

Help Institute

Committee on the Rights of Persons with Disabilities (CRPD)

32nd session (3 to 21 March 2025)

Review of Violation of the economic, health, and legal rights of people with disabilities in Canada

Presented by: Help institute

Violation of the economic, health and legal rights of people with disabilities in Canada

Introduction

Violation of the rights of people with disabilities and discrimination against them have become one of Canada's fundamental issues and challenges. According to the Canadian Human Rights tribunal, in 2023, disability was the second most frequently cited ground of alleged discrimination (39% of complaints) after race and national or ethnic origin. Also, in the year 2022, disability was the most common basis for a complaint (Canadian Human Rights Tribunal, 2024: 9).

In Canada, disability refers to any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment (or a functional limitation) whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society (Ministry of Justice of Canada, 2024a: 2). Also, in the Article 1 of the UN Convention on the Rights of Persons with Disabilities, persons with disabilities are considered as those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (United Nations, 2025: 4).

In the following, the prevalence and severity of disability in Canada will be first mentioned. Then, the footprint of disability in Canadian law at the federal, national, and provincial levels is examined. Finally, facts and figures about violation of the economic, health and legal rights of people with disabilities in Canada is briefly stated and related policy recommendations will be presented.

Prevalence and severity of disability in Canada

According to 2022 Canadian Survey on Disability (CSD), 27% of Canadians aged 15 years and older, or 8.0 million people, had one or more disabilities that limited them in their daily activities. The rate of disability in Canada has increased by 5% since 2017, when 22% of Canadians, or 6.2 million people, had one or more disabilities. This increase can be partially attributed to both the aging population and the large increase in mental health-related disabilities among youth and working-age adults. In 2022, the rate of disability was higher among women (30%) than men (24%), following the same pattern from 2017 (Statistics Canada, 2023: 1).

The percentage of Canadians with disability by age group in 2017 and 2022 has been shown in Figure 1. This Figure reveals that youth (aged 15 to 24 years), the working-age population (25 to 64 years) and seniors (65 years and older) all experienced an increase in the rate of disability from 2017 to 2022. In the year 2022, 20% of youth had a disability, an increase of 7% over 2017, when the disability rate was 13%.

The prevalence of disability among Canadian persons with disability by the types of disability has been presented in Figure 2. This Figure shows that the prevalence of mental health-related, seeing, learning, memory and developmental disabilities increased from 2017 to 2022. In 2022, the largest increase belonged to mental health-related disabilities, which increased by 6%, from 33% in 2017. Also, the types of disability varied by age groups. Among youth with disabilities, mental health-related (68%), learning (46%) and pain-related (34%) were the most common types of disability in 2022. Mental health-related disabilities among youth and working-age

adults each increased by 8% from 2017, representing the largest increase among all disability types and all age groups.

Rights of people with disability in Canadian law

a. Federal level

At the federal level, persons with disabilities are considered under various laws, including the Criminal Code, the Canada Evidence Act, the Corrections and Conditional Release Act, the Canada Elections Act, the Employment Equity Act, the Canada Health Act, the Canada Pension Plan Act, the Income Tax Act, the Canada Disability Savings Act, the Student Loans Act, the Canada Student Financial Assistance Act, the Canada Transportation Act, the Personnel Training for the Assistance of Persons with Disabilities Regulations and the Broadcasting Act (United Nations Human Rights Council, 2019: 4).

For example, the Canada Disability Savings Act as a federal legislation, passed in 2007 (Ministry of Justice of Canada, 2024c: 1) establishes the framework for the creation and management of Registered Disability Savings Plans (RDSPs) in Canada. These plans are designed to help individuals with disabilities and their families save for long-term financial security. A RDSP is a specialized savings account that allows individuals with disabilities to accumulate funds for future financial needs, such as medical expenses, housing, and other disability-related costs. To open an RDSP, an individual must be eligible for the Disability Tax Credit (DTC). The disability must be prolonged and severe enough to significantly impact their everyday life (RIDM, 2025).

b. National level

At the national level, the following two laws consider the rights of people with disabilities and prevent discrimination against them:

1. Constitution Act, 1982

According to the part I (Canadian Charter of Rights and Freedoms), section 15.1 of Constitution Act, 1982 of Canada "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability" (Department of Justice Canada, 2013: 56).

2. Canadian Human Rights Act

This Act recognizes that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated without discrimination and, in particular, discrimination on the basis of disability (Ministry of Justice of Canada, 2024b: 1). In part I, item 3(1) of this Act has been emphasized that "For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, color, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered" (Ministry of Justice of Canada, 2024b: 1-2).

C. Provincial and territorial level

At the provincial and territorial level, only Ontario, Manitoba, Nova Scotia and Quebec have enacted disability-specific and accessibility legislation, none of which is comprehensive nor fully in line with the Convention on the Rights of Persons with Disabilities (United Nations Human Rights Council, 2019: 4).

Facts and figures about violation of the economic, health and legal rights of people with disabilities in Canada

While according to the Article 6(c) of Accessible Canada Act, "all persons must have barrier-free access to full and equal participation in society, regardless of their disabilities" (Ministry of Justice of Canada, 2024a: 4), but in

practice, there are many cases of violations of the economic, health and legal rights of people with disabilities in Canada. Here, the most important aspects of the violation of the economic, health and legal rights of people with disabilities in Canada are briefly discussed below.

1. Discrimination in the enjoyment of the benefits of disability-related laws in Provincial and Territorial levels in Canada

Many Canadian provinces either do not enforce laws related to the welfare of persons with disabilities or implement them incompletely. According to the report of the Special Rapporteur on the rights of persons with disabilities, in Canada, only 4 Provinces and Territories have enacted disability-specific or accessibility legislation (United Nations Human Rights Council, 2019: 4).

2. Health and treatment

The data shows that the majority of persons with disabilities in Canada who required physiotherapy, massage therapy, or chiropractic treatments did not receive all of the treatments they needed in the last 12 months of 2017. Among persons with milder disabilities, 68% of men and 69% of women reported having unmet needs for physiotherapy, massage therapy, or chiropractic treatments in the last 12 months. This compares to 77% of men and 79% of women with more severe disabilities. Here, "Milder" disability combines those with "Mild" or "Moderate" disabilities. "More Severe" disability combines those with "Severe" and "Very Severe" disabilities (Employment and Social Development Canada, 2024: 43).

Also, among persons with milder disabilities, women were more likely than men to have unmet counselling needs (66% versus 59%). This compares to 74% of men and 74% of women with more severe disabilities (Employment and Social Development Canada, 2024: 44).

3. Employment

Persons with disabilities have lower rates of employment than those without disabilities in Canada. Among men aged 25 to 64 years, 62% of persons with disabilities were employed compared to 84% of those without disabilities in 2016. Also, among women aged 25 to 64 years, 57% of persons with disabilities were employed compared to 76% of those without disabilities in the same year (Employment and Social Development Canada, 2024: 46).

4. Attendance in education, employment, or training

In Canada, among men aged 15 to 24 years, 18% of those with disabilities were not in employment, education, or training in 2016. This compares to 8% of those without disabilities. Among women aged 15 to 24 years, 12% of those with disabilities were not in employment, education, or training. This compares to 7% of those without disabilities (Employment and Social Development Canada, 2024: 52).

5. Poverty and food insecurity

According to the Employment and Social Development Canada in 2015, among persons aged 15 to 24 years, persons with disabilities were more likely than persons without disabilities to live below Canada's official poverty line (24% versus 17%). Among persons aged 25 to 64 years, persons with disabilities were twice as likely as persons without disabilities to live below Canada's official poverty line (20% versus 10%). Among persons aged 65 years and over, persons with disabilities were more likely than persons without disabilities to live below Canada's official poverty line (9% versus 6%) (Employment and Social Development Canada, 2024: 60).

On the other hand, a beneficiary's Registered Disability Savings Plan (RDSP) can get a maximum of \$3,500 in matching grants in one year, and up to \$70,000 over the beneficiary's lifetime. A beneficiary's RDSP can receive a grant on contributions made until December 31 of the year in which the beneficiary turns 49 (Canada Revenue Agency, 2024). Based on the Canada Revenue Agency (CRA), a beneficiary's RDSP can receive a grant on

contributions made until December 31 of the year in which the beneficiary turns 49 (Canada Revenue Agency, 2024). But, the age limitation for getting this grant is an obvious discrimination.

Also in Canada, among persons aged 25 to 64 years, persons with disabilities were almost three times as likely as persons without disabilities to be food insecure at a household level (29% versus 11%). Here, household food security refers to the household's ability to afford an appropriate level of food and nutrition (Employment and Social Development Canada, 2024: 62).

Policy recommendations

1. The latest data released by Statistics Canada reveals that the rate of disability among Canadians aged 15 years and older has rapidly increased from 22% in 2017 to 27% in 2022. Also, unfortunately, the rate of increase is faster among youth (aged 15 to 24 years) than other aged groups. Therefore, it is recommended to the Canadian government to investigate the causes and factors behind the increasing growth of disabilities in this country, especially among young people, and take the necessary decisions to improve conditions.

2. According to the Canadian Human Rights tribunal, disability is one of the most cited ground of alleged discrimination. Therefore, it is recommended to Canadian courts to remain mindful of their duty to accommodate the needs of the disabled so as to ensure that they receive the same level of procedurally fair justice as that accorded to other Canadians.

3. The information regarding the enjoyment of the benefits of disability-related laws in Provincial and Territorial levels in Canada shows a wide variation from one province or territory to another in the enactment the relevant laws, and also in the welfare level of disabled people. Therefore, it is recommended to the government of Canada to ensure that all provinces and territories implement the Canadian federal laws regarding persons with disabilities in the same way.

4. Based on the Canada Revenue Agency (CRA), a beneficiary's Registered Disability Savings Plan (RDSP) give to the opportunity to receive a grant on contributions made until December 31 of the year in which the beneficiary turns 49. But the existing complainants explain that the cut-off age for grants under the legislation and regulations is unfair (Canadian Human Rights Tribunal, 2024: 9). Hence, it is recommended to revise these regulations and remove the age limit for receiving RDSP grant.

References

-Canada Revenue Agency (2024). Canada disability savings grant and Canada disability savings bond. Government of Canada, Date modified: 2024-11-28, Retrieved from: <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/registered-disability-savings-plan-rdsp/canada-disability-savings-grant-canada-disability-savings-bond.html> (accessed on 20 January 2025).

-Canadian Human Rights Tribunal (2024). The Annual report 2023 of Canadian Human Rights Tribunal. Retrieved from: <https://www.chrt-tcdp.gc.ca/sites/default/files/2024-04/CHRT-AnnualReport-2023-EN.pdf> (accessed on 15 January 2025).

-Department of Justice Canada (2013). A Consolidation of The Constitution Acts 1867 to 1982. Consolidated as of January 1, 2013. Retrieved from: https://laws-lois.justice.gc.ca/pdf/const_e.pdf (accessed on 17 January 2025).

-Employment and Development Department Canada (2024). Canadian Indicators for the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Social Research Division, Strategic and Service Policy Branch, December 18th, 2024, Retrieved from: https://www.canada.ca/content/dam/esdc-edsc/documents/corporate/reports/research/indicators-united-nations-convention/uncrpd_pdf_20241217_en.pdf (accessed on 19 January 2025).

-Ministry of Justice of Canada (2024a). Consolidation Accessible Canada Act s.c. 2019, c. 10. Current to November 26, 2024. Retrieved from: <https://laws-lois.justice.gc.ca/PDF/A-0.6.pdf> (accessed on 18 January 2025).

-Ministry of Justice of Canada (2024b). Consolidation Canadian Human Rights Act R.S.C., 1985, c. H-6. Current to November 26, 2024. Retrieved from: <https://laws-lois.justice.gc.ca/PDF/H-6.pdf> (accessed on 16 January 2025).

-Ministry of Justice of Canada (2024c). Canada Disability Savings Act S.C.2007. cc.35. s. 136. Current to December 15, 2024. Retrieved from: <https://laws-lois.justice.gc.ca/PDF/C-3.5.pdf> (accessed on 19 January 2025).

-RIDM (2025). Canada Disability Savings Act. Rapid Interactive Disability Management Lth of Canada. Retrieved from: <https://ridm.net/glossary-disability-management-terms/canada-disability-savings-act/> (accessed on 20 January 2025).

-Statistics Canada (2023). Canadian Survey on Disability, 2017 to 2022. Release on December 1, 2023, Retrieved from: <https://www150.statcan.gc.ca/n1/en/daily-quotidien/231201/dq231201b-eng.pdf?st=t-3wvcMG> (accessed on 20 January 2025).

-United Nations (2025). Convention on the Rights of Persons with Disabilities and Optional Protocol. Retrieved from: <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> (accessed on 17 January 2025).

-United Nations Human Rights Council (2019). Report by the Special Rapporteur on the rights of persons with disabilities Catalina Devandas-Aguilar on visit to Canada (19 December 2019). UN Doc A/HRC/43/41/Add.2, Retrieved from: <https://digitallibrary.un.org/record/3872378?ln=en&v=pdf> (accessed on 20 January 2025).