

Additional responses after dialogue

United Nations Convention on the Rights of Persons with Disabilities (CRPD)

Canada Review

March 10 & 11, 2025

Written Response

The Government of Canada conducted a gender-based analysis plus for former Bill C-7, which expanded eligibility for medical assistance in dying to persons whose natural death is not reasonably foreseeable. A summary of those findings was provided to the Standing Senate Committee on Legal and Constitutional Affairs during its pre-study of former Bill C-7.

Canadians with mental health needs typically receive treatment on a voluntary basis in the community or in hospital, with support from mental health professionals. In exceptional cases – and only if the person meets objective statutory criteria – mental health legislation can authorize involuntary admission to help provide people the treatment and care they need. These laws fall under the provincial and territorial governments' jurisdiction over health care. Individuals can only be involuntarily admitted and treated where they meet objective statutory criteria – such as where, as a result of their mental health disability, the individual is likely to harm themselves or others or to suffer significant mental or physical deterioration. Canadian law recognizes that the authority to detain individuals in a hospital or psychiatric facility, for the purpose of receiving treatment and protecting themselves or others from harm, is an extraordinary power. The law seeks to strike an appropriate balance between respecting patients' fundamental rights to liberty and autonomy, while also preventing harm and protecting public safety.

All Canadian mental health laws contain safeguards to ensure that provisions regarding involuntary detention or treatment are applied in an appropriate and lawful manner. These include mechanisms for informing patients of their rights, the right to counsel, and the right to challenge involuntary admission or treatment before independent review bodies and before the courts.

Everyone charged with a criminal offence in Canada has the constitutional right to a fair trial. All accused persons are presumed to be fit to stand trial by operation of s. 672.22 of the Criminal Code. This presumption can be displaced in rare situations where an accused person is found "unfit to stand trial." This standard involves an individualized assessment of the mental condition of the accused person. The Criminal Code provides:

"unfit to stand trial" means unable on account of mental disorder to conduct a defence at any stage of the proceedings before a verdict is rendered or to instruct counsel to do so, and, in particular, unable on account of mental disorder to

- (a) understand the nature or object of the proceedings,
- (b) understand the possible consequences of the proceedings, or
- (c) communicate with counsel.

In a recent decision, the Ontario Court of Appeal provided guidance on what it means for an accused person to be fit in the context of criminal proceedings. (An appeal of this decision was heard by the Supreme Court of Canada in October 2024, but no decision has yet been released.)

(1) The accused person must have a "reality-based understanding of the nature and object and possible consequences of the proceedings";

(2) The accused person “[...] must have the ability to make decisions. This involves the ability to understand available options, the ability to select from these options, the ability to understand the basic consequences arising from those options, the ability to intelligibly communicate to either counsel or the court the decision arrived upon”; and,

(3) The accused person “need not have the capacity to engage in analytic thinking in the sense that the accused need not be capable of making decisions in their own best interests”.

The Ontario Court of Appeal further discussed the importance of balance between setting the test for fitness as “too low”, in order to maintain the fairness and integrity of the criminal justice system, and “casting the net too widely” which could improperly capture accused persons “living with mental health challenges who want to proceed to trial” (R v Bharwani at paragraph 150). Where an accused person remains unfit to stand trial, the court refers the matter to a review board to determine how best to manage the individual’s care and supervision. Review boards are independent, quasi-judicial tribunals composed of medical and legal professionals.

A 2006 study by the federal Department of Justice tracked the cohort of accused persons who entered the Review Board system in 1992/1993 up until 2004. In that period one in four persons found unfit to stand trial were released within the first six months; 81% were released within twelve months; and all accused persons found unfit to stand trial were released within five years.

The Royal Canadian Mounted Police (RCMP) has developed manuals and training materials that outline how to employ, accommodate, and interact with persons with disabilities. This includes Operational Manual 37.17, titled “Persons with Disabilities”, which gives guidance to officers interacting with members of the public who have disabilities, whether they are complainants, victims, witnesses, suspects or accused persons. The RCMP has also introduced initiatives related to accessibility and disability, such as a pilot project called “Communication Matters” that focused on the needs of individuals with speech, language, and communication disorders. The RCMP is working with partners to improve police responses to persons in crisis. This includes implementing co-response teams composed of a mental health care worker and a police officer who work together to respond to calls for help.

The Canadian Judicial Council provides seminars for judges with practical guidance on how to accommodate persons with disabilities and other vulnerable persons in the context of court processes.

The Public Prosecution Service of Canada (PPSC) offers training to prosecutors and paralegals on incorporating an intersectional lens into prosecutorial work, including mandatory trainings on discrimination against persons with disabilities and steps to guard against biases.

PPSC has reviewed and refined prosecution policies, with the goal of supporting public safety while contributing to reducing the over-representation of certain populations in the criminal justice system – particularly First Nations, Métis, Inuit and Black Canadians, using an intersectional lens, including emphasizing that prosecutors have a duty to guard against bias and ensure that their decisions do not disproportionately impact vulnerable and marginalized persons.

In developing both the Strategy on Gender based Violence and the National Action Plan to End Gender-Based Violence, the Government of Canada engaged with organizations for women, girls, and members of the 2SLGBTQI+ communities with disabilities. In December 2024, the first Annual Progress Report on the NAP to End GBV was published.

Through Canada-wide Early Learning and Child Care (ELCC) Agreements, Canada is working with provinces and territories, experts, disability communities, and families of children with disabilities to ensure that early learning and child care is fully inclusive. The Government of Canada also plays a large role in supporting Indigenous children’s health and well-being through health programs and Indigenous ELCC, see the Indigenous Early Learning and Child Care Framework. An Act respecting First Nations, Inuit and Métis children, youth and families affirms the rights to exercise jurisdiction over child and family services establishing national principles,

such as the best interests of the child, cultural continuity, substantive equality, and establishes minimum standards for the delivery of services to Indigenous children by service provider across Canada.

Under the Accessible Canada Regulations, approximately 5000 private and public sector organizations must prepare accessibility plans and progress reports in consultation with persons with disabilities. The Government of Canada has published a suite of regulatory guidance material and tools to help organizations meet and exceed the regulatory requirements, including a compliance checklist.

The Office of the Accessibility Commissioner within the Canadian Human Rights Commission has established a compliance and enforcement regime for the Accessible Canada Regulations that includes inspections, notices of non-compliance and administrative monetary penalties.

Accessibility Standards Canada has established a mechanism for cooperation and collaboration with provincial and territorial governments on matters pertaining to accessibility standards, leading to the establishment of information-sharing agreements with Manitoba, Saskatchewan, Nova Scotia, Alberta, British Columbia and Ontario.

As the federal department responsible for real property management and government-wide procurement, Public Services and Procurement Canada employs many experts in universal design. These staff are responsible for carrying out accessibility audits of Government of Canada workplaces, ensuring that service contracts and facility leases include high standards for accessibility and developing new policies and strategies that aim to increase the consideration of universal design principles in Government of Canada procurement processes.

The Policy on Communications and Federal Identity applies to nearly 100 departments and agencies and has mandatory accessibility requirements. All organizations subject to the Policy are responsible for ensuring compliance. In addition, the Policy Centre responsible for administering the communications and federal identity policy instruments undertakes annual compliance reviews of select mandatory policy requirements.

According to latest annual report by the Canadian Administrator of Video Relay Services (VRS), there are 9,823 registered users of VRS.

There is 100% compliance for the policy on closed-captioning for programming aired by Canadian English and French language broadcasters.

Statistics Canada regularly engages with persons with disabilities, and the organizations that represent them, to better understand the lived experiences and data needs of persons with disabilities. This leads to improvements in survey content, survey collection practices, and data and analytical products.

Statistics Canada data are available through a range of data and analytical products, intended to meet the needs of a wide range of data users, including data tables, infographics and research reports. The Accessibility Data Hub was recently produced to provide a simpler access point for data related to accessibility and disability in Canada.

Gender-based disaggregation is a key component of Statistics Canada data and analytical products focused on persons with disabilities, to provide insight into the differing experiences of men and women with disabilities. Examples of gender-based analysis can be found in A demographic, employment and income profile of persons with disabilities aged 15 years and over in Canada, 2022, and Barriers to Accessibility in Public Spaces: Findings from the 2022 Canadian Survey on Disability.

With respect to data on 2SLGBTQ+ persons with disabilities, in 2022, the Canadian Survey on Disability collected information on sex at birth, gender and sexual orientation. Together, the gender, sex at birth and sexual orientation questions allow for the analysis of data on 2SLGBTQ+ persons with disabilities aged 15 years and over in Canada.

Canada collects employment data on persons with disabilities through both the Labour Force Survey and the Canadian Survey on Disability. Both sources of data can be disaggregated by a variety of intersecting sociodemographic and employment characteristics. Information from the Labour Force Survey is available annually, while the data from the Canadian Survey on Disability is available every five years and provides additional contextual information on topics such as work potential and workplace accommodations. The Survey Series on Accessibility – Experiences with Accessibility and Employment provides additional information on barriers to and within employment. Many other data sources provide insight on employment experiences of persons with disabilities, including information on executives with disabilities in Canada.

The Disaggregated Data Action Plan (DDAP) funding supported the collection of monthly Labour Force Survey supplements, enabling the production of annual labour market information for persons with disabilities. DDAP funding also supported development and collection of the Survey Series on Accessibility.

The Government of Canada's Enabling Accessibility Fund (EAF) supports employers by funding accessibility improvements to Canadian workplaces to increase employment opportunities for persons with disabilities. The EAF Workplace Accessibility Stream supports infrastructure projects that improve accessibility and safety in workplaces across Canada in which job opportunities could be created or maintained for persons with disabilities. The Opportunities Fund's Working with Employers stream helps employers create inclusive and accessible workplaces, including by helping them pay for accommodations. Employers are supported in meeting their labour needs by helping them recruit, retain and develop employees with disabilities, thereby tapping into a broader talent pool and diversifying their workplaces. This includes designing, providing, and implementing accommodations on behalf of employees with disabilities and their employers.

To ensure international cooperation, including military aspects, do not harm persons with disabilities, Canada's humanitarian sub-action area policy – A Feminist Approach: Gender Equality in Humanitarian Action (launched in April 2019) articulates Canada's approach to inclusive, and intersectional, gender-responsive humanitarian action. In line with this sub-policy, all facets of Canada's humanitarian action are expected to include, and address, the multiple intersecting factors of vulnerability that impact people during crisis, including but not limited to disability. In line with this sub-policy, Canada also systematically advocates for the tracking and utilization of sex-, age-, and disability-disaggregated data in international fora, including in resolutions, to address specific needs and priorities of persons with disabilities.

Canada's National Action Plan on Women, Peace and Security – 2023 to 2029 The Women, Peace, and Security agenda is a commitment to advance gender equality through responses to conflict and instability and ensuring that interventions do not reinforce or exacerbate such inequalities. The DND/CAF Implementation Plan is informed by gender-based analysis plus (GBA Plus) and the United Nations Declaration on the Rights of Indigenous Peoples. When conducting GBA Plus, particular attention is paid to the rights and special needs of Indigenous elders, women, youth, children and persons with disabilities.

The Government of Canada's National Adaptation Strategy is the product of two years of engagement with provinces and territories, Indigenous partners, key experts, stakeholders and partners across Canada. It presents a whole-of-society approach to reducing risk and building climate-resilient communities. The Strategy builds upon the Pan-Canadian Framework on Clean Growth and Climate Change and adaptation strategies led by provinces, territories, local governments, Indigenous Peoples and others, to unite actors across Canada through shared priorities, cohesive action, and a whole-of-Canada approach to reducing climate change risks.

On June 20, 2024, Bill C-226 – An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice, received Royal Assent. Through the Act, the Minister will develop, within two years, a national strategy to promote efforts across Canada to advance environmental justice and to assess, prevent, and address environmental racism. Canada seeks to assess, prevent and address environmental racism, as a form of systemic racism. The Government of Canada aims to work with organizations, affected communities and those with lived experiences to inform the development of the national strategy.

Through the Inspire Democracy program, Elections Canada works with a network of over 800 partner organizations to share information and hold workshops for people who face barriers to participating in elections, namely youth, new Canadians, electors with disabilities and Indigenous electors. This work includes sharing resources in English, French, 50 other languages and accessible formats (braille, large print, audio CDs, ASL and LSQ videos).

Elections Canada has contracts with 12 national disability organizations to perform outreach and awareness activities before and during the federal general election. There are many tools and services available to help electors with disabilities vote, and election workers are trained to help.

In 2020, 85% of eligible persons with disabilities reported that they voted in the last federal election, compared to 88% of persons without disabilities, according to the General Social Survey – Social Identity (SI). However, data provided by GSS-SI (2020) for the eligible population that voted in the last federal election tend to be overestimated due to social desirability and non-response biases, as shown by numerous studies and post-election surveys.

Elections Canada does not currently capture information about candidates in politics and/or involved in public office. It receives weighted socio-demographic characteristics of those who respond to the Survey of Candidates, conducted after each general election. In 2021, among respondent candidates who were elected to the House of Commons, 3% identified as having a disability, compared with 11% of candidates who were not elected. The Survey also includes some statistics on how candidates made their campaigns accessible. Candidates are allowed to incur and be reimbursed for personal expenses in relation to their campaign, including additional personal expenses that are related to disability”.

Funding for the Dementia Strategy Fund ended in 2024; however, the Dementia Community Investment (DCI) continues. The DCI funds community-based projects that seek to improve the wellbeing of persons living with dementia and family/friend caregivers; and increase knowledge about dementia and its risk and protective factors.

The Divorce Act includes rules about parenting for parents who divorce. The provinces and territories generally have similar rules for unmarried parents and for married parents who separate but do not apply for a divorce. The Act's parenting-related provisions are consistent with Article 23 of the CRPD and ensure that persons with disabilities, whether parents or children, are not discriminated against during parenting-related proceedings. It does not include a presumption of a particular parenting arrangement. Rather, the Act requires that courts make parenting orders based on the best interests of the child. To do so, courts must analyze each application on a case-by-case basis, taking into account only the best interests of the child. The best interests of the child test allows courts to tailor the content of an order to each family's circumstances. Courts will also apply the principle that a child should have as much contact with each parent as is in the child's best interests.

The Government of Canada supports children with disabilities and their parents by providing income supports and tax credits, including: the Canada child benefit, Disability Tax Credit, Children's Special Allowances, Canada Caregiver Credit, and the Registered Disability Savings Plan, including the Canada Disability Savings Grant and Bond.