987, a global meeting of experts to review progress recommended that the General Assembly draft an international convention on the elimination of discrimination against persons with disabilities. Draft convention outlines were proposed by Italy, and subsequently Sweden, but no consensus was reached. Many government representatives argued that existing human rights documents were sufficient. Instead, non-compulsory "Standard Rules on the Equalisation of Opportunities for Persons with Disabilities" were adopted by the General Assembly in 1993. In 2000, leaders of five international disability NGOs issued a declaration calling on all governments to support a Convention.

Then in 2001, a proposal by Mexico was accepted by the General Assembly to establish an *Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities* ([Ad Hoc Committee](#)) to consider proposals for such a convention.

The first session of the Ad Hoc Committee was held in 2002 and the Convention was negotiated during seven subsequent sessions from 2003 to 2006. Regional consultative meetings were also held in many regions and in some sub-regions from 2003 to 2006. The outcome documents from these meetings provided suggestions and recommendations reflecting the national, sub-regional and regional priorities which contributed to the work of the Ad Hoc Committee. In addition, organizations of persons with disabilities and other NGOs were very active throughout the process in providing comments and information from a disability perspective.

Key Provisions

The purpose of the [Convention](#) 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.”

The guiding principles for the Convention are:

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- Non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Accordingly, State parties “undertake to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention,” “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities,” and “to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes.”

Some of the key responsibilities of the State parties include:

- Ensuring “effective access to justice for persons with disabilities on an equal basis with others”;

- Recognizing “that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life,” and taking “appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity,” while ensuring that “measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence ... and are subject to regular review by a competent, independent and impartial authority or judicial body.” (Article 12 – see also Canadian Reservations/Declarations below);
- Ensuring that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,” in particular that “no one shall be subjected without his or her free consent to medical or scientific experimentation”;
- Recognizing “that women and girls with disabilities are subject to multiple discrimination,” and taking “measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms”;
- Ensuring “the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children;” and
- Recognizing that “persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.”

A number of provisions relate to the full participation of persons with disabilities in society. State parties must ensure that these persons:

- Have “access, on an equal basis with others, to the physical environment, to transportation, to information and communications ... and to other facilities and services open or provided to the public, both in urban and in rural areas”;
- Can “exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice”;
- Have “the opportunity to enjoy political rights on an equal basis with others”;
- Have “freedom to choose their residence and to a nationality” and “the equal right ... to live in the community, with choices equal to others”;
- Are protected against discrimination “in all matters relating to marriage, family, parenthood and relationships” and “from all forms of exploitation, violence and abuse, including their gender-based aspects”;
- Have the right to education and “to learn life and social development skills to facilitate their full and equal participation in education and as members of the community”;

- Have “the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities”;
- Have “an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions”; and
- Have the right “to take part on an equal basis with others in cultural life.”

Canada’s Commitments and Responsibilities

Canada has ratified the Convention but not the Optional Protocol.

Canada was among the 82 State parties that became signatories to the Convention on March 30, 2007, the day it was opened for signature. Canada ratified the convention on March 11, 2010.

Canadian Reservations/Declarations

Canada has made declarations and reservations with respect to the interpretation of two articles.

With respect to Article 12 (Equal recognition before the law), Canada declared that it understands “that Article 12 permits supported and substitute decision-making arrangements in appropriate circumstances and in accordance with the law.” However, if Article 12 was to be interpreted “as requiring the elimination of all substitute decision-making arrangements, Canada reserves the right to continue their use in appropriate circumstances and subject to appropriate and effective safeguards.”

Furthermore, with respect to Article 12 (4), which concerns support for legal capacity for persons with disabilities, specifically the requirement for “regular review by a competent, independent and impartial authority or judicial body”, “Canada reserves the right not to subject all such measures to regular review by an independent authority, where such measures are already subject to review or appeal.”

With respect to Article 33 (National Implementation and Monitoring), specifically Article 33 (2), which requires State parties to “maintain, strengthen, designate or establish ... a framework ... to promote, protect and monitor implementation of the present Convention,” Canada interprets the article “as accommodating the situation of federal states where the implementation of the Convention will occur at more than one level of government and through a variety of mechanisms, including existing ones.”

Canada has not signed the Optional Protocol which recognizes the competence of the Committee on the Rights of Persons with Disabilities “to examine individual complaints with regard to alleged violations of the Convention by States parties to the Protocol.”

In June 2014, at a meeting of the National Council of Representatives of the Council of Canadians with Disabilities, Mr. Shuaib Chalklen, UN Special Rapporteur on Disability of the Commission for Social Development, commented that he “was surprised to hear yesterday that Canada did not ratify the optional protocol to the Convention. I'm very disappointed by that and that you have a reservation on Article 12 as well. I hope it changes in future that Canada withdraws the reservation on Article 12 and that they ratify the optional protocol, because that disempowers you considerably on two major achievements on a global level.”

International Monitoring and Implementation

Article 33 of the Convention requires State parties to set up one or more focal points within government in order to monitor implementation of the Convention. States must also set up some sort of independent monitoring mechanisms, which usually takes the form of an independent national human rights institution.

International monitoring is achieved via the Committee on the Rights of Persons with Disabilities and the Conference of States Parties.

A State party must submit to the Committee, through the UN Secretary-General, a comprehensive report on measures taken and progress made to give effect to its obligations under the Convention within two years after the entry into force of the Convention for the State Party concerned and subsequently at least every four years or whenever the Committee so requests.

“Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.”

“The Secretary-General of the United Nations shall make available the reports to all States Parties” and the “Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee’s observations and recommendations, if any, on these requests or indications.” (Article 36 of the Convention)

Canada submitted its first report to the Committee in February 2014. In Canada’s report, it was noted that “While great progress has been made to increase the inclusion and participation of persons with disabilities in society, Canada recognizes that there

continues to be challenges, including barriers to language and communication, learning and training, and safety and security. Improving the well-being of persons with disabilities, increasing their opportunities to participate in economic and social life, and fulfilling their potential requires an ongoing, multi-faceted and multi-partner approach.”

To date, the Committee has not made any suggestions or recommendations in response to Canada’s first report.

References

[Convention on the Rights of Persons with Disabilities \(CRPD\)](#)

[United Nations Enable Website on CRPD](#)

[CRPD - Optional Protocol](#)

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[United Nations Treaty Collection – Chapter 4 – Human Rights - CRPD](#)

[HillNotes - Canada and the Convention on the Rights of Persons with Disabilities](#)

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[Canadian Association for the Deaf – News and Events – July 3, 2014 UN Special Rapporteur Surprised by Canada's Performance on the CRPD](#)

[United Nations Enable - Monitoring of the Implementation of the Convention](#)

[Council of Canadians with Disabilities - Convention on the Rights of Persons with Disabilities: First Report of Canada](#)