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Canadian Association
for Community Living

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l'intégration communautaire

Diversity includes. On se ressemble.

MAKING IT REAL

A CALL TO ACTION ON RATIFICATION AND IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Canadian Association for Community Living
June 2009

INTRODUCTION

The following **Call to Action** provides background information on the development of the UN Convention on the Rights of Persons with Disabilities (CRPD). It is designed to provide individuals and communities with information about the Convention and to provide ideas for action that we all can take to make the CRPD a reality in Canada.

The CRPD is not just a listing of human rights. It is a tool that helps communities and governments understand why and how the rights of people with disabilities aren't being realized. It provides a framework that articulates the conditions needed to make rights a reality.

While the CRPD does not establish any new rights for people with disabilities, it introduces new concepts that are necessary for the realization of a right.

The CRPD provides an aspirational direction to guide our efforts to build an inclusive and accessible Canada. The CRPD can make a meaningful difference in lives of people with disabilities and their families in Canada and around the world. But we need your help to make it happen.

Together we can transform RIGHTS into ACTION.



Canada signs the UN Convention on the Rights of Persons with Disabilities, March 30, 2007

Background

On December 13, 2006, the United Nations General Assembly formally adopted the Convention on the Rights of Persons with Disabilities (CRPD). The CRPD is a Convention of many "firsts":

- the first human rights treaty of the 21st Century;
- the fastest negotiated human rights Convention in UN history;
- the first time in history civil society actively participated in the development and negotiation of the text;
- the first human rights Convention with an explicit social development dimension;
- With 82 signatories on its first day open for signature, March 30, 2007, it has the highest number of signatories in history to a UN Convention; and,
- the first time Canada has signed a UN Convention on its opening day.

What is the CRPD?

The CRPD, in 50 articles, clearly articulates what existing human rights mean within a disability context and establishes reporting and monitoring procedures for States Parties. Additionally, there is an Optional Protocol (OP) which provides for a complaints mechanism. The OP allows groups and individuals, after having exhausted all national resources, to have the Committee on the Rights of Persons with Disabilities consider a claim that a State Party has violated the provisions in the CRPD.

A NEW APPROACH TO RIGHTS

The CRPD is unique for three reasons:

The way it was developed

- Never before in the history of the United Nations have people affected by a Convention been so intimately involved in drafting it.
- The disability community influenced not only the text itself, but also influenced the level of awareness among member states of the challenges faced by people with disabilities and their families.

The way it understands human rights

- Consolidates the shift from medical to social model, issues no longer seeing disability as a problem, understand it as a set of barriers, convention firmly rooted in this perspective and seen as a tool to drive this shift.
- Represents a shift in understanding human rights in isolation to seeing their realization within a context of development and cooperation and to link policy and investments in poverty reduction to a human rights framework.
- Explicit social development dimension.
- Provides parameters/map for Human rights driven development.

The way it will be serviced

- This Convention will be the first core human rights Convention to have links to both the Office of the High Commissioner on Human Rights and the Department of Economic and Social Affairs.
- This Convention helps move the UN towards a new way of working by recognizing the need for cooperation and collaboration.

Why a UN Convention?

Despite advances in human rights protections for persons with disabilities there has not been significant change in the status of people with disabilities and their families.

We know that people with disabilities and their families remain among the poorest of the poor.

Where laws exist, people with disabilities and their families report limited implementation and influence in promoting social change.

Additionally, existing human rights treaties have not been used to promote and protect the rights of persons with disabilities.

CRPD Timeline

December 19, 2001

UN General Assembly adopts resolution 56/168 and establishes an Ad Hoc Committee to explore the development of a Convention on disability

2002 – 2006

Convention Negotiated over 8 Ad Hoc Committee sessions at the UN Headquarters in New York.

December 13, 2006

Convention adopted by UN General Assembly

March 30, 2007

Convention opened for signature

May 3, 2008

Convention comes into force



Convention Negotiations, UN Headquarters, New York

CRITICAL ACCOMPLISHMENTS AND PRIORITIES

CACL celebrates the CRPD, and its accomplishments, as a whole. However, CACL’s priorities for advancing the CRPD and making it a reality for people with disabilities and their families are: **Families, Legal Capacity, Living in the Community, Education.**

CACL Position	What the CRPD says	What CACL is calling for
<p>Families CACL believes that families play a critical role in the promotion of human rights and the inclusion of people with intellectual disabilities and that they require supports to fulfill this role.</p>	<p>The Preamble to the Convention recognizes the role of families: “Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the state, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities”</p>	<ul style="list-style-type: none"> ✓ Recognition of the role families play in supporting their family members with a disability ✓ Establishment of family supportive policies ✓ Assistance for families to enable them to support their family member with a disability – this could include tax breaks, respite, caregiver benefits, paid leave, employment security etc.
<p>Legal Capacity CACL believes that all people, regardless of disability, have full and equal legal capacity. The right to make decisions in ones own life is foundational to all of our rights.</p>	<p>Article 12 recognizes:</p> <ul style="list-style-type: none"> • that persons with disabilities have the right to recognition everywhere as persons before the law; • that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life; • that States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity. 	<ul style="list-style-type: none"> ✓ Recognition that all people with disabilities have the right to make decisions for themselves and have those decisions respected. ✓ Recognition that the Federal Government has a role in securing legal capacity. . ✓ Access to supported decision making where assistance in exercising legal capacity is needed ✓ The establishment of supported decision making legislation throughout Canada
<p>Living in the Community CACL believes that all people, regardless of needed or perceived levels of support need, can live successfully in the community. Institutions have no place in the lives of</p>	<p>Article 19 recognizes “the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community...”</p>	<ul style="list-style-type: none"> ✓ The opportunity to choose where and with whom you live. ✓ Ensuring people with disabilities are not obliged to live in particular living arrangements or in institutions ✓ Increased efforts to close down Canada’s remaining institutions ✓ Access to personal assistance and various community

CACL Position	What the CRPD says	What CACL is calling for
people with intellectual disabilities.		services to accommodate community living and to prevent isolation or segregation from the community ✓ Supports are subsidized and accessible to all persons with disabilities regardless of location and economic status
Education CACL promotes the right to inclusive education as the basis for the full development of the person and as a means to enable the person to participate effectively in society and believes that all persons with disability should be able to choose inclusive education in their own community.	Article 24 recognizes: “the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive, education system at all levels, and life-long learning(…)”	✓ An inclusive approach to planning, funding and organizing education ✓ Inclusive options for all students, at all levels of education, respecting the specific needs of blind, deaf and deafblind students ✓ People with disabilities are not excluded from education because of their disability ✓ People with disabilities can choose education that is in their own community and is accessible

Additional accomplishments include:

- Right to Employment (article 26)
- Liberty of Movement and Nationality (article 18)
- Right to an adequate standard of living (article 28)
- International Cooperation (article 32)
- Recognition of Children (article 7)
- Recognition of Women (article 6)
- Protection from exploitation, violence and abuse (article 16)

CACL POSITION ON RATIFICATION

CACL believes that Canada’s existing human rights infrastructure and legislation is currently compliant with the framework of the CRPD. CACL has urged the Government of Canada to ratify now, without reservation. Because of the way Canada is structured, **Canada can ratify a treaty without altering any current legislation** so long as what already exists is not in direct contradiction to the provisions of the treaty at hand. While existing legislation can be improved and new legislation may be required, CACL believes these steps can be part of a comprehensive Implementation Action Plan.

MAKING THE CRPD REAL

RATIFICATION

Following adoption of a UN Convention, the treaty is open for **signature and ratification**. Canada signed the CRPD on March 30, 2007, but, has not yet ratified. The Government of Canada is currently engaged in consultations with provincial/territorial governments and civil society about ratification.

What is Ratification?

Ratification is the formal process whereby member states become party to the Convention and agree to be legally bound by its provisions. To ratify the CRPD Canada must ensure that existing legislation, policies and practices do not contradict the obligations set forth by the Convention. Canada is a dualist state which means that Canada can ratify a treaty without altering any current legislation so long as what already exists is not in direct contradiction to the provisions of the treaty at hand.

Reservations, Understandings and Declarations

At the time of ratification a state can submit a reservation, understanding or declaration (RUDs). RUDs are used if there are certain provisions of the Convention that the state feels necessary to interpret in an alternative way or to exclude from their responsibility altogether. RUDs can be used to limit obligations laid out in a Convention. **CACL urges the Government of Canada to ratify without reservation.**

Who Ratifies?

Nations sign and ratify the CRPD. Although much of the content of the CRPD is within provincial/territorial jurisdiction, **the power for ratification rests with the Federal Government.** However, before ratification can happen the Minister of Foreign Affairs must have been informed that all of the provinces and territories do not include any contradicting legislation.

How will Canada be held accountable to the CRPD?

The Committee on the Convention on the Rights of Persons with Disabilities

When the CRPD came into force, a Committee on the Rights of Persons with Disabilities was established. The Committee currently has 12 members. Only countries who have ratified the Convention can nominate a committee member. The Committee forms the CRPD's reporting and monitoring body. States that become party to the CRPD must submit comprehensive reports on implementation of the CRPD two years after ratification and every four years after that. The Committee will review reports and engage in a constructive dialogue with the State regarding questions on implementation, national priorities, successes and good practices, as well as challenges in meeting Convention obligations. The Committee will issue "concluding observations" or "comments," which represent the Committee's understanding of how the Convention is being implemented, and also includes clear operational recommendations to that government on how its implementation can be improved. The Committee may also issue General Comments – interpretations of a provision of the CRPD or a particular theme.

Optional Protocol

The Optional Protocol (OP) is an important part of the CRPD. It is the mechanism to enable individuals and groups to bring a complaint to the international level regarding a rights based violation under the CRPD. It also provides the Committee on the Convention on the Rights of Persons with Disabilities the authority to initiate an inquiry at the country level. The OP, while related to the CRPD, is a distinct

document that requires signature and ratification. **Canada has not signed the OP and is not currently considering its ratification. CACL encourages the Government of Canada to sign and ratify the OP.**

Consultations on the CRPD

At the *provincial/territorial level*, consultations were conducted through the Continuing Committee of Officials on Human Rights (CCOHR). The CCOHR is comprised of civil servants from federal and provincial/territorial jurisdictions. The members of the CCOHR are not made public. Civil society was not invited to be part of the consultations between the federal government and provincial/territorial governments.

At the *federal level*, the Government of Canada, through the Department of Human Resources and Skills Development, is conducting on-line consultations and hosting a face-to-face roundtable with national disability organizations. To participate in the on-line consultations visit: www.hrsdc.gc.ca/consultations

WHAT'S NEEDED TO MAKE RATIFICATION AND IMPLEMENTATION A REALITY

CACL is committed to supporting the Canadian Government to ratify and implement the Convention domestically and contribute to its realization internationally. CACL believes the following three conditions are essential for moving the CRPD through ratification and implementation:

Dialogue – National and provincial/territorial dialogue with civil society and the disability community are essential for developing a shared understanding of the CRPD.

A CRPD Focal Point – It is critical that the CRPD have a publicly accessible focal point in Government. Such a mechanism should include FPT cross-departmental representation and civil society.

Resourced Plan for Implementation – To effectively implement the CRPD, an appropriately resourced plan should be developed, in collaboration with civil society, to guide implementation.

KEY QUESTIONS TO ASK THE GOVERNMENT ABOUT RATIFICATION

- ✓ Does the Government of Canada have a timeframe for ratification of the CRPD?
- ✓ Does the Government of Canada have a timeframe for ratification of the OP?
- ✓ How will the Government of Canada work with people with disabilities, families and civil society to create an implementation action plan?
- ✓ What resources will the Government of Canada put in place to make implementation a reality?
- ✓ How will the Government of Canada work with Provincial/Territorial and Aboriginal governments on implementation?
- ✓ Will the Government of Canada establish a CRPD working group with representation from governments and civil society?

CALL TO ACTION: WHAT CAN I DO TO MAKE THE CRPD REAL?

CACL is encouraging Canadians to take action on making the CRPD real. There are MANY things you can do to help make this a reality. Take a moment to consider some things that you can do to let the Government of Canada know that ratification and implementation of the CRPD are important to you, your family and your community. Here are some ideas to get you started:

✓ **Write Letters to Federal Officials**

Start a letter writing/email campaign! Write the Government of Canada and let them know that you believe the CRPD is important to Canada. Inform the Government that you want Canada to ratify and implement the CRPD without any reservations.

Key Federal Officials include:

- ❖ The Prime Minister
- ❖ The Governor General
- ❖ Minister of Foreign Affairs
- ❖ Minister of Heritage
- ❖ Minister of Human Resources and Skills Development.

✓ **Engage your Member of Parliament**

- ❖ Call or write your Member of Parliament and share information about the CRPD with him/her
- ❖ Have your Member of Parliament ask a question in the House of Commons about the Government of Canada's plans for ratification and implementation.
- ❖ Ask your Member of Parliament to make ratification and implementation of the CRPD a priority for his/her political party.

✓ **Engage your Provincial/Territorial Elected Official**

- ❖ Ask your provincial representative to make a statement in support of the CRPD in your legislature
- ❖ Ask your provincial representative to write a letter to the Prime Minister stating his/her support for the CRPD
- ❖ Ask your provincial representative to get support for the CRPD from your provincial/territorial legislature

✓ **Engage your Provincial/Territorial Legislature**

While the power for ratification rests with the Federal Government, get your provincial/territorial government on-board. Provincial/Territorial governments can express their support of the CRPD in many ways:

- ❖ Ask your provincial government representative to make a statement in your legislature
- ❖ Have your legislature pass an all-party motion supporting the CRPD, its ratification and implementation
- ❖ Have your legislature symbolically ratify the CRPD
- ❖ Ask your provincial representative to write a letter to the Prime Minister stating his/her support for the CRPD

✓ **Participate in the on-line consultations**

- ❖ Have your voice heard by participating in the on-line consultations hosted by the Government of Canada

FOR MORE INFORMATION CONTACT CACL: amaCquarrie@CaCl.ca, or 416-661-9611