



**Council of Canadians
with Disabilities**

A VOICE OF OUR OWN

**Conseil des Canadiens
avec déficiences**

CETTE VOIX QUI EST LA NOTRE

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**Renewed Political Commitment and Leadership:
An Imperative for the Realization of the Human Rights of
Canadians with Disabilities**

Council of Canadians with Disabilities (CCD) Submission
to the United Nations Human Rights Council Universal Periodic Review of May 2013

Date: Oct. 9, 2012

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Introduction

1. The Council of Canadians with Disabilities (CCD), a representative, democratic voice of Canadians with disabilities is pleased to provide a submission to the Human Rights Council of the United Nations in relation to its May 2013 Universal Periodic Review of Canada's human rights record.
2. In March of 2010 Canada ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD). This action was applauded by Canadians with disabilities and other human rights proponents as a significant step forward. As CRPD is, broadly speaking, consistent with Canadian human rights values, including the constitutionally enshrined equality rights of Canadians with disabilities, we hoped that ratification would provide us with the needed momentum to strengthen human rights in Canada and make progress toward achieving an accessible and inclusive society for Canadians with disabilities. As the information contained below shows, our hopes for substantive advancement are being frustrated.

Ratification Commitments and Disability Community Concerns

3. In relation to both post-ratification implementation measures and monitoring, the Government of Canada has made specific commitments which to-date remain elusive. Writing on behalf of the Government of Canada and in reply to a CCD letter to the Prime Minister, the then Minister of Foreign Affairs, The Honorable Lawrence Cannon, P.C., M.P., on Nov. 18, 2009, stated:

"Input from civil society will also be of assistance in informing any measures that may be taken post-ratification at the federal level to further implement the Convention."

4. It is important to note that the Convention itself contains an important process for monitoring whether states parties are fulfilling their obligations by requiring them to report to the Committee on the Rights of Persons with Disabilities on a periodic basis on "measures taken to give effect to its obligations" under the Convention, and "on progress made in that regard." In line with current reporting processes under other treaties to which Canada is a party, and in accordance with Article 35 of the Convention, civil society would have an opportunity to be involved in this process.
5. More recently (Nov. 2011), Canada's Minister responsible for disability issues, the Hon. Diane Finley stated about CRPD:

"Ratification marks an important step in removing obstacles, creating opportunities and making Canada, as a whole, more inclusive."
6. Having championed the elaboration and ratification of CRPD, CCD, in collaboration with the Canadian Association for Community Living (CACL), developed and communicated to Canadian jurisdictions in 2011: "UN Convention on the Rights of Persons with Disabilities: Making Domestic Implementation Real and Meaningful", (Annex 1). In this action plan, CCD proposed specific steps to give effect to the coordination, implementation and monitoring provisions of CRPD.

7. CCD is pleased that the Government of Canada has designated the Office for Disability Issues (ODI) within the federal department of Human Resources and Social Development (HRSDC) to be the focal point. Its responsibilities include:
 - participating in the conference of States Parties,
 - raising awareness across the Federal Government,
 - building capacity in government departments, and
 - coordinating the federal portion of Canada's CRPD baseline report.
8. ODI does not have a mandate to coordinate and lead a government-wide CRPD implementation strategy. The above-outlined and rather unambitious agenda is further impoverished by the decision not to allocate any new resources at the time of ratifying CRPD. CCD is concerned that the Government of Canada has not provided leadership in the creation of a coordination mechanism. A coordination mechanism, though optional under Art. 33 of CRPD, is especially critical in a federation.
9. CCD is also concerned about the Government's decision not to designate an independent monitoring mechanism, as required in Art. 33.2 of CRPD. (Annex 2 letter from the Minister of Justice to CHRC)
10. CCD and other organizations of persons with disabilities are greatly concerned about our capacity to research, analyze and articulate public policy options intended to improve the living conditions of persons with disabilities, including taking on human rights violations. A strengthened, not a reduced capacity, of our organizations should be the result of ratifying CRPD.

First Canadian State Party Comprehensive Report under Art. 35 of CRPD.

11. Canada's first comprehensive report, due in April of 2012, is in the process of being completed. CCD, in its response to an invitation by the Government of Canada to comment on a proposed report outline, stated, in Sept. 2011: "For an Inclusive and Accessible Canada to be a reality, the Government of Canada must show leadership by enhancing its role in four key areas:
 - Poverty reduction.
 - Increased labour market participation,
 - Increased disability supports, and
 - Initiatives to remove barriers and increase access."
12. The lived experience of Canadians with disabilities and CCD's research provide evidence of public service gaps, and exclusion or marginalization. The evidence cited in Annex 3 provides a demographic profile of Canadians with disabilities. Without significant initiatives taken in consultation with the disability community, the human rights, especially social and economic rights, specified in CRPD will remain to a large degree unrealized.

On the Record

13. Sadly, Canadians with disabilities on a daily basis have been experiencing barriers, challenges and disadvantages. In particular, disproportionately high rates of poverty, weak labour market attachment and inaccessibility have excluded persons with disabilities from full and equal citizenship.

Poverty

14. As a state party to CRPD, Canada has recognized in Art. 28, the rights of persons with disabilities to an adequate standard of living and social protection. Canada has agreed to “take appropriate steps to safeguard and promote the realization” of these rights.
15. However, proposed changes to the Old Age Security (OAS) and Guaranteed Income Supplement (GIS), also contained in budget 2012, cause Canadians with disabilities concern. Of concern to CCD is the raising of age of eligibility for OAS and GIS from 65 to 67.
16. Old Age Security coupled with the Guaranteed Income Supplement benefit is better than any social assistance program in Canada with the exception of Alberta’s AISH program, where a significant increase was announced in December of 2011. Sadly, many Canadians with disabilities look forward to turning 65 because they will have a better income benefit and will be raised out of poverty. Increasing the age of entitlement for OAS will force persons with disabilities to live in poverty longer.
17. The ratification of CRPD means that Canada has undertaken to continuously improve the standards of living for persons with disabilities, including through retirement benefits (CRPD Article 28). This commitment is especially relevant to the proposed OAS changes which, if implemented without compensatory measures, will have the effect of further impoverishing a number of Canadians with disabilities.

Labour Force Status (see Annex 3 for data)

18. According to Statistics Canada people with disabilities are persistently less likely to be employed than people without disabilities. However, only half of those with disabilities who are outside of the labour force indicate that they are completely prevented from working due to their disability and many who feel completely prevented face social and economic barriers to employment aside from disability itself.
19. The low employment level of people with disabilities helps to account for the greater prevalence of poverty they experience. According to Michael Prince, a recognized Canadian social policy expert: people with disabilities are more likely than people without disabilities to be in short-term and part-time employment, self-employment, and in the “informal economy”.

Discriminatory Employment Practices

20. PALS (the post census survey on disability) asked respondents who had been active in the labour force at some point from 2001 through 2006 whether they had experienced employment

discrimination because of disability in those years. Discrimination included any experience of being refused a job interview, a job or promotion, being given less responsibility than co-workers, being denied workplace accommodation or employment benefits, being paid less than other workers in comparable jobs and being exposed to other types of employment discrimination.

21. Under Art. 27 of CRPD, Canada has the responsibility to take remedial actions in matters of employment, including additional steps to combat discrimination.
22. CCD welcomes two initiatives contained in the federal budget of 2012. The first concerns the allocation of 10 million new dollars to the Opportunities Fund, a program that helps Canadians with disabilities get jobs; the second the creation of an Employment Panel to report to the Ministers of Finance and HRSDC by December 2012 on best practices within the private sector on the employment of persons with disabilities.
23. However, the continued experience of discrimination of persons with disabilities in the labour market, the deteriorating status and resources of human rights institutions creates, in practice, additional barriers.

Accessibility

24. In the key area of accessibility, it is important to underline that a great deal of progress has been achieved thus far. Yet, barriers continue to prevent Canadians with disabilities from participating fully in various activities. What's even more distressing is the creation of new barriers. Whereas technology today opens new horizons and can facilitate greater access, the lived experience of people with disabilities shows that, because of either inaccessible product and process design and/or disability-related poverty, we are not as a society and as citizens able to take full advantage of technological progress. The proliferation of touch screens in commercial transactions, which disempower and, at times, humiliate blind people, is a specific example of this phenomenon.
25. In this area, too, Canada, by ratifying CRPD, has accepted definite obligations. To build an inclusive and accessible Canada, we need an appropriate and supportive public policy framework. We need a clear regulatory framework. This makes good business sense and it is necessary for achieving an accessible Canada.

Conclusion

26. Ratification of CRPD by Canada has created the potential for implementing public policy measures giving effect to the human rights of Canadians with disabilities. The Government of Canada has publically committed itself to taking action but so far has failed to do so. Canadians with disabilities have sought to work with Canadian jurisdictions by proposing specific actions intended to ensure implementation of CRPD and progressively realize the social and economic rights contained therein. Canadians with disabilities continue to experience significantly higher unemployment rates, higher rates of poverty, gaps in needed disability supports, and inequality. Additionally because of funding cuts CCD's and other disability group's organizational capacity may be substantially. This is all taking place in a more generalized context of weakening of the Canadian human rights system.
27. The above concerns, in their combined effect, threaten to set back Canada's human rights record. Such a development is to the detriment of Canadians, including Canadians with disabilities, Canada's human rights history, and to the efforts of the international community to improve human rights around the world.
28. By virtue of its comparatively strong economic position, its human rights traditions and related international reputation, including the protection of the equality rights of persons with disabilities in the *Canadian Charter of Rights and Freedoms*, we believe our country has added responsibilities to provide leadership in the field of human rights. Such leadership must include measures intended to enable persons with disabilities to improve their socioeconomic status and experience.
29. Canada must renew its political commitment to the realization of human rights, including the rights of Canadians with disabilities. Developing, in close consultation with the representative organizations of persons with disabilities, a CRPD implementation plan constitutes a necessary step and proof of its commitment to its human rights obligations.

Annex 1

UN Convention on the Rights of Persons with Disabilities: Making Domestic Implementation Real and Meaningful CCD – CACL Working Paper *February 2011*

Introduction

On March 11, 2010 Canada ratified the UN Convention on the Rights of Persons with Disabilities (CRPD). As we approach the first Anniversary of Canada's ratification, it is important that we take appropriate steps to ensure that we live up to our commitments as a country and develop a plan for meaningful implementation, monitoring and reporting.

The CRPD is a tool that helps communities and governments understand why and how the rights of people with disabilities haven't been realized and it provides a framework that articulates the conditions needed to make rights a reality. There is significant work to do in Canada to make the CRPD real and meaningful in the lives of Canadians with disabilities. While substantive reform cannot be ignored, it also cannot be achieved in isolation. Focused efforts are required to address the substantive issues in the CRPD but efforts must be incorporated as part of an overarching implementation plan that includes a robust and comprehensive monitoring and reporting mechanism.

An implementation plan would provide coherence in addressing the substantive issues as well as provide a framework for monitoring and reporting. It would act as the road map for success and provide the necessary benchmarks to monitor Canada's progress on making the CRPD real.

The following working paper has been developed by the Council of Canadians with Disabilities (CCD) and the Canadian Association for Community Living (CACL). It is intended to spark dialogue on implementation of the CRPD and propose concrete actions for consideration. This paper provides:

- A brief background on the CRPD and the role the Government of Canada and the Canadian disability community played in elaborating the CRPD.

The paper identifies the need for:

- National mechanisms for implementation, monitoring and reporting.
- A robust participation strategy.
- A national framework for implementation.
- A public and transparent review process.

The paper concludes with suggested next steps – including a specific call to action for the Government of Canada and Parliamentarians.

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 unique for a number of reasons. It is: the first human rights treaty of the 21st Century; the fastest negotiated human rights Convention in UN history and 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; and, with 82 signatories on March 30, 2007, it has the highest number of signatories in history to a UN Convention. Domestically, it is also the first time Canada

has signed a UN Convention on its opening day. Canada ratified the CRPD on March 11, 2010. **To-date, 147 countries have signed and 97 countries have ratified the CRPD.**

The elaboration of the CRPD represents a unique collective effort, bringing together governments and persons with disabilities. Over the course of six years and eight Ad Hoc Committee working sessions, the international community came together to identify barriers experienced by persons with disabilities and agreed on specific measures to be implemented, progressively (Art. 4), to eliminate these barriers and give effect to widely accepted human rights. In this process, the participation of persons with disabilities (immortalized in the motto: "nothing about us without us") proved essential. Many government representatives often testify to the invaluable learning experience for them as a result of the participation of persons with disabilities.

In 50 articles, the CRPD clearly articulates what existing human rights mean within a disability context and establishes reporting and monitoring procedures for States Parties. The Convention on the Rights of Persons with Disabilities (CRPD) reaffirms that persons with disabilities throughout the world enjoy all human rights. In particular, the CRPD's purpose 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 CRPD contains articles setting out guiding principles (Art. 3) state party obligations (Art. 4), and specific measures intended to give effect to its principles, for example, living independently and being included in the community (Art. 19), work and employment (Art. 27), adequate standard of living and social protection (Art. 28).

The CRPD marks a paradigm shift by addressing the human rights of persons with disabilities from a progressive social model approach to disability. In many instances, this new approach requires a new way of understanding the exercise of key human rights.

The CRPD also has an Optional Protocol. The Optional Protocol on Communications (OP) provides for a complaints mechanism whereby groups and individuals, after having exhausted all national resources, can have the Committee on the Rights of Persons with Disabilities consider a claim that a State Party has violated the provisions in the CRPD. To-date 90 countries have signed and 60 countries have ratified the OP. Canada has not signed or ratified the OP.

Canada and the CRPD

Both during the elaboration and ratification stages, the government of Canada worked closely with provinces and territories and with the disability community. This approach enabled Canada to make a strong contribution, relying on Canadian values as enshrined in Canadian constitutional and human rights law. As a result, the CRPD has a uniquely Canadian feel. For example: Article 5 (equality and non-discrimination) is very consistent with S. 15 of the Canadian Charter of Rights and Freedoms; Article 12 (equal recognition before the law) was facilitated by the Canadian delegation and secures a progressive approach to legal capacity and, for the first time in international law, recognizes a right to use support to exercise one's legal capacity – a made-in-Canada solution; Article 24 (education) secures a right to inclusive education – a concept that Canada, in particular, New Brunswick, is seen as an international leader on.

Canada was one of the most progressive and engaged delegations involved in developing and negotiating the CRPD. In many regards, the world is looking to Canada to continue to lead the way through progressive – and meaningful – efforts on implementation, monitoring and reporting.

Moving the CRPD Forward

CCD and CACL believe concerted effort is required to ensure effective and coherent implementation of the CRPD at all levels of Government. To this end, we recommend the following:

A. NATIONAL MECHANISMS FOR IMPLEMENTATION, MONITORING AND REPORTING

- 1. Establish a High-level Federal Focal Point and Coordination Mechanism** – A high-level federal coordination mechanism, consisting of assistant deputy ministers or higher, is a first step in ensuring cross-departmental collaboration and input on CRPD implementation. This group should be mandated to develop a CRPD implementation plan at the Federal level and ensure close collaboration with representative organizations of persons with disabilities in the development and delivery of its plan.

Rationale:

This recommendation is critical if Canada is to make further progress toward improving the living conditions, in general, for persons with disabilities. It is also required in order to comply with articles 33(1) and 4(3) of the CRPD. Experience shows that for such a mechanism to be effective, it has to function at least at the assistant deputy minister level and avoid the practice of downward delegation to working-level officials who do not have the authority to advance the policy leadership required for full implementation of the CRPD.

- 2. Federal Leadership** – the Government of Canada can demonstrate its leadership and commitment to meaningful implementation of the CRPD by establishing a Minister Responsible for the Status of Persons with Disabilities with key responsibility in Cabinet to promote the status of persons with disabilities and advance the CRPD. The Government of Canada can also demonstrate leadership through the creation of an appropriate FPT mechanism, that includes a mandate for consultation with the disability community, for ongoing collaboration with Provincial/Territorial governments and the development of a shared implementation strategy.

Rationale:

Canadian experience shows that progress in disability-related policy and programming requires inter-jurisdictional cooperation. The First Ministers have affirmed this in “In Unison”. The provisions of the CRPD extend to “all parts of federal states” (Art. 4.5).

- 3. Parliamentary Committee** – CCD and CACL recommend that a standing parliamentary committee mandated to advance disability-related issues be established. One of the tasks of such a committee must be the implementation of the CRPD, including seeking audits by the Auditor-General of Government of Canada relevant policies and programmes. The Committee must also examine the advisability of creating a disability commission.

Rationale:

Based on recent experience, it is CCD and CACL’s view that more effective ways of advancing disability issues at the federal level are imperative. A standing committee focused on disability-related issues, including the implementation, of the CRPD can contribute significantly to improving effectiveness at the federal level. The potential benefits of the Auditor-General, a disability commission and similar arrangements can be examined more thoroughly in the context of a standing committee.

- 4. Independent Monitoring Mechanism** – Article 33 of the CRPD requires Canada to designate an independent monitoring mechanism to “promote, protect and monitor” implementation of the CRPD. The

Canadian Human Rights Commission, with the appropriate mandate and resources, should be designated as the monitoring mechanism.

Rationale:

To-date, the UK, Germany, France, New Zealand and Australia have designated their National Human Rights Institute as their country's independent monitoring body. The Canadian Human Rights Commission (CHRC) has the legislative basis to promote, protect and monitor human rights. However, the Commission cannot fulfill effectively this function within existing resources or a narrowly focused federal mandate. To be effective in this role, the CHRC needs:

- A clear mandate to monitor nationally – not just federally – on articles in the CRPD.
 - National monitoring will require a collaborative effort with provincial/territorial HRCs and other relevant bodies.
- New resources to undertake this task effectively.
 - The Commission may meet the requirements of Article 33 but unless additional resources are allocated it is poorly resourced to take on this new and important function.

5. *Canadian Comprehensive Report* – In accordance with Article 35, Canada is required to submit its first report on the CRPD in April 2012. The disability community should be engaged early in the process of preparing this comprehensive report.

Rationale:

Canada must submit to the Committee on the Rights of Persons with Disabilities a comprehensive report on the measures taken toward implementing the CRPD. The CRPD calls on states parties to prepare their reports in an open and transparent manner, including the involvement of representative disability organizations.

Summary of Possible Mechanisms to advance Implementation, Monitoring and Reporting

A variety of mechanisms could be useful starting points for advancing implementation of the CRPD. Based on learnings from domestic experiences on other human rights conventions and international experiences, we suggest the following mechanisms for consideration:

1. Establish an all party parliamentary or legislative committee with a mandate to address the status of persons with disabilities and tasked with the development of the implementation action plan.
2. Establish a Minister Responsible for the Status of Persons with Disabilities with key responsibility in Cabinet to promote the status of persons with disabilities.
3. Establish a Disability Commissioner within all levels of government to monitor government policy and procedures as they relate to persons with disabilities.
4. Establish a senior level inter-departmental implementation committee within all levels of government.
5. Establish a senior level inter-governmental committee to coordinate implementation, monitoring and reporting activities related to CRPD.
6. Engage disability community in dialogue with First Ministers and the Council of the Federation on issues of inter-governmental coordination, monitoring and reporting.

B. PARTICIPATION OF PEOPLE WITH DISABILITIES AND THEIR REPRESENTATIVE ORGANIZATIONS

1. *A robust participation strategy* – Article 4.3 of the CRPD obligates State Parties to “consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations” in all aspects of implementing the Convention, including policy development processes and independent mechanisms. It is essential to design the processes and structures to enable compliance with this Article.

Rationale:

Different mechanisms for participation will be required including: 1) membership on independent monitoring and implementation mechanisms; 2) advisory panels to policy development processes; and 3) issue-specific consultation processes. A participation strategy should include:

- Negotiated representation and modes of participation with the national representative, membership disability organizations.
- Assurance that under-represented groups (visible minorities, people in institutions, etc.) are adequately represented.
- Adequate resources for full and effective participation.
- Investment in capacity development of disability organizations so they can participate effectively in policy development processes and independent (and other mechanisms) established for CRPD implementation.
- Investment in capacity development of disability organizations to participate effectively in the development of parallel reports.
- Full accessibility through multiple formats, and other forms of accommodation.
- Access to needed information and transparency in implementation processes to enable effective participation.

C. NATIONAL FRAMEWORK FOR IMPLEMENTATION (IMPLEMENTATION ACTION PLAN)

Article 33.2 obliges States Parties to establish a framework to “promote, protect and monitor implementation” of the CRPD. A National framework for implementation, or simply, an implementation action plan – developed in collaboration with the disability community – would provide the vision and overarching framework for successful implementation of the CRPD; it would identify the necessary mechanisms for collaboration (in particular, mechanisms for Federal-Provincial-Territorial and Aboriginal Government collaboration), and benchmarks for monitoring and reporting.

An implementation action plan would include a focus on substantive issues and relevant articles as well as a monitoring and reporting strategy. It should include a strategic evaluation of existing policies, programmes and services to identify gaps and the necessary measures to address them. An implementation action plan should build on the ongoing efforts to build an inclusive and accessible Canada and the four core areas identified in the National Action Plan on Disability.

CCD and CACL have identified the following priorities and actions for consideration:

1. Disability Related Supports (multiple articles)

Disability supports has been a long standing priority of the disability community. While the provision of disability supports is typically a Provincial/Territorial responsibility, their foundational impact on the lives of people with disabilities make them an issue of basic citizenship. Disability supports are woven into the fabric of the CRPD and each article. The CRPD recognizes supports and services as integral to the realization of rights. An Implementation Action Plan should:

- Explore federally regulated areas related to, or reliant on, the provision of disability supports (i.e. housing, employment, participation in political and public life etc).
- Engage in an FPT dialogue on shared responsibility for implementation of the CRPD for disability related supports that fall solely under PT jurisdiction.

2. Poverty Alleviation (Article 28)

Canadians with disabilities face shameful rates of poverty. An implementation action plan must provide a framework for tackling poverty and the conditions that have created poverty as the likely outcome of life with a disability. An Implementation Action Plan should:

- Explore Federal income support measures (i.e. tax credits, benefits, direct payments etc) that could be enhanced to be more flexible and responsive to the real income needs of Canadians with disabilities and their families (i.e. a refundable Disability Tax Credit for low income Canadians; non-taxable CPP-D benefits, shared eligibility criteria between CPP-D and DTC, provide 52 weeks EI sick benefits)
- Explore an expanded Federal income support role for Canadians with significant disabilities.
- Engage with Provincial-Territorial governments to develop a disability supports re-investment strategy of PT social assistance monies saved as a result of an expanded Federal income support role.

3. *Increased Labour Market Participation (Article 27)*

Canadians with disabilities are underrepresented in the labour market. Where people with disabilities are employed their attachment to the labour market is tenuous and often reliant on the provision of adequate disability-related supports. An Implementation Action Plan should:

- Review existing employment programs and services for compliance with Article 27 and explore possible enhancements.
- Identify specific targets for Canadians with disabilities to be included in Labour Market Development Agreements (LMDAs) negotiated with the provinces.
- Engage with the disability community and PT governments to identify shared solutions to increase labour market participation.

4. *Access and Inclusion (Article 9 and 21)*

For Canadians with disabilities and their families, progress in any of the above mentioned areas relies on accessibility in its broadest sense – physical and infrastructure-related access, information and communication access and participation access. An Implementation Action Plan should provide an accessibility lens on relevant federal areas (i.e. housing, transportation, elections). In particular an Implementation Action Plan should:

- Commit to developing accessibility regulations for all federally regulated modes of transportation.
- Promote a procurement policy that would ensure only accessible technologies are purchased.
- Provide a framework for necessary reforms to the electoral process to ensure people with disabilities can participate in all aspects of election campaigns and vote in an independent and secret manner.

5. *Canada's International Disability Leadership (Article 32 and 34)*

Canada is seen as an international leader on disability and was an active leader during negotiations of the CRPD. To continue this role, an Implementation Action Plan should:

- Engage with CIDA to explore policy and programs for compliance with Article 32.
- Promote Canada's engagement internationally through participation in Conference of States Parties meetings and the Committee on the Rights of Persons with Disabilities.

D. ARTICLE 12 RESERVATION AND OPTIONAL PROTOCOL

1. ***A public and transparent review process*** – Canada included a substantive reservation on Article 12 (equal recognition before the law) in its ratification. Additionally, Canada has not yet signed or ratified the Optional Protocol. The Government of Canada should publicly establish a clear timeframe to review its reservation and its position on the Optional Protocol.

Rationale:

The disability community believes the reservation does not affirm the spirit of the Convention, and could be interpreted to signal less than full commitment to advancing legal capacity and supported decision making, and to reforming current substitute decision making provisions. Additionally, the disability community remains united in its position that a complaints mechanism is integral to ensuring accountability and meaningful implementation. A clear review process, including a dialogue with the disability community, would provide an opportunity to better understand the concerns that have shaped these realities and to develop a shared solution for moving forward.

Next Steps

As a State Party to the CRPD, Canada is obliged to take active measures for implementing the CRPD – including monitoring and reporting on those measures. CCD and CACL believe the measures outlined in this paper are feasible, have practical value and are consistent with the provisions of the CRPD. They provide a starting point for establishing the fundamentals of an implementation plan and monitoring process.

Moving the CRPD forward requires political will and a public service mandated and resourced to drive implementation. **CCD and CACL are calling for immediate action by the Government of Canada and Parliamentarians.**

1. The Government of Canada should
 - i. Create an advisory panel, with representation from national disability organizations, to explore how to move forward the actions identified in this paper. The creation of such a panel would be a first step in meeting Canada’s obligations to the CRPD.
2. Parliamentarians should:
 - i. Endorse and support the convening of Parliamentary hearings on the CRPD. The hearings should be convened as soon as possible and should include representatives from disability organizations as key witnesses.

For more information contact:

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Annex 2

Minister of Justice
and Attorney General of Canada



Ministre de la Justice
et procureur général du Canada

The Honourable / L'honorable Rob Nicholson, P.C., Q.C., M.P. / c.p., c.r., député
Ottawa, Canada K1A 0H8

JUN 21 2012

Mr. David Langtry
Acting Chief Commissioner
Canadian Human Rights Commission
344 Slater Street
Ottawa ON K1A 1E1

Dear Mr. Langtry:

Thank you for your correspondence in which you reiterate the interest of the Canadian Human Rights Commission in undertaking the monitoring functions envisaged under Article 33(2) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). I appreciate this offer. I regret the delay in responding.

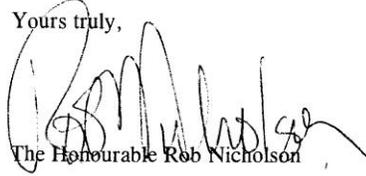
The Commission put a great deal of effort into the work leading up to the successful completion of the CRPD, and I want to thank you again for contributing both your expertise and your commitment to this important endeavour. I know that the Commission already carries out several of the functions mentioned in Article 33(2). These functions include protecting and promoting respect for the equality rights of persons with disabilities as set out in the *Canadian Human Rights Act*, which implements many of the rights set out in the CRPD. I want to take this opportunity to recognize the Commission's work in this regard.

With respect to the question of designation, after careful consideration of the Commission's ongoing work on disability issues, as well as the existing combination of other mechanisms aimed at protecting, promoting, and monitoring the rights of persons with disabilities, the Government of Canada continues to believe that Canada already has sufficient mechanisms to fulfil its obligations under Article 33(2). These mechanisms include government reporting and promotional activities and the work of human rights commissions, tribunals, courts, public guardians and ombudspersons, and disability organizations across the country.

Canada

Once again, thank you for your offer and for all of the work the Commission does to improve the lives of those in Canada who live with a disability.

Yours truly,

A handwritten signature in black ink, appearing to read "Rob Nicholson". The signature is fluid and cursive, with a large initial "R" and "N".

The Honourable Rob Nicholson

c.c.: The Honourable Diane Finley, P.C., M.P.
Minister of Human Resources and Skills Development



Annex 3

Personally Speaking: Poverty and Disability in Canada

Background

Following the 2006 Census, Statistics Canada used the Participation and Activity Limitation Survey (PALS) to gather information about people with disabilities. Disability was defined as any long-term or recurring difficulty in activities related to hearing, seeing, communicating, mobility, agility, learning or similar activities or a condition or health problem that reduces the amount or kind of activity people can do at home, work, school or other activities such as transportation or leisure. Based on PALS, 16.5% of adults or almost 4.2 million Canadians have at least one disability.

Together, the Census and PALS provide information about people with disabilities who live on low incomes (people in households that spend after taxes 20% or more than the average on food, shelter and clothing). This is the after tax low-income cut-off (LICO) and is sometimes called the 'poverty line'. It doesn't include disability-related costs such as medication, services, or aids for mobility, communication or learning. In 2005 almost half a million (20.5%) working-age adults 15 to 64 years with disabilities lived on a low income. This fact sheet looks at the relationship between poverty, disability and selected other personal characteristics of Canadians.

Age

- People with disabilities of working age are about twice as likely to live on a low income as their counterparts without disabilities.
- After age 65 the rate of having a low income among people with disabilities drops significantly and stays low – like the rate for seniors without disabilities – during the retirement years. This may be because government benefits help supplement incomes and reduce costs for seniors with and without disabilities.

Gender

- Although women are slightly more likely than men to report disability (53.2% and 46.8%, respectively), overall there is only a slight difference in their chances of living on a low income (21.3% of women and 19.6 % of men). However, that picture changes where women are heads of single parent households. Here, more than a third (33.7%) live on low incomes.

Visible Minority and Aboriginal Status

- There is a slightly lower percentage of visible minorities with a disability living on a low income compared to visible minorities who do not report disabilities (21.8% and 22.3%, respectively). These rates are a bit higher than the rate for people with disabilities who do not identify themselves as members of a visible minority or Aboriginal group (19.5%).
- The rates of visible minorities with and without disabilities who live on low incomes are significantly higher than the rate for working-age people without disabilities who live on low incomes (8.4%).
- Unlike the rates for visible minorities, a higher percentage of Aboriginals with disabilities live on low incomes (38.1%) than Aboriginals without disabilities (19.5%).

Type of Disability

- Among those with disabilities living on a low income, 20.9% reported a physical disability (mobility, agility, or pain), 22.7% reported a sensorial or speech disability, and 27.9% reported a cognitive disability (developmental, learning, emotional/psychological, or memory).
- People who have disabilities related to spoken communication or cognition are about 1.5 times more likely to have a low income than people with disabilities in general and the rates are about three times higher than those for people without a disability.

Age at Disability Onset

- The age at which a person acquires a disability influences their success in the labor force; in 2006, 52.6% of those who experienced the onset of disability at an early age (before the end of formal schooling) were employed compared to 42.1% of those who experienced late onset of disability.
- Age at disability onset doesn't have a major impact on low-income status, as 22.3% of those who acquired their disability before they finished their formal schooling live on a low income compared with 19.5% of people who acquired their disabilities after finishing formal schooling.

Severity of Disability

- The chances of living on a low income increase as the severity of disability increases; severity is determined by looking at types of disability, the level of difficulty experienced, and the number and type of activities that are affected.
- Among people with disabilities who have low incomes 52.7% have a severe to very severe level of disability, while only 36.5% of people who have severe to very severe disabilities do not have low incomes.

This information was produced through the Council of Canadians with Disabilities' Disabling Poverty/Enabling Citizenship project, which is funded by the Social Sciences and Humanities Research Council's (SSHRC) Community-University Research Alliances (CURA). For more information, visit:

<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship>.



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CETTE VOIX QUI EST LA NOTRE

On the Home Front:

Poverty, Disability, Housing and Help with Everyday Activities

Background

Following the 2006 Census, Statistics Canada used the Participation and Activity Limitation Survey (PALS) to gather information about people with disabilities. Disability was defined as any long-term or recurring difficulty in activities related to hearing, seeing, communicating, mobility, agility, learning or similar activities or a condition or health problem that reduces the amount or kind of activity people can do at home, work, school or other activities such as transportation or leisure. Based on PALS, 16.5% of adults or almost 4.2 million Canadians have at least one disability.

Together, the Census and PALS provide information about people with disabilities who live on low incomes (people in households that spend after taxes 20% or more than the average on food, shelter and clothing). This is the after tax low-income cut-off (LICO) and is sometimes called the 'poverty line'. It doesn't include disability-related costs such as medication, services or aids for mobility, communication or learning. In 2005 almost half a million (20.5%) working-age adults 15 to 64 years with disabilities lived on a low income. This fact sheet looks at the relationship between poverty, disability, living arrangements and residential needs of Canadians with and without disabilities.

Age

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- People with disabilities of working age are about twice as likely to live on a low income as their counterparts without disabilities.
- After age 65 the rate low income among people with disabilities drops significantly and stays low – like the rate for seniors without disabilities – during the retirement years. This may be because government benefits help supplement incomes and reduce costs for seniors with and without disabilities.

Gender

- Although women are slightly more likely than men to report disability (53.2% and 46.8%, respectively), overall there is only a slight difference in their chances of living on a low income (21.3% of women and 19.6 % of men). However, that picture changes where women are heads of single parent households. Here, more than a third (33.7%) live on low incomes.

Housing

- While 30.8% of people with disabilities live in rental housing, 44% of renters with disabilities live on low incomes compared to 24.7% of their renter counterparts without disabilities.
- Among people with disabilities living on a low income, 15.5% live in housing that is in need of major repairs because of plumbing problems and electrical wiring and structural issues, compared with 9.8% of people without disabilities who live on low incomes.

Living Arrangements

- Poverty levels differ for people with and without disabilities depending on their living arrangements. For instance, people with disabilities are somewhat more likely to be lone parents (7.3% vs. 5%), about as likely to live with unrelated others (4.1% regardless of disability) but twice as likely to live alone (17.3% compared to 9.4%). However:
 - ✓ Among lone parents, people with disabilities are much more likely than people without disabilities to have low income (33.5% vs.19.9%).
 - ✓ People with disabilities are also much more likely to be living on a low income if living with unrelated others (61.2% vs. 36.9%) or if living alone (53.5% vs. 23.3%).

Low Income and Help with Everyday Activities

- People with disabilities who live on low incomes are more likely than their counterparts with higher incomes to need help with everyday activities because of disability (66.3% compared to 58.9%). Everyday activities include preparing meals, housework, errands, personal care, in-home medical care, moving around within the personal residence, and childcare due to the parent's disability.
- People with disabilities living in low-income households are more likely than their counterparts with higher incomes to indicate that they receive only some of the help they need (27.1% vs. 21.3%) or none of the help needed (10.2% vs. 4.7%, respectively).

Low-income Rates by Need for Help with Everyday Activities

- People with disabilities who receive only some or none of the help they need with everyday activities are more likely (24.8% and 35.8%, respectively) to have a low income than people with disabilities who do not need or receive any help (16.8%).
- Only 18.5% of people with disabilities living in low-income households reported receiving all of the support they need with everyday activities.

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CETTE VOIX QUI EST LA NOTRE

Low Household Income and Disability: Income Sources, Employment and Employment Discrimination

Background

Following the 2006 Census, Statistics Canada used the Participation and Activity Limitation Survey (PALS) to gather information about people with disabilities. Disability was defined as any long-term or recurring difficulty in activities related to hearing, seeing, communicating, mobility, agility, learning or similar activities or a condition or health problem that reduces the amount or kind of activity people can do at home, work, school or other activities such as transportation or leisure. Based on PALS, 16.5% of adults or almost 4.2 million Canadians have at least one disability.

Together, the Census and PALS provide information about people with disabilities who live on low incomes (people in households that spend after taxes 20% or more than the average on food, shelter and clothing). This is the after tax low-income cut-off (LICO) and is sometimes called the 'poverty line'. It doesn't include disability-related costs such as medication, services, or aids for mobility, communication or learning. In 2005 almost half a million (20.5%) working-age adults 15 to 64 years with disabilities lived on a low income. This fact sheet looks at the relationship between poverty, disability and income-related characteristics of Canadians with and without disabilities.

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Income Sources

- Working-age people with disabilities living on a low income receive 37.5% of their total household income from government transfers (\$5,825, on average), while their counterparts without disabilities receive 14.4%, or an average of \$3,084, from these sources.
- Nearly half (48.2%) of people with disabilities living below the LICO received provincial social assistance in 2005 and more than one in five (22.3%) received the Canada / Quebec Pension Plan Disability benefit. PALS does not provide information about social assistance received by people without disabilities.
- After the age of 65 the incomes of both people with and without disabilities who live below the LICO double, respectively, to \$12,252 or 66% of household income and \$11,999 or 68.5% of household income. Most of these funds come from Old Age Security, the Guaranteed Income Supplement and the Canada/Quebec Pension Plan.

Labor Force Status

- According to Statistics Canada people with disabilities are persistently less likely to be employed than people without disabilities; in 2006 51.3% of working-age people with disabilities were employed compared to 75.1% of people without disabilities. However, only half with disabilities who are outside of the labour force indicate that they are completely prevented from working due to their disability and many who feel completely prevented face social and economic barriers to employment aside from disability itself.
- The low employment level of people with disabilities helps to account for the greater prevalence of poverty they experience. Yet even those with disabilities who are employed are more likely to have a low income than those without disabilities (11% vs. 7.3%). Furthermore, among people with disabilities who not working, the rate of low income is 1.5 times higher than for their counterparts who do not have disabilities.
- According to PALS 33.4% of people with disabilities on low incomes had not worked within the 12 months before PALS was conducted and either worked before 2005 or had never worked. In comparison, this was the case for 23.7% of people without disabilities living in low-income households.
- People with disabilities on low incomes were almost twice as likely to work part-time for most of the year (40 to 48 weeks) compared to those without disabilities on low incomes (27% and 14.9%, respectively).

Type of Workplace

- The low-income rate for employed people with disabilities is low for the 32.4% who work for an employer operating at more than one location with more than 500 workers and the 32.1% who are unionized or are otherwise covered by a collective agreement.
- These conditions appear ideal for increasing the likelihood of living above the LICO: for workers with disabilities whose workplaces meet these conditions the low-income rate is only 3.8%. However, these conditions only apply to only about one in five (18.4%) of employed people with disabilities.

Discriminatory Employment Practices

- PALS asked respondents who had been active in the labor force at some point from 2001 through 2006 whether they had experienced employment discrimination because of disability in those years. Discrimination included any of being refused a job interview, a job or promotion, being given less responsibility than co-workers, being denied workplace accommodation or employment benefits, being paid less than other workers in comparable jobs and being exposed to other types of employment discrimination.
- Those who reported experiencing such discrimination are about twice as likely to live on low-incomes as those who have not had such an experience – 22.4% vs. 12.7%.

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Trying to ‘Make the Grade’: Education, Work-Related Training and the Low-Income of People with Disabilities

Background

Following the 2006 Census, Statistics Canada used the Participation and Activity Limitation Survey (PALS) to gather information about people with disabilities. Disability was defined as any long-term or recurring difficulty in activities related to hearing, seeing, communicating, mobility, agility, learning or similar activities or a condition or health problem that reduces the amount or kind of activity people can do at home, work, school or other activities such as transportation or leisure. Based on PALS, 16.5% of adults or almost 4.2 million Canadians have at least one disability.

Together, the Census and PALS provide information about people with disabilities who live on low incomes (people in households that spend after taxes 20% or more than the average on food, shelter and clothing). This is the after tax low-income cut-off (LICO) and is sometimes called the ‘poverty line’. It doesn’t include disability-related costs such as medication, services, or aids for mobility, communication or learning. In 2005 almost half a million (20.5%) working-age adults 15 to 64 years with disabilities lived on a low income. This fact sheet looks at the education, work-related training and low-income status of Canadians with and without disabilities.

Secondary and Post-Secondary Education among People with Disabilities

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- Working-age people with disabilities are more likely to have no formal educational certification – not even a high school diploma – than those without disabilities (27.4% and 18.3%, respectively) and are also less likely to have a university degree or certificate (13.2% vs. 20.7%).

Disability, Low-Income Status and Highest Level of Educational Certification

- In general, regardless of the level of education obtained, people with disabilities are still about twice as likely to live on low incomes as people without disabilities.
- For example, 28.7% of people with disabilities who don't have a high school graduation certificate are in low income households, compared with 14.2% of their counterparts without disabilities. The two to one spread in low income rates between people with vs. without disabilities is similar for people with a high school graduation certificate (20.2% vs. 11.1%), trades certificate or diploma (17.8% vs. 9.2%) and a college certificate or diploma (17.0% vs. 8.3%).
- However, the spread decreases where people with disabilities earn a degree, diploma or other certificate from a university. Here, 12.4% of people with disabilities and 8.2% without live on low incomes, a spread of 1.5 times instead of twice the rate of poverty.

Educational Experiences and Disability

- Working-age people living below the LICO who acquired their disabilities before completing their formal education are more likely than their counterparts living above the LICO to report difficulties with their education.
- These difficulties include starting school later than their same-aged peers (18.1% vs. 8.3%), changing schools because of disability (23.3% vs. 15.6%) and changing their course of study due to disability (24.7% vs. 17.2%).
- This group is more likely than their counterparts living above the LICO to have experienced various forms of separation or segregation in the education system. For instance, they are more likely to have attended special schools or special classes in regular schools (25.8% vs. 17.9%), to have undergone home schooling (14.8% vs. 10.5%) and to have left their community to attend school because of disability (16.3% vs. 8.6%).
- Members of this group are also more likely than their counterparts living above the LICO to report that they have had extra educational expenses because of disability (14.4% compared to 10.5%). As well, they are more likely to have experienced interruptions in their education (36.5% vs. 19.8%) and to have taken fewer courses than they would have if they didn't have a disability (39.3% vs. 22.4%). These factors contribute to this group's greater likelihood of

reporting that they feel it has taken longer for them to achieve their present level of education (44.3% below vs. 24.5% of those living above the LICO).

- Despite the increased likelihood of experiencing difficulty in obtaining an education, those who had disabilities prior to completing their formal education are more likely to return to school for re-training if they live below the LICO (31.9%) than if they live above it (21.6%).

Work-Related Training

- For people with disabilities, living on a low income is associated with their lack of access to work-related training.
- For instance, among people with disabilities who were active in the labor force at some point from 2001 through 2006, only 10% who received classroom-based or on-the-job work-related training report low incomes, compared with 19.6 % of their counterparts with disabilities who didn't receive such training.

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From Coast to Coast: Provincial Rates of Low-Income among Canadians With and Without Disabilities

Background

Following the 2006 Census, Statistics Canada used the Participation and Activity Limitation Survey (PALS) to gather information about people with disabilities. Disability was defined as any long-term or recurring difficulty in activities related to hearing, seeing, communicating, mobility, agility, learning or similar activities or a condition or health problem that reduces the amount or kind of activity people can do at home, work, school or other activities such as transportation or leisure. Based on PALS, 16.5% of adults or almost 4.2 million Canadians have at least one disability.

Together, the Census and PALS provide information about people with disabilities who live on low incomes (people in households that spend after taxes 20% or more than the average on food, shelter and clothing). This is the after tax low-income cut-off (LICO) and is sometimes called the 'poverty line'. It doesn't include disability-related costs such as medication, services, or aids for mobility, communication or learning. In 2005 almost half a million (20.5%) working-age adults 15 to 64 years with disabilities lived on a low income. This fact sheet looks at the low income rates of people with and without disabilities in each province, and also compares the rates of low-income among people living in rural and urban communities who do and do not have disabilities. Canada's territories (Yukon, Northwest Territories and Nunavut) are not included because Statistics Canada has not developed a low-income cut-off for these regions.

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Comparing Provincial Rates of Disability and Low-Income Status

- Canadians with disabilities are twice as likely to be living in poverty as people who do not have disabilities (20.3% vs. 10.7%, respectively). Provincial low-income rates are as follows:
 - British Columbia has the lowest ratio, where people with disabilities are 1.5 times more likely than people without disabilities to live in poverty (19.6% vs. 13.2%).
 - In Alberta, 13.7% of people with disabilities live in poverty compared to 8.5% of people who do not have disabilities.
 - Saskatchewan's residents with disabilities have a low-income rate of 17.4% compared to 9.5% of its residents without disabilities.
 - Manitoba is close to the national rate, with 20.1% of people with disabilities and 9.7% of people without disabilities living in low-income homes.
 - In Ontario the low-income rates are 18.3% and 10.3% for people with and without disabilities, respectively.
 - In New Brunswick and Prince Edward Island, which have been grouped together due to low population counts in order to meet Statistics Canada's standards, those with disabilities are 2.3 times more likely to live in poverty than their counterparts without disabilities (17.3% vs. 7.7%).
 - Nova Scotians with disabilities experience poverty at a rate of 16.8% compared to 8.9% among people without disabilities.
 - Quebec has the highest ratio, as people with disabilities are 2.7 times more likely to live in poverty than those without disabilities (32% vs. 12%, respectively).
 - Newfoundland and Labrador also experience a high rate of poverty among people with disabilities living there, as they are 2.5 times more likely to have a low income than people without disabilities (22.9% vs. 9.1%).

Urban and Rural Differences in Low-Income Status

- Community type and size affect low-income rates: people who live in rural communities are about half as likely to have low incomes as people who live in cities and towns.
 - In rural settings 11.3% of people with disabilities live on low incomes compared to 5.6% of people without disabilities.
 - People with disabilities who live in urban communities live on low-incomes at a rate of 22.9%, while 11.4% of their counterparts without disabilities live on low household incomes.
- Regardless of type of community, however, people with disabilities remain about twice as likely to live in low income households as people without disabilities.

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Gender, Disability and Low Income

Background

Following the 2006 Census, Statistics Canada used the Participation and Activity Limitation Survey (PALS) to gather information about people with disabilities. Disability was defined as any long-term or recurring difficulty in activities related to hearing, seeing, communicating, mobility, agility, learning or similar activities or a condition or health problem that reduces the amount or kind of activity people can do at home, work, school or other activities such as transportation or leisure. Based on PALS, 16.5% of adults or almost 4.2 million Canadians have at least one disability.

Together, the Census and PALS provide information about people with disabilities who live on low incomes (people in households that spend after taxes 20% or more than the average on food, shelter and clothing). This is the after tax low-income cut-off (LICO) and is sometimes called the 'poverty line'. It doesn't include disability-related costs such as medication, services, or aids for mobility, communication or learning. In 2005 almost half a million (20.5%) working-age adults 15 to 64 years with disabilities lived on a low income. This fact sheet compares the rates at which men and women with and without disabilities experience low incomes.

Disability and Gender

- Among working-age Canadians without disabilities, half are women (50.3%) whereas this is the case for slightly more than half of working-age Canadians with disabilities (53.2%).

Severity of Disability and Age

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- More than half (53.5%) of working-age women with disabilities who live in low income households have a severe to very severe level of disability compared with just over a third of their counterparts (37.9%) who live above the LICO.
- Among working-age women without disabilities, one in four (25.1%) are 50 to 64 years of age. Among women with disabilities this is the case for half (50.2%) who live on low incomes and on incomes above the LICO (50.3%).

Living Arrangements

- Most working-age women without disabilities (59.3%) live with a partner in a marriage or common-law union. Among women with disabilities who live in low income households, only about one in five (19.1%) live in such arrangements. In contrast, most women with disabilities in low income households (56.1%) live as ‘unattached’ individuals, whether alone (45%) or with others to whom they are not related by ties of kinship (11.1%). Among their women counterparts with disabilities who live above the LICO, only 11.5% are ‘unattached’.
- 18.4% of working-age women with disabilities in low income households are lone parents compared with 9.9% of their counterparts who live above the LICO and 7.9% of women without disabilities. Only 4% of men with disabilities who live on low incomes are lone parents.
- 15.1% of working-age women with disabilities in low income households live in places that are in need of major repairs, such as for defective plumbing or electrical wiring, or for structural repairs to walls, floors or ceilings. This is the case for 12.1% of their counterparts who live above the LICO and for 6.4% of women without disabilities.

Education, Employment and Social Assistance

- Women tend to assume responsibility for childrearing and elder care and are more likely to be lone parents and to have fewer opportunities for stable, high-paid employment. It is therefore reasonable to anticipate that women with disabilities would be more likely than men to live in low-income households. The data reveals that women with disabilities are indeed slightly more likely than their male counterparts to live below the low income cut-off (21.3% vs. 19.6%, respectively).
- That said, among working-age women with disabilities who live in low income households, nearly four in ten (38.6%) have not received a high school graduation certificate and only one

in four (24.2%) are working at a job or business. Among women without disabilities, only 17.5% haven't received a high school graduation certificate and most (70.7%) are employed.

- Among working-age women with disabilities who live in low income households, half (49.5%) received social assistance in the past 12 months compared with fewer than one in ten (8.6%) whose household income was above the LICO.

Help with Everyday Activities

- More than four in ten women with disabilities who live in low income households (43.7%) have one or more unmet needs for disability-related help with everyday activities such as meal preparation, household chores, running errands, banking, personal care, moving about at home, etc. This is the case for less than one in three women with disabilities whose household income is above the LICO (30.7%). Men with disabilities are less likely to have unmet needs for help with everyday activities, regardless of whether their household income is above or below the LICO (20.7% and 29.4%, respectively).

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