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United Nations Convention on the Rights of Persons with Disabilities

National Stakeholder Consultations Report

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Executive summary

Canada is proud to have participated, along with other nations and civil society, in the development of the United Nations *Convention on the Rights of Persons with Disabilities* (Convention) and to have been among the first countries to sign it in March 2007. The federal government tabled the Convention in Parliament on December 3, 2009, on the International Day of Persons with Disabilities. Canada ratified the treaty soon after, on March 11, 2010, signalling the country's commitment to further reducing barriers to full participation by persons with disabilities, as well as our already strong equal rights guarantees in Canadian society.

The Convention consists of 50 articles, which set out the purpose and general principles underlying the Convention, general obligations on States Parties and specific rights of persons with disabilities. The Convention also creates a new international body of experts—the Committee on the Rights of Persons with Disabilities—to monitor States Parties' compliance with the Convention.

Prior to making a decision on ratification, the Government of Canada sought to ensure that federal laws, policies and programs were consistent with the Convention. Given that this treaty has implications for provincial and territorial governments, these governments also undertook their own assessments to ensure conformity with the relevant provisions of the treaty. In addition, the Government of Canada sought the views of Aboriginal self-governing groups on how the Convention may impact their communities.

Within Human Resources and Skills Development Canada, the Office for Disability Issues (ODI) led the public consultations at the federal level. ODI held an invitational national roundtable in June 2009 to seek input from stakeholders on the ratification,

implementation and reporting of the Convention. A public consultation website was also launched on June 25, 2009, closing for comments on August 14, 2009. The views expressed by stakeholders through these consultations played an important role in informing the decision on ratification. In addition, these views will help inform new measures that may be taken at the federal level to further implement the Convention.

This report focuses on feedback received from stakeholders at the national roundtable and through the online consultation. Key messages include:

- Canada should ratify the Convention on or before December 3, 2009, the International Day of Persons with Disabilities.
- Canada should sign and ratify the *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (Optional Protocol), which allows for individuals or groups to make complaints concerning alleged violations of the provisions of the Convention by States Parties. Should the Government of Canada choose not to ratify the Optional Protocol, stakeholders asked that this decision be reviewed within two years of the ratification of the Convention.
- Canada should not enter any interpretative declarations or reservations ratifying the Convention. However, should the Government of Canada choose to enter any declarations or reservations, stakeholders asked that they be reviewed in consultation with stakeholders within two years of the ratification.
- The Government of Canada should develop a national implementation plan for the Convention and involve stakeholders and the disability community in the development of such a plan. Persons with disabilities should also be consulted on any new measures that might be taken to implement the Convention.

- Stakeholders called for a focal point within government, which would need to be adequately resourced, to support implementation, monitoring and reporting on the Convention.
- Stakeholders called for enhanced data collection regarding Canadians with disabilities.
- Stakeholders want to see a positive approach taken to implementation and to be involved in monitoring progress made in implementing the Convention post-ratification.
- Stakeholders supported the concept of progressive realization being applied to the interpretation of some of the Convention’s provisions, where appropriate, and as long as there is a sincere commitment to ensuring progress over time on these articles.
- Stakeholders called for expanded federal leadership on disability issues and for the federal government to ensure strong cooperation between the federal/provincial/territorial levels of government to deal with issues such as the portability of financial and other disability supports, including the possibility of creating a federal/provincial/territorial forum to coordinate effective implementation.
- The federal government should take an active role in educating Canadians about the rights of persons with disabilities in Canada with a view to removing attitudinal barriers and ensuring that the Convention is fully realized.
- The Convention could inspire the disability community and governments in Canada to work toward an “access economy” in terms of buildings, products and services that would benefit everyone, not just persons with disabilities.
- The federal government should continue to involve stakeholders in the process of monitoring Canada’s implementation of the Convention and reporting on Canada’s progress to the United Nations.

1. Introduction

This document is a report on the proceedings and outcomes of a two-day national roundtable and an online consultation on the ratification of the United Nations *Convention on the Rights of Persons with Disabilities* (Convention). The roundtable was held in Ottawa, Ontario, on June 25 and 26, 2009, and the online consultation took place from June 25 to August 14, 2009.

1.1 About the Convention

The Convention is a new international human rights treaty aimed at promoting, protecting and ensuring the equal enjoyment of all human rights and fundamental freedoms by persons with disabilities. It builds on other United Nations (UN) human rights treaties, including, for example, the *International Covenant on Economic, Social and Cultural Rights*;¹ the *International Covenant on Civil and Political Rights*;² and the *Convention on the Rights of the Child*,³ to which Canada is already a party. As of May 14, 2010, 144 countries had signed and 86 had ratified the Convention.

As explained by the UN, “[t]he Convention marks a ‘paradigm shift’ in attitudes and approaches to persons with disabilities. It takes to a new height the movement from viewing persons with disabilities as ‘objects’ of charity, medical treatment and social protection toward viewing persons with disabilities as ‘subjects’ with rights, who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society.”⁴

1. The *International Covenant on Economic, Social and Cultural Rights* is a multilateral treaty adopted by the UN General Assembly. It commits its parties to work toward the granting of economic, social and cultural rights to individuals, including labour rights and rights to health, education and an adequate standard of living. For more information, refer to www2.ohchr.org/english/law/pdf/cescr.pdf.

2. The *International Covenant on Civil and Political Rights* is a UN treaty based on the *Universal Declaration of Human Rights*. For more information, refer to www2.ohchr.org/english/law/ccpr.htm.

3. The *Convention on the Rights of the Child* is an international convention adopted by the UN General Assembly that sets out the civil, political, economic, social and cultural rights of children. For more information, refer to www.unicef.org/crc/.

4. United Nations Enable. “Convention on the Rights of Persons with Disabilities”. www.un.org/disabilities/default.asp?id=150.

The Convention consists of 50 articles, which set out the purpose and general principles underlying the Convention, general obligations on States Parties and specific rights of persons with disabilities. The Convention also creates a new international body of experts—the Committee on the Rights of Persons with Disabilities—to monitor States Parties’ compliance with the Convention.

The Convention recognizes that “disability” is an evolving concept that “results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others” (Preamble and article 2).⁵

The right to equality, non-discrimination and reasonable accommodation is central to the Convention. The meaning of the right to equality and non-discrimination in the disability context is elaborated upon in many of the specific rights provisions in the Convention, including those on equal recognition before the law, liberty and security of the person, liberty of movement and nationality, freedom of expression, education, health, political participation, and participation in cultural life.

Other articles deal with matters such as consultations with persons with disabilities, accessibility, living independently in the community, personal mobility, habilitation and rehabilitation.

1.2 Canada and the Convention

Canada is proud to have participated, along with other nations and civil society, in the development of the Convention and to have been among the first countries to sign it in March 2007. Canada ratified the Convention on March 11, 2010. Currently, all jurisdictions in Canada have strong equality and non-discrimination protections for persons with disabilities. These

5. United Nations Enable. *Convention on the Rights of Persons with Disabilities* (Convention). www.un.org/disabilities/documents/convention/convoptprot-e.pdf.

are entrenched in section 15 of the *Canadian Charter of Rights and Freedoms* and in federal, provincial and territorial human rights legislation.

1.3 About the ratification process

The Government of Canada has authority to ratify international treaties. The decision with respect to ratification is taken by the federal cabinet. Prior to making a decision on ratification, the Government seeks to ensure that federal laws, policies and programs are consistent with the treaty in question. Where an international treaty has implications for provincial and territorial governments, as is the case with the Convention (for instance regarding accessibility of buildings and services, legal capacity, health, education and family law) these governments do their own assessments to ensure conformity with the relevant provisions of the treaty prior to ratification.⁶

At the federal level, the review for consistency with the Convention was led by the Department of Justice Canada. Provinces and territories also conducted their respective assessments. These reviews were facilitated by Canadian Heritage through the federal-provincial/territorial Continuing Committee of Officials on Human Rights.⁷

In addition, the Government of Canada sought the views of Aboriginal self-governing groups on how the Convention may impact their communities.

Within Human Resources and Skills Development Canada, the Office for Disability Issues (ODI) led all aspects of the public consultation at the federal level.

Once a positive decision on ratification was obtained at the federal level, the Government of Canada sought the formal

6. For more information on this process, see the Canadian Heritage Human Rights Program website: www.pch.gc.ca/pgm/pdp-hrp/inter/un-eng.cfm.

7. For more information on this committee, please see the Continuing Committee of Officials on Human Rights website: www.pch.gc.ca/pgm/pdp-hrp/canada/cmtt-eng.cfm.

support of provincial and territorial governments. This involved, in some cases, obtaining a decision by their cabinet and/or legislative bodies if any changes or measures needed to be taken by provinces and territories prior to ratification. Once general support was received, the Government of Canada tabled the Convention in Parliament as per the *Policy on Tabling of Treaties in Parliament*.⁸ Following approval, Canada deposited the instrument of ratification with the UN on March 11, 2010.

1.4 About the Optional Protocol

The *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (Optional Protocol) outlines a procedure for individuals or groups to make complaints concerning alleged violations of the provisions of the Convention by States Parties. Having just completed the ratification of the Convention, Canada is not considering signing or ratifying the Optional Protocol at this time.

1.5 Seeking input from Canadians and Stakeholders

The Government of Canada recognizes the importance of soliciting advice from the Canadian public on the Convention. During the development of the Convention, the federal government participated in community consultations, funded by ODI, where national disability groups provided input to federal officials on the content of the Convention.

Most recently, public consultations on the ratification of the Convention took place during the summer of 2009. These consultations comprised two components:

8. www.treaty-accord.gc.ca/procedure.asp

1. A national roundtable

A two-day invitational roundtable consultation event was held in Ottawa, Ontario, on June 25 and 26, 2009, for stakeholder organizations.

2. A consultation website

A public online consultation was held from June 25 to August 14, 2009.

The views expressed by stakeholders through these consultations played an important role in informing the decision on ratification. In addition, these views will help inform new measures that may be taken at the federal level to further implement the Convention.

1.6 A note on the terminology used in this report

The federal government recognizes that language is in constant evolution. Such is the case within the disability context, as variability exists in the terminology used by civil society, the disability community and all levels of government to identify and describe types of disabilities. This report strives to use the most accurate and inclusive terminology as possible.

2. What we heard: Key messages

This section outlines key messages that emerged from discussions during the stakeholder consultations (both the national roundtable and the online components).

Canada should ratify the Convention as soon as possible

Generally, there was agreement among stakeholders that the ratification process has taken too long and that Canada should ratify the United Nations *Convention on the Rights of Persons with Disabilities* (Convention) as soon as possible. Stakeholders called for ratification on or before December 3, 2009, the International Day of Persons with Disabilities. Some stakeholders acknowledged, however, that there are events outside of everyone's control that can affect the decision on ratification.

There was a sense that the federal government, along with the provinces and territories, may not be in 100% compliance with the Convention. However, ratification of the Convention would send some clear messages: namely that the Government of Canada is fully committed to the protection of the rights of persons with disabilities, and that Canada is an international champion, committed to advancing the development of norms and standards to strengthening global human rights protections.

Stakeholders preferred that Canada not state any interpretative declarations or reservations when ratifying the Convention. However, should the federal government choose to include these, stakeholders are seeking consultations and a review of these reservations or declarations within two years of ratification.

Along with the ratification of the Convention, stakeholders indicated that Canada should also sign and ratify the *Optional*

Protocol to the Convention on the Rights of Persons with Disabilities (Optional Protocol). The Optional Protocol sets out a procedure for individuals or groups to make complaints about alleged violations of the provisions of the Convention by States Parties. Should the Government of Canada choose not to ratify the Optional Protocol, stakeholders asked that this decision be reviewed within two years of the ratification of the Convention.

Development of an implementation plan

Stakeholders viewed the development of a national implementation plan as essential for establishing reliable indicators for monitoring and reporting on the Convention, on disability rights and on human rights in general.

While a number of organizations have worked together to draft their own national disability action plans, they maintain that in order to be effective, such plans require political leadership from federal, provincial and territorial governments as well as collaboration with stakeholders.

Adequate resources for implementing the Convention

Stakeholders felt that there needs to be an improvement in the availability and accessibility of resources and supports for persons with disabilities and their caregivers.

They also were concerned that the Convention be implemented uniformly across the country. There was apprehension that rural, northern and remote communities would not have the resources and infrastructure needed to meet the expectations set out by the Convention.

Raising awareness: The Convention is not solely a disabilities issue

Most stakeholders felt that the Convention will benefit all Canadians, not just those with a disability. The Convention and disability rights need to be well publicized among civil society and the disability community, as well as among service providers and the private and public sectors. A broad and comprehensive awareness campaign could focus on the following messages:

- the fact that disabilities affect all Canadians and that with global aging demographics, disability will be more and more part of Canadians' lives;
- the positive impact that the Convention can have on all Canadians;
- the positive impact that persons with disabilities have on Canadian society; and
- the positive impact of addressing disability issues (such as universal design and access, and accommodations) on the economy and for all Canadians.

Properly promoted, the Convention could inspire the disability community and governments in Canada to work toward an “access economy” in terms of buildings, products and services that would benefit everyone, not just persons with disabilities.

Engaging persons with disabilities and the disability community

Many stakeholders commented positively on the inclusion of the disability community in the negotiation of the Convention. It was felt that the process of treaty negotiation at the level of the United Nations was very collaborative and transparent in terms of its engagement with the community and with civil society.

Stakeholders expected that this level of engagement and transparency would continue during the signing and ratification processes at the national level. However, they were disappointed with the lack of engagement and transparency they have experienced since Canada signed the Convention. For instance, they would have preferred more communication from the federal government, as well as more engagement by the provinces and territories while programs and legislation were reviewed for compliance with the Convention. Stakeholders indicated that there should have been a mechanism to keep civil society and the disability community engaged and informed throughout the ratification process.

Stakeholders felt strongly that persons with disabilities should continue to be meaningfully involved in the development of any program, policy or legislation that affects them. The disability community has been using the slogan “Nothing about us without us” for many years as part of the global movement to achieve the full participation and equalization of opportunities for, by and with persons with disabilities.⁹ As per article 4(3) “General Obligations,” in the Convention, the disability community needs to be consulted broadly and often, including persons facing compounding issues (such as women, Aboriginal people and seniors). In addition, stakeholders cautioned against developing a “one-size-fits-all” plan for all disabilities; issues and needs can vary greatly within a type of disability (for instance, not all persons who are hard of hearing or deaf have the same needs).

Need for attitudinal change

There was an overriding sense that, for the Convention to be fully realized in Canada, there is a need for attitudinal change with respect to persons with disabilities within civil society and the private and public sectors. Stakeholders wished for a widespread and multi-generational paradigm shift: the movement from

9. For additional information on the slogan, please visit the UN Enable website at www.un.org/disabilities/.

viewing persons with disabilities as “objects” of charity toward viewing persons with disabilities as “subjects” with rights.

Opportunity for federal leadership

It was felt that the federal government could take a leadership role, on the domestic and international levels, with respect to the Convention. Some of the initiatives that could be taken to ensure this role include:

- providing leadership and ensuring strong cooperation between the federal/provincial/territorial levels of government, including the possibility of a federal/provincial/territorial forum to manage effective implementation and portability of disability supports between jurisdictions;
- creating a uniform federal standard of rights for all Canadians that includes rural/urban and Aboriginal/non-Aboriginal considerations;
- reviewing current initiatives, programs and services to identify new initiatives to remove barriers and/or improve access to goods and services;
- examining conditions on reserves and in Aboriginal communities to ensure compliance; and
- building on international best practices and sharing knowledge with the international community.

Stakeholders also discussed post-ratification initiatives for the federal government, including:

- creating a definitive focal point that illustrates clear federal responsibility for implementation, monitoring and reporting;
- acting as a credible source of information for individuals, organizations and jurisdictions;

- increasing the allocation of resources to non-governmental organizations to assist them with “on-the-ground” work and to assist them in the process of identifying and removing barriers;
- promoting the Convention and making it meaningful and relevant;
- helping to promote dialogue and exchange of expertise about different supported-decision-making models that exist across the country, as well as providing outreach and education to Canadians on what supported decision making is and is not;
- reaching out to individuals who are vulnerable; and
- developing new mechanisms to implement the Convention, including accessible and credible complaints mechanisms.

Progressive realization

Stakeholders acknowledged that the concept of progressive realization would likely need to apply to certain provisions and articles of the Convention. Stakeholders supported this approach as long as it was supported by a sincere commitment to ensuring progress over time.

3. Next steps

This report provided the Government of Canada with an awareness of the views of stakeholders with respect to the ratification and implementation of the *Convention on the Rights of Persons with Disabilities* (Convention). These views played an important role in informing the decision on ratification, and they will help guide any new measures that may be taken post-ratification at the federal level to further implement the Convention.

Appendix A: National roundtable – Consultation activities

This section provides an overview of the attendance and agenda for the roundtable. The national roundtable program is included in Appendix B.

A.1 Attendance

The roundtable was held at the Delta Hotel and Suites in Ottawa on Thursday, June 25 and Friday, June 26, 2009. In attendance were participants and speakers from 43 non-governmental organizations (NGO) representing persons with disabilities, human rights issues, and First Nations, Métis and Inuit organizations. Provincial and federal representatives also participated in the event. A list of participants is included in Appendix C.

A.2 Stakeholder caucus

An informal caucus among stakeholders was held on the evening of Wednesday, June 24, 2009. The event was open to all participants and was moderated by Laurie Beachell (National Coordinator, Council of Canadians with Disabilities), Anna MacQuarrie (Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living) and Steve Estey (Chair, International Development Committee of the Council of Canadians with Disabilities). This event does not form part of this consultation report.

A.3 Plenary sessions

The national roundtable was comprised of a series of plenary sessions and workshops. All plenary sessions used a similar format:

focused presentations on a topic related to the *Convention on the Rights of Persons with Disabilities* (Convention), followed by a discussion period for participants to ask questions and share ideas. The ideas captured during the plenary sessions are included in Section A.5.1.

A.4 Workshops

Workshops were held on three different topics:

- Workshop A: Equality, Non-Discrimination and Accessibility
- Workshop B: Living Independently and Inclusion in the Community
- Workshop C: Promoting, Protecting and Monitoring the Rights Set Out in the Convention

Workshop topics were introduced with a short presentation, followed by discussion periods. The workshop conversations were purposefully free-ranging to allow participants to share their views. Participants were welcome to speak from personal experience or from an organizational perspective.

The ideas captured during the workshops are included in Section A.5.2.

A.5 What we heard at the national roundtable

This section includes further detail about the presentations and discussions at the roundtable. The intent is to capture what was heard during plenary discussions and workshops.

In order to facilitate and encourage free and open discussion, no comments have been attributed to individual speakers or organizations, with the exception of presenters and panellists. Where portions of presentations or comments are presented verbatim in this text, they have been enclosed in quotation marks or offset from the rest of the text.

A.5.1 Plenary sessions

Welcome and opening remarks

- **Karen Jackson, Senior Assistant Deputy Minister, Human Resources and Skills Development Canada**

The roundtable began with opening remarks from Ms. Jackson. Ms. Jackson highlighted how the development of the Convention had demonstrated an unprecedented level of collaboration between stakeholders and government. She indicated a similar objective for this roundtable, with government seeking the views of civil society on ratification and any potential post-ratification measures. In doing so, Ms. Jackson highlighted the important role that NGOs have in shaping this process and the post-ratification period.

Plenary panel: The UN Convention – Background and Overview

- **Sabine Nolke, Director, United Nations, Human Rights and Economic Law Division, Department of Foreign Affairs and International Trade**
- **Steve Estey, Chair, International Development Committee of the Council of Canadians with Disabilities**
- **Anna MacQuarrie, Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living**

Presenters provided participants with historical information on the negotiation of the Convention and on Canada becoming a signatory to the Convention. The respective roles of the federal government and NGOs during the process were also described, as were the relationships between government and NGO representatives in the Canadian delegation. During negotiations, the Government of Canada strongly supported the participation of NGOs in the process. It was noted that the Convention was the first time that civil society was so actively involved in the formal development and negotiation of an international treaty. After the negotiation process was completed, NGOs were ready to support the treaty because they had already been engaged collaboratively throughout the negotiation process.

Participants heard that, within the Government of Canada, the Department of Foreign Affairs and International Trade is responsible for negotiating international treaties. However, given that much of the Convention falls within provincial and territorial jurisdiction, the Government of Canada consulted with provinces and territories during the negotiation process and is now consulting with them as part of the ratification process.

Participants were provided with some context about the concept of progressive realization found in the Convention. The term is used in the international law context in relation to economic, social and cultural rights. It implies that all countries are not at the same standard of development and that implementation of some rights requires significant government resources. It is therefore understood that countries make efforts over time to move toward a higher standard—this is taken into account during the pre-ratification compliance review. It is expected that Canada would be held to a higher standard, however, when it is compared to less developed countries.

Background on the *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (Optional Protocol) was provided. It was noted by Ms. Nolke that there are already many complaints mechanisms that operate within the United Nations (UN). In part because the treaty does not create any new rights, and given that existing treaty bodies¹⁰ could already deal with complaints against Canada regarding discrimination against persons with disabilities in relation to most of the rights set out in the Convention, Canada has focused on ratification of the Convention for the time being, as many other states have also done.

Question Period and Discussion

Convention Development and Negotiations

Initial discussion focused on the degree of NGO involvement in the development and negotiation of the Convention.

When negotiations began in 2002, the development of a Convention was still uncertain and very few NGOs were involved. However, by 2004 it had become clear that the Convention was going to be developed, and an increasing number of NGOs began to participate in the meetings. By 2006, there were more

10. This would include, for example, the UN Human Rights Committee, to which individual complaints regarding violations of the *International Covenant on Civil and Political Rights* (ICCPR) by Canada may be submitted once domestic remedies have been exhausted (see the *Optional Protocol to the International Covenant on Civil and Political Rights*). The ICCPR contains a general equal rights guarantee (article 26), as well as guarantees of many of the specific rights set out in the Convention.

than 800 NGOs registered to participate in the UN meetings on the Convention.

The development and negotiation processes took less time than for other international treaties, largely due to an overall political will to establish a convention for persons with disabilities. The negotiations had not become highly politicized nor were there participating states actively seeking to slow the development of the Convention.

| Ratification

Participants sought clarification regarding the ratification process, particularly with respect to assessing and ensuring provincial and territorial compliance with the Convention and how the results of this process impact the federal government's authority to make a decision on ratification.

It was explained that Canada takes its international obligations seriously. This is why it reviews its laws, policies and programs for consistency with a new international treaty before ratifying. Participants were advised that, while the federal government has the ultimate authority to ratify international treaties, it seeks to ensure that the laws, policies and programs of all federal, provincial and territorial jurisdictions are in compliance with the Convention before proceeding with ratification. This involves consulting with the provinces and territories to obtain their assurances of compliance within their respective jurisdictions.

With respect to responsibility for the ratification process, while the process leading up to the actual ratification is an interdepartmental effort, it is ultimately the Department of Foreign Affairs and International Trade that has the lead on developing the order in council and depositing the ratification instrument at the UN.

Gradual/progressive realization

It was noted by participants that a number of developing countries have ratified the Convention while not being fully compliant. These countries have, however, included a commitment of gradually meeting the obligations set out in the Convention. One participant suggested that Canada ratify the Convention and adopt this approach as opposed to seeking full compliance before ratification. In response, it was suggested that Canada will likely be held to a higher standard than a developing country with respect to its compliance level.

To provide a practical example of the potential application of progressive realization, participants referenced the historical discussion in Canada surrounding legal capacity. Participants noted that such discussion has evolved away from limiting legal capacity to enabling legal capacity.

Stakeholders also suggested that, if a province or territory were not in full compliance, Canada should consider applying the principle of progressive realization, rather than delaying ratification. They deemed it embarrassing for Canada not to ratify the Convention because it was not entirely in compliance, when many developing nations have already signed and ratified. The point was also made that Canada signed the *Convention on the Elimination of All Forms of Discrimination Against Women*, even though steps still needed to be taken to address discrimination against women.

There was acknowledgment by participants that some provisions and articles in the Convention may be difficult to implement fully and immediately upon ratification. The concept of progressive realization is intended to apply to these cases. However, stakeholders expect that the concept of progressive realization will be approached with a sincere commitment to make progress over time on possible problem areas. Participants acknowledged that the concept of progressive realization may need to apply to

article 9 (accessibility) and article 12 (equal recognition before the law), for example.

| Optional Protocol

Stakeholders want Canada to sign and ratify the Optional Protocol. Some participants would prefer that Canada sign and ratify the Optional Protocol at the same time as the Convention. It was suggested that if the Government is not prepared to sign and ratify the Optional Protocol now, Canada should consider ratifying the Optional Protocol within two years of ratifying the Convention. Stakeholders expressed the view that when a government signing an international treaty does not allow individual complaints to be brought forward, it suggests that the country is not completely serious about the treaty and not prepared to be held fully accountable.

Stakeholders would like to have a complaints mechanism at the international level for situations where they believe that domestic legal remedies do not exist or have been exhausted. Stakeholders feel the Optional Protocol is important, as they feel it provides individuals with an opportunity to hold their governments to account when they feel that those governments have fallen short of their obligations. Stakeholders are of the opinion that signing the Optional Protocol would demonstrate that Canada is serious about its commitment to the rights of persons with disabilities, and more broadly, that Canada is committed to advancing the development of norms and standards that strengthen global human rights protection.

Plenary panel: The Ratification and Reporting Processes

- **Elisabeth Eid, Director General and Senior General Counsel, Human Rights Law Section, Department of Justice Canada**

- **Laurie Sargent, Counsel, Human Rights Law Section, Department of Justice Canada**
- **Liane Venasse, Manager, Human Rights Program, Canadian Heritage**

Participants were provided with an overview of Canada's approach to ratifying international human rights treaties¹¹ and an update on the steps completed to date.

The difference between interpretative declarations and reservations was also discussed. An interpretative declaration provides a country with an opportunity to clarify its interpretation of a particular provision. A reservation is a unilateral statement by the country seeking to exclude or modify a provision due to a conflict with domestic law. Reservations will generally only be made where there are good reasons why the relevant federal, provincial or territorial government feels it cannot change its domestic law to bring it into conformity. In addition, the steps involved in the process for reviewing treaties at the federal level were presented. In general, the Department of Justice Canada leads the review, often in collaboration with other departments that have a key policy stake in the instrument in question.

Canada is currently focusing its efforts on completing the reviews and consultations necessary prior to deciding on ratification and becoming a party to the Convention. It was noted that the Optional Protocol only becomes relevant once a State has ratified the Convention itself, hence the focus on the Convention at this time.

Panellists indicated that the federal, provincial and territorial governments were working hard to complete their reviews of existing legislation to assess compliance. They gave an indication of some of the questions and articles that had given rise to the most discussion over the course of the review at the federal level and on which they would welcome input from stakeholders, including

11. See information provided in the Introduction section above regarding the ratification process, which was also provided as background to the online consultations.

whether the Convention is generally consistent with the *Canadian Charter of Rights and Freedoms* and human rights legislation; how to implement article 4(3) on consulting with persons with disabilities and their representative organizations; the nature and level of obligations imposed by article 9 on accessibility; the situation of persons with disabilities living in First Nations communities; and article 33 on domestic implementation and monitoring. However, given that much of the analysis involves legal advice and matters of Cabinet confidence, officials could not discuss the results of the compliance analysis itself.

The Convention establishes a 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 [their] obligations” under the Convention “and on the progress made in that regard.”¹² As with reporting processes under other treaties to which Canada is party, and as indicated in article 35 of the Convention, civil society would have an opportunity to be involved in this monitoring process.

Many of the provisions in the Convention fall within provincial and territorial jurisdiction. This will have an impact on post-ratification measures, including reporting processes, as those governments will have the responsibility to implement some of the provisions of the Convention.

A link was made between how the Convention would be implemented post-ratification and the commitments made by Canada as a result of the UN Human Rights Council Universal Periodic Review that Canada underwent in 2009.¹³ Canada made commitments to:¹⁴

- › consider options for enhancing existing mechanisms and procedures for the implementation of international human

12. Article 35 asserts that State Parties should submit such progress reports concerning the obligations under the Convention, to the Committee on the Rights of Persons with Disabilities. www.un.org/disabilities/documents/convention/convoptprot-e.pdf.

13. For more information on the Universal Periodic Review, please refer to www.ohchr.org/EN/.

14. Canadian Heritage, “Canada’s Universal Periodic Review: Response to the Recommendations” www.canadianheritage.gc.ca/pgm/pdp-hrp/inter/101-eng.cfm.

rights treaties, including the process for reporting and follow-up on treaty body recommendations; and

- › work at identifying gaps in the data available on human rights so that Canada can better assess and report on the progress in these reports.

Question period and discussion

| Compliance and ratification

Participants were of the general consensus that the ratification process was taking too long. They also sought answers as to whether the federal government believed that Canada was in compliance with the treaty, as there was a general sense within the disability community that Canadian legislation is in place to support the Convention.

| Aboriginal engagement

There were a few questions raised about the measures taken to consult with Aboriginal groups across Canada and whether Aboriginal organizations that focus on disability issues had been consulted. The process to engage Aboriginal governments and organizations was explained, including invitations that were extended to the national roundtable and letters that were sent by the Department of Justice Canada seeking input from Aboriginal self-governing groups on the ratification of the Convention. Participants felt that the consultation and engagement process could have been broader and more inclusive. It was noted that the process for soliciting input should not have relied solely on Aboriginal self-governing groups or the five national Aboriginal organizations.

Plenary discussion: Civil Society's Views on Canada's Ratification of the Convention – Benefits and Challenges

- **Mr. Laurie Beachell, National Coordinator, Council of Canadians with Disabilities**

Mr. Beachell shared the disability community's position that the Government of Canada should move forward quickly to ratify the

Convention. He stated that the International Day of Persons with Disabilities on December 3, 2009, would be an appropriate day for an announcement on Canada's decision to ratify. He called for more federal leadership on this front, including the development of a national action plan on disability. Mr. Beachell also called for civil society's continued involvement in the process, including during consultations with the provinces and territories.

Mr. Beachell stated that reservations and interpretative declarations were tools for countries to either exempt themselves from particular provisions in a convention or describe how they think specific language in a convention should be interpreted. It was Mr. Beachell's hope that Canada will not submit substantive reservations to the Convention and that, if there are reservations made, the federal government would revisit the issues within two years.

Mr. Beachell also urged the Government of Canada to sign and ratify the Optional Protocol, stating that "a right without remedy is not a right at all."

Question period and discussion

| Ratification

Participants sought details on the substance of the discussions taking place with the provinces and territories about ratification. While participants were assured that discussions are taking place, it was noted that interactions between the federal, provincial and territorial governments are confidential and, as such, details could not be revealed. There was an indication that some particular issues had been raised that required more discussion than others. Provinces and territories are reviewing their legislation, policies and programs to determine whether they are in compliance with the Convention.

A concern was raised by participants that Canada had not yet ratified the Convention because of an issue related to socio-economic rights and the inclusion of those rights in this Convention. Panellists indicated that they were not aware of this being a particular issue, but acknowledged that there are legitimate questions about whether particular provisions would be subject to progressive realization or immediate application in Canada.

| The use of reservations

It was understood that historically, Canada does not generally submit substantial reservations, and stakeholders would like Canada to take this approach to the Convention. It was noted that article 46 of the Convention and article 14 of the Optional Protocol do not allow for reservations that are incompatible with the object and purpose of the Convention.

Stakeholders prefer that the Government avoid making any reservations on the Convention. However, if Canada does make reservations, stakeholders expect that the Government will review these, in consultation with stakeholders, within two years of ratification.

| Aboriginal engagement

Questions were raised about Aboriginal engagement in the process (pre- and post-ratification) and if further details could be provided about accommodating Aboriginal governments, the possible role for the UN Permanent Forum on Indigenous Issues, and formal correspondence with Aboriginal organizations. It was suggested that horizontal collaboration between the Permanent Forum on Indigenous Issues and other UN forums should be discussed further. From an Aboriginal perspective, there were other comments in this plenary session about the importance of including First Nations, Métis and Inuit persons with disabilities in discussions about the Convention. There was a sense that

Aboriginal people could be the “forgotten voice” and that there is a desire for inclusion, not exclusion from the process.

Plenary discussion: Equal Recognition Before the Law, Decision Making and Legal Capacity

- **Anna MacQuarrie, Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living**

Ms. MacQuarrie remarked on the magnitude of the discussion topic, noting that legal capacity in and of itself could be the focus of a conference. She referenced articles 12 through 17 and article 25 of the Convention about health, including the issue of free and informed consent. Ms. MacQuarrie’s presentation primarily focused on article 12 and on legal capacity. The issue of legal capacity is important to everyone, as it is the right of every Canadian to have a voice in, and control over, one’s own life.

Participants were reminded that article 12 recognizes that everyone enjoys legal capacity, but that the article also recognizes that some people may require support to exercise their legal capacity, and that the use of support, or supported decision-making, should not negate an individual’s legal capacity. She described supported decision-making as a uniquely Canadian concept.

Ms. MacQuarrie noted that too often people are denied their legal capacity because they do not express themselves in traditional ways, are not seen by others to be capable of making decisions, or make decisions with which others do not agree. Their voice and control on decisions is removed from them and vested in another person. This person is known as a guardian or a substitute decision-maker. She noted that, in some cases, substitute decision-making may be necessary, but that this

should be time-limited and that this arrangement should continue to be revisited.

She argued that her reading of article 12 indicated that present Canadian laws and policies are sufficient to meet the test of compliance and yet recognized wholeheartedly that there is still work to be done. She noted that there is a legitimate role for states with regard to decision making. In certain limited situations, substitute decision-making may be necessary, but this should be time-limited and safeguarded as per article 12(4).

Question period and discussion

| Supported decision-making and legal capacity

A clarification was made regarding the meaning of article 12: that it does not prohibit a state's current ability to have substitute-decision-making legislation, but it provides a push to make supported decision-making the norm.

Participants remarked that Canada is one of the few states in the world that have implemented supported-decision-making processes. However, there was recognition that Canada did not have uniform decision-making laws across the country. Supported-decision-making arrangements need to be flexible to support individuals with different disabilities and different needs.

Some of the challenges that legislators face when examining legal capacity and supported-decision-making were also raised. These included questions such as how decisions are made, what safeguards are in place, what specific issues individuals face, and how to protect legal rights in an informal supported-decision-making situation.

A point was raised about the importance of committed and willing support circles around persons with disabilities (others called this a network built on trust). A question was raised about individuals who have no support around them and how to ensure supports and safeguards for them through a network of people.

A concern was raised about the existing Canadian practice of removing individual rights through guardianship orders. There was a call to develop public policies that would promote supported-decision-making as a practice that will be recognized by courts and third parties (e.g. financial institutions). Risks need to be balanced; one participant noted that there are risks for everyone inherent in living and making one's own decisions—there is also dignity in making decisions and assuming that risk.

There was a sense that the state has to provide for some legitimate forms of substitute decision-making, primarily for the protection of persons with disabilities themselves, who may be vulnerable to exploitation by others. There was a call for federal leadership to promote discussion of supported-decision-making models, including an outreach and education component.

Challenges associated with supported decision-making within the context of First Nations communities were raised, including a population facing disempowerment, a sense of despair, a lack of self esteem, and cultural, language and communication barriers. These challenges create a situation where First Nations persons with disabilities may face removal of their legal capacity where the real problem is one of language or other barriers to communication, not capacity. It can be difficult for First Nations people to access support.

Relevant examples

Among others, participants mentioned two examples of supported-decision-making regimes: the *Personal Directives Act* in Alberta¹⁵ and the *Representation Agreement Act* in British

15. There was a sense that this act addressed issues beyond end of life. Participants reported that this act talks about a philosophy of care and how people want to be treated. For more information, refer to www.crha-health.ab.ca/clin/cme/pdact.htm.

Columbia.¹⁶ The *Personal Directives Act* is seen as useful because an individual has the ability to make a directive while they still have the ability to express their will. The approach takes a comprehensive view to how a person wishes to manage their health. The *Representation Agreement Act* was considered a positive example because: (1) it does not have a test for capacity, so it does not discriminate between individuals that cross a spectrum of abilities in terms of intellect; (2) it builds on trusting relationships—if you have trusting relationships, then you are able to have people to help you make decisions; and (3) the Act builds in some safeguards to protect individuals.

| Barriers

There was a call for a public education component to the implementation of the Convention to help address attitudinal barriers. There was consensus among the group that all Canadians, including persons with disabilities, must be made aware of the legal rights included in the Convention to ensure that these rights are recognized and respected.

| Opportunities

Participants called on Canada to ratify the Convention quickly and to continue to provide international leadership by participating in an international dialogue on options for developing supported-decision-making laws and practices. Domestically, ratification of the Convention should be used as an opportunity to promote an exchange of information and expertise among provinces and territories and the disability community regarding supported-decision-making regimes and best practices in this area.

16. There was a sense from participants that this act was based on “trusting relationships with safeguards around the edges.” For more information, refer to www.bclaws.ca/Recon/document/

Plenary discussion: The Convention Within the International Human Rights Context

- **Alex Neve, Secretary General, Amnesty International Canada**

Mr. Neve began by stressing that ratification of the Convention is not solely a disability rights issue—it is, first and foremost, a human rights issue. He continued by stating that Canada’s ratification of the Convention is important for three main reasons:

1. It would assure persons with disabilities that the Government of Canada is fully committed to the protection of their rights.
2. It would position Canada as a champion in pressing other governments to ratify and improve their record of rights protection in the area of persons with disabilities. Persons with disabilities are universally among the most marginalized, impoverished and overlooked members of their societies. Since the advent of the international human rights system, with the adoption of the UN’s *Universal Declaration of Human Rights*¹⁷ over 60 years ago, the rights of persons with disabilities have been some of the most overlooked and forgotten of all global human rights challenges.
3. It would demonstrate to Canadians and the rest of the world that Canada is committed to advancing the development of norms and standards to strengthening global human rights protection and that Canada is prepared to demonstrate the strength of that commitment by becoming a full party to new treaties.

Mr. Neve called for the ratification of the Convention and the Optional Protocol. He noted that there are many avenues open

17. The *Universal Declaration of Human Rights* was adopted by the UN General Assembly in 1948. It represents the first global expression of rights to which all human beings are respectfully entitled. For more information, refer to www.un.org/en/documents/udhr.

to individuals in Canada to lodge human rights complaints with statutory human rights commissions or to launch court action alleging discrimination, whereas in many parts of the world, such possibilities do not exist. However, he felt that the Optional Protocol would open up a possibility that does not currently exist: the prospect of an individual who lives with disabilities being able to turn to an international expert and independent body for a determination as to whether or not his or her rights have been violated.

Mr. Neve spoke about the ratification of the Convention within the wider context of Canada and international human rights treaties, and more specifically about the important provisions in article 32 dealing with international cooperation. Article 32 asks states to think about human rights outside of their borders. At the very least, states are asked to ensure that their international development programs do not harm human rights in other countries. However, states are also encouraged to help countries implement the Convention, by providing either resources or technical assistance. In terms of the wider human rights context, Canada needs to ratify the Convention to restore its reputation domestically and internationally as a country prepared to commit itself to strong international human rights norms.

A.5.2 Workshops

Three concurrent workshops were held, and participants had an opportunity to listen to presentations and engage in discussions on all three topics. The following sections of the report highlight some of the ideas heard during the workshops.

Workshop A: Equality, Non-Discrimination and Accessibility

- **Leilani Ferha, Executive Director, Centre for Equality Rights in Accommodation**

Ms. Ferha’s presentation focused on the issues of an adequate standard of living and social protection. She suggested that the Convention genuinely integrates civil and political rights, equality rights, and substantive economic and social rights. She believes that the Convention has the capacity to be quite powerful and transformative both domestically and internationally.

Her presentation addressed article 5 of the Convention, which refers to equality and non-discrimination and outlines the duty of State Parties to take appropriate steps to ensure that reasonable accommodation is provided. Ms. Ferha suggested that the definition of “reasonable accommodation” in the Convention could be interpreted as creating a different standard than “undue hardship,” which is the standard used in Canadian law. She expressed her concern that the Convention standard could be interpreted as a lower standard than undue hardship, which consequently raises the question as to which standard Canada will be held accountable to.

Ms. Ferha also raised the issue of the accessibility provision under article 9. She felt that accessibility is somewhat narrowly interpreted in the Convention and that the risk is that governments would interpret the Convention strictly in terms of physical accessibility, whereas it should also be interpreted more broadly to apply to social and economic rights.

Key emerging ideas

Generally, the discussions in Workshop A focused on the Convention as a whole and what it means for persons with disabilities in Canada. A number of key themes arose from these discussions.

| Equality

The groups discussed the importance of the provision of equality and rights for all Canadians. The general sense was that attitudinal barriers are the main challenge to achieving equality and that, if these were addressed, other barriers would disappear or be greatly diminished.

Participants commented on the importance of engaging people representing the full range of disabilities and a variety of Canadian ethnicities to ensure that the process is inclusive. Along these lines, a participant remarked that there is an “invisibility” of how disability interacts with issues such as race, gender and sexuality. They indicated that not recognizing this poses further challenges in addressing full equality.

Concerns were also raised over the perceived segregation between persons with disabilities and those without. An example provided was the development of separate emergency plans for persons with disabilities by the Office for Disability Issues as opposed to a single emergency plan for all people, including those with disabilities.

The issue of geography and the application of the Convention was raised on a number of occasions. There was a sense that the Convention should be implemented in a way that improves the lives of all Canadians, no matter their geographic location. There was some concern that certain elements of the Convention, if ratified, such as article 9, would not be able to be implemented

in more remote communities, such as the many Northern communities that may lack resources. This would result in a kind of geographic inequality.

A concern was expressed that First Nations persons with disabilities are at a greater disadvantage, as they encounter additional barriers related to Canada's history of colonization and racism. First Nations persons with disabilities also face additional barriers related to the structure of the Canadian federation and the geographic isolation of many of their communities. The needs of First Nations persons with disabilities are often not met because Aboriginal people and persons with disabilities tend to be treated as two separate groups. However, First Nations persons with disabilities have needs that are unique to them; their experience is different from both that of other Aboriginal people and that of other persons with disabilities. It is not always clear to an individual trying to improve his or her situation if he or she should seek help as an Aboriginal person or as a person with a disability.

There was recognition that, in terms of equality, there are potential challenges—such as those described previously—for implementation. However, even if the Convention could not be uniformly implemented, it was felt that without ratification there would be no standard to which to hold different governments to account. Some argued that the Convention is a visionary document that sets a very high bar for service delivery standards rather than an “action plan to meet all needs.” One group felt that provincial and territorial legislation, under the Convention, should adhere to a basic standard. By setting a high standard, jurisdictions will have a beacon to follow when implementing the Convention.

In terms of domestic harmonization of standards with the Convention, an example was raised about the rights of injured workers. It was felt that the standards included in the Convention

may be viewed as lower than what is currently provided for in domestic health and safety legislation. However, it was pointed out by other participants that this would be mitigated by the Convention statement that “nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State.”¹⁸

| Non-discrimination

Canada’s legal standards of non-discrimination were viewed as progressive. Participants felt that Canadian laws and standards could be used to influence how the Convention is implemented and applied domestically. Participants also thought that more regulation and public education would be useful to help promote the rights of persons with disabilities. In terms of education, one of the areas suggested was a greater emphasis on available remedies that the general public (and persons with disabilities) can access when they feel that their rights have been violated.

There was a call for a shift in societal attitudes toward persons with disabilities and for a change in the perception of persons with disabilities from objects of charity to human beings with human rights. One participant noted that perception may also be an issue in terms of potential discrimination against persons with disabilities that are in the workforce. In some cases, there is a perception that if a person is able to participate in the workforce, then they should not be eligible for disability assistance. The participant cautioned that this might not always be the case.

| Accessibility

Participants felt that accessibility did not just relate to structural access (such as physical barriers), and that there also can be social barriers to access. One of the barriers reported was a lack of supports needed to exercise one’s legal capacity, and it

18. United Nations Enable. *Convention on the Rights of Persons with Disabilities*. (article 4(4)) www.un.org/disabilities/documents/convention/convoptprot-e.pdf.

was noted that article 12(2) and article 12(3) in the Convention address accessibility in addition to article 9. Ms. Ferha suggested that the concept of accessibility as set out in article 9 was too narrow. Participants requested that governments use a broad definition of accessibility and also called for a coordinated, proactive approach—not reactive in nature—to accessibility among government and civil society.

Leadership

Participants felt that Canada should show its leadership with ratification of the Convention and the Optional Protocol. However, there was a sense that leadership should not stop there. If Canada ratifies the Convention, the effective implementation and monitoring of the rights established within the Convention would be the true test of leadership.

Questions were raised about responsibility for implementation. Participants recognized that if Canada ratifies the Convention, implementation would be a shared responsibility among the federal government, provincial and territorial governments, municipalities, and civil society. There were some concerns raised over the seeming lack of clarity surrounding the potential oversight and accountability for the implementation of the Convention.

They discussed federal/provincial/territorial leadership as well as civil society's role in the potential implementation of the Convention. Participants encouraged strong cooperation between the federal/provincial/territorial levels of government, with the possible development of a federal/provincial/territorial forum to manage the effective implementation of the Convention.

| Education and empowerment

Many participants saw the Convention as a vehicle for education and empowerment. Participants expressed a desire to influence attitudinal values to promote inclusivity, address stereotypes and reduce stigmas attached to persons with disabilities. If Canada were to ratify the Convention, this would involve educating:

- persons with disabilities by:
 - › empowering people to know what rights are included in the Convention;
 - › creating awareness of their rights through toolkits or other means;
 - › communicating information in a way that could be integrated easily into the lives of persons with disabilities; and
 - › informing NGOs and civil society organizations about how the Convention can be used to complement their existing work and help foster a new understanding of what human rights mean for persons with disabilities.

- government officials by:
 - › training them in a comprehensive and consistent manner to ensure suitable understanding and knowledge of issues facing persons with disabilities for employees at all levels of government.

- the general public by:
 - › bringing about a shift in mindset, which is often required for individuals without disabilities to understand the issues faced by persons with disabilities; and

- › encouraging NGOs and civil society organizations to play a role in educating and building awareness with the general public.

Workshop B: Living Independently and Inclusion in the Community

- **Krista Flint, Executive Director, Canadian Down Syndrome Society**

Ms. Flint stated that the Convention provides the tools to create different opportunities and meaningful change in the lives of persons with disabilities. She asked the group to think about how the principles in the Convention could help Canadians live and work creatively, create meaningful relationships and help people contribute to the community. She called for the creation of “real jobs with real meaning” for persons with disabilities. As well, Ms. Flint asked the group to think about different and creative ways to include children and adults with disabilities in planning and creating spaces. She commented that the accessibility aspect of this Convention engages various constituencies, and that this presented opportunities for the broader community to work collaboratively with federal/provincial/territorial governments.

Ms. Flint also spoke positively about progressive realization and the ways in which the Convention shines a light on some of the best practices in Canada. Progressive realization creates an opportunity to reflect on areas in which Canada is doing well, as well as on how we can use this knowledge to improve in other areas. Ms. Flint called for the ratification of the Convention and the Optional Protocol.

Key emerging ideas

| Living independently

The term “living independently” had varying meanings for participants:

- Some people felt that living independently meant being able to manage one’s life on one’s own. For some people that meant managing their finances, making decisions about education, health care and participation in society. This may or may not include support from a network.
- One participant felt that “it’s not just managing your affairs, but also about *succeeding* in the management of your affairs.”
- One participant stated that living independently meant the ability to visit your neighbours—an activity that other Canadians may take for granted. Not being able to do so can cause isolation among persons with disabilities.
- One participant preferred the term “living co-reliantly” rather than “living independently.” It was expressed as living like a soccer team where all the players rely on each other’s skills to succeed.
- For another participant, from a cultural perspective in Aboriginal communities, people do not “live independently but are part of a larger community.” Aboriginal value systems recognize a wider family system. Aboriginal tradition is to live in accommodations where more than one family can live together, co-reliantly.

The Convention, in its entirety, was seen as supporting all of these notions of living independently.

Participants discussed what might be needed from the federal government to help Canadians live independently and support inclusion, in the event that Canada ratifies the Convention. Some of the responses included:

- secure individualized funding;
- ensure funding for non-profit organizations to help them facilitate the on-the-ground work;
- provide resources to support the commitments in the Convention that represent independent living;
- provide basic services, such as electricity and Internet, in Aboriginal communities;
- ensure that supports become “portable and transferable from one region to another”;
- ensure that there are resources available to lower-tier jurisdictions during implementation (i.e. if municipalities have to make buildings accessible);
- reduce the need for people in Aboriginal communities “to continually re-educate federal officials” about their communities’ specific and unique needs;
- recognize the differing needs of rural and urban communities;
- ensure accessibility of rapidly changing technology; and
- have the disability community sitting at the table as policies are being developed.

At the same time, participants discussed what the NGO community could do to further the intent of the Convention. One of the main ideas was to consolidate resources and focus the community’s efforts on a few key priorities.

| Inclusion in the community

There was an overall sense that persons with disabilities benefit more from living in the community, giving them access to family, friends and employment. Participants noted that the disability community needs to tell stories about how persons with disabilities can improve communities.

In terms of inclusion within the community, there was a sense that the average Canadian may not be comfortable interacting with persons with disabilities. In one workshop, a participant quoted a study that 66 percent of Canadians said they would not feel comfortable living beside someone with a mental illness. Participants discussed the need to eliminate a “hierarchy of disabilities” and to create a community that includes everyone regardless of their disability, including those who might not be able to speak for themselves.

Participants noted that similar arguments can be made for an “access economy” as for a green economy. The creation of an “access economy” would create jobs related to the provision of accessible goods and services, and there could be many economic benefits related to the employment of persons with disabilities as well as spin-off benefits for a much wider segment of society (e.g. parents with strollers, people for whom English or French is not a first language and who can benefit from plain language or pictorial signs).

| Creating a common vision

Participants discussed the idea of developing a common vision among the disability community. The idea of a cohesive voice was likened to the women’s movement and the civil rights movement in the United States. There was a sense that the agenda for persons with disabilities could have more momentum if there were a set of shared, common values and a collective voice. There was a sense that a lot of good work has been undertaken within the NGO community, but that perhaps, as a whole, the community has “not been able to inspire other Canadians.” There was hope that a national vision for persons with disabilities would be something that all Canadians could “buy into.”

On the other hand, some participants felt that “walls go up when you mention special needs” and that a more effective way of resolving barriers faced by persons with disabilities would be

to focus on the public at large. For example, if a group was approaching a municipal council about a request to build a ramp instead of a staircase, the approach should be based on the broader needs of the population at large, instead of focusing on the specific needs of persons with disabilities. The inclusive rationale would be that by building the ramp, you will help the father with the bad knee, the obese person, the elderly pedestrian and the mom with the stroller, as well as a person using a wheelchair. The issue of the Convention *not only* being applicable for persons with disabilities resonated throughout all workshop sessions.

| Engagement to create a paradigm shift

Participants discussed creating a paradigm shift and using education as the vehicle to make this happen. As mentioned above, some participants felt that part of the paradigm shift would be to begin talking about the benefits of ratification to all Canadians, not just persons with disabilities. One suggestion was to begin attending summer community events hosted or attended by parliamentarians to educate them about the importance of Canada's ratification and progressive realization.

| Rights and the Convention

As expressed in other workshops and during the plenary discussions, the idea that the Convention is not meant to introduce new rights was raised. Along those lines, it was expressed that the Convention need not be viewed as "an end state," but rather as the start of a process whereby gaps in laws and policies are identified and closed. One participant raised a concern about the use of the word "gap." The use of the word gap may imply incorrectly that Canada is all but compliant with the Convention, with the expectation of some minor tweaks. Thus, within the dialogue at the workshops, there was an understanding that there are additional opportunities to declare aspirational goals beyond ratification.

Another participant commented that the Convention would give Canadians the opportunity to hold the Government accountable in the international arena with a report at the two-year mark. However, not all participants were as confident of the potential for an international arena to affect change. The UN convention on landmines (*Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction*)¹⁹ was mentioned as a treaty that, in one person's view, has not brought about the intended change.

Workshop C: Promoting, Protecting and Monitoring the Rights Set Out in the Convention

- **Harvey Goldberg, Director, Strategic Initiative, Canadian Human Rights Commission**

Mr. Goldberg began by expressing that the rights set out in the Convention are useless unless there are mechanisms in place to implement and monitor them, making government accountable for the actions it takes and does not take. For this to be effective, people must be aware of their rights, and that is where he felt that “promotion” was relevant. Mr. Goldberg stated that promotion, protection and monitoring of the Convention are really some of the least innovative parts of the Convention. He noted that, with regard to more innovative provisions, however, the Convention constitutes a paradigm shift in the way the world views persons with disabilities. Previously, persons with disabilities were viewed as persons in the care of doctors, institutions and charity. This Convention shifts that paradigm by clearly recognizing persons with disabilities as rights holders. It will be important for states to raise awareness within civil society—shifting the focus from persons with disabilities to persons with capabilities. They are guaranteed these rights by the Government and the international

19. The *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction* is a UN treaty that bans completely all anti-personnel landmines. For more information, refer to www.un.org/millennium/law/xxvi-22.htm.

community. As well, states are required to engage with the people affected by the Convention. Mr. Goldberg also noted that states that ratify the Convention are required to establish focal points and internal accountability mechanisms. There will be an arm's length third party for monitoring, which will follow the Paris Principles.²⁰

Key emerging ideas

The conversations during the workshops on promoting, protecting and monitoring rights focused on how to make these rights a reality and what accountability methods exist or need to exist.

| Federal leadership and the creation of a focal point

Section 33 of the Convention requires governments to coordinate their responsibilities and to have a focal point to ensure there is a strong central focus. Participants felt that in a case of Canadian ratification, there must be an organization responsible for ensuring that the obligations under the Convention are respected and implemented by the federal government and the 13 provincial/territorial governments in Canada. There was a sense that a clear focal point has not yet emerged. There was an expression by some participants that the federal Office for Disability Issues has not had the authority that they should have to ensure that there is a coordinated response. Participants also expressed that Canada's federal, provincial and territorial human rights commissions need to play a role in the monitoring and implementation of the Convention.

The overriding sense from participants was that federal, provincial and territorial cooperation will be required if Canada decides to ratify the Convention. However, participants were not aware of any ministers' meetings held on human rights in over 20 years. There was a call for an inter-ministerial working group to foster communication and cooperation. It was not clear to participants

20. The Paris Principles relate to the status and functioning of national institutions for protection and promotion of human rights. They were first defined at the International Workshop on National Institutions for the Promotion and Protection of Human Rights in 1991, and they were adopted by UN Human Rights Commission resolution in 1992 and by the General Assembly in 1993. For more information, refer to www2.ohchr.org/english/law/parisprinciples.htm.

who would have the decision-making responsibility in Canada for promoting, protecting and monitoring if the Convention were ratified; for example, someone remarked that five federal departments were present at the roundtable.

One participant expressed that the focal point should be “arm’s length from the Government” like the Governor General’s office. However, others felt that this would be inappropriate and that the responsibility for implementation, if Canada ratifies the Convention, should fall to the Government. The Auditor General was raised as another possible choice for a focal point.

A suggestion was made to formalize a group of direct civil society representatives to advise Government on implementation/post-ratification. The intent of the group would be to:

- help lead the paradigm shift;
- proactively work with Government on implementation; and
- provide best practices (for example, a reporting mechanism mentioned was Ontario’s special education advisory committees).²¹

One of the safeguards mentioned was the ratification of the Optional Protocol so that Canadians have another mechanism for resolving issues if domestic recourses fail.

| Nothing about us without us

Mr. Goldberg stated that one of the parts of the Convention that is innovative is the incorporation of the “rallying cry of persons with disabilities”—“Nothing about us without us”—in article 4(3). Participants at the roundtable believed that one of the main reasons the Convention was negotiated so quickly, by UN standards, was because persons with disabilities were involved in its drafting. Therefore, going forward, persons with disabilities should be involved in decision making and

21. Special education advisory committees (SEAC) are required by legislation for all school boards in Ontario. The purpose of a SEAC is to advise the board of trustees on all matters related to the provision of special education programs and services to exceptional pupils. For more information, refer to www.seac-learning.ca.

protection of rights. Mr. Goldberg was hopeful that there will be involvement of persons with disabilities arising from this roundtable. Participants agreed that they needed to be vigilant to ensure that persons with disabilities are involved in the implementation of the Convention, since it is really only through personal experience that someone can understand the issues facing persons with disabilities. There was a sense that the Government could be more open and reduce the use of closed sessions to discuss the Convention. One person provided the example that they often do not know what is taking place at the Office for Disability Issues.

The perceived lack of Aboriginal engagement in the development of the Convention was raised as an issue and a concern going forward with ratification. A representative for the Aboriginal community explained that Aboriginal Canadians were not overly engaged in the development of the Convention because at the same time as the negotiations, the *United Nations Declaration on the Rights of Indigenous Peoples*²² was being developed. It was explained that there were not enough resources to have Aboriginal representatives at both negotiations, and the perception of the speaker at that time was that the Aboriginal community preferred to focus on the Declaration rather than the Convention.

Monitoring rights

There were various viewpoints expressed on the monitoring of rights associated with the Convention:

- one participant felt that, ultimately, monitoring of human rights will come down to civil society's role—that it is civil society who will hold the Government accountable;
- others felt that, in addition to civil society, every level of government should be involved in the improvement of monitoring, especially in terms of federal/provincial/territorial relations;

22. The *United Nations Declaration on the rights of Indigenous Peoples* was adopted in 2007 and establishes a universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples. For more information, refer to www.un.org/esa/socdev/unpfii/en/declaration.html.

- there was a call for incorporating gender-based analysis in the monitoring of rights; and
- others cautioned that the Government of Canada and civil society need to be careful about getting completely overwhelmed by a legalistic or reactive approach to monitoring. They need to focus on sustaining the momentum and positive opportunities created from negotiating the Convention.

| Awareness building and a paradigm shift

Beyond the Government and the NGO community, there was a hope that, if Canada were to ratify the Convention, the general public would become aware of the rights outlined in the Convention and see a role for themselves in monitoring. Participants recognized that levels of awareness of the Convention and of rights in general differed between members of the public and the stakeholders that were present at the roundtable.

Participants were also interested in continuing to build awareness about the paradigm shift. The Convention is built on the idea of changing the perception of persons with disabilities from objects of charity to citizens and rights holders. Participants recognized that, in the case of Canada's potential ratification of the Convention, disseminating this message will involve a major effort by governments and civil society. The sense from participants was that the paradigm shift cannot just be included in the written words of the Convention; it must weave its way throughout implementation, through the promotion and monitoring of rights.

| Capacity building and resources

Participants made the point that promoting, protecting and monitoring rights set out in the Convention would be meaningless unless NGOs have the capacity to undertake these activities. Participants noted that, in recent years, funding to these

organizations has diminished; some participants noted that, if Canada were to ratify the Convention, it would be necessary to rectify the funding shortfalls to properly implement the Convention.

There was a call for civil society to work together in a proactive rather than reactive model to allocate resources among NGOs. One participant mentioned that the fractures in the disability community tend to be visible because of the lack of capacity: “It is like doing this with two hands tied.”

| Ratifying the Optional Protocol

Participants strongly urged Canada to sign on and ratify the Optional Protocol. The idea again was that, for rights protections to be real, there must be a remedy available. One person asked how Canadians can ensure that there will not be retaliation against people who file complaints domestically. There is a fear among individuals with disabilities, and organizations advocating on their behalf, that they will lose the funding they receive from Government if they make human rights complaints against the Government.

| Bridging the compliance gap

Some participants felt that there are gaps in Canada’s legislative framework that make Canada non-compliant with the spirit and intent of the Convention. Others felt that Canada was in a desirable position with respect to its current framework. One participant expressed a hope that the “government look at what we *should* do rather than just what we *have to* do” to become compliant.

One participant was hesitant to respond about what needs to be done to become compliant because Canada has not yet ratified the Convention. The participant feared that, if the federal government thoroughly assessed the amount of resources

required for the implementation of the Convention, it would not ratify for fear of the associated costs.

There was recognition that, if Canada does ratify the Convention, implementation will require a major joint effort between government and the disability community. Stakeholders expressed that they expect to have an active role in the implementation of the Convention.

| Data collection

An innovative component of the Convention article 31 provides that States Parties have responsibility to collect data and publish reports on the socio-economic status of persons with disabilities. Participants expressed concern with respect to data collection, asserting that currently there is limited data on persons with disabilities. Participants felt that gaps, or limited data, existed in employment levels and participation levels. There were also geographic gaps, particularly in northern areas across Canada, as well as gaps with respect to Aboriginal communities and with respect to populations in institutions (i.e. jails and hospitals). Participants felt that it was important to obtain an up-to-date and accurate reflection of the statistics required to fill the gaps that may exist.

Participants felt that government could give thought to enhancing Statistics Canada's Participation and Activity Limitation Survey and to focusing the survey more on rights for persons with disabilities rather than on service provision.

A.5.3 Closing the roundtable

Report on the roundtable discussions: Presenters' perspectives

- **Leilani Ferha, Executive Director, Centre for Equality Rights in Accommodation**
- **Krista Flint, Executive Director, Canadian Down Syndrome Society**
- **Harvey Goldberg, Director, Strategic Initiative, Canadian Human Rights Commission**
- **Steve Estey, Chair, International Development Committee of the Council of Canadians with Disabilities**
- **Anna MacQuarrie, Director of Government Relations & Strategic Initiatives, Canadian Association for Community Living**

In addition to the comments made throughout the workshops, some of the speakers provided some concluding remarks. Steve Estey focused on the importance of the disability community's involvement in the negotiation of the Convention and called for their continued involvement. He emphasized the notion of "Nothing about us without us." He also pointed to the example of Australia, a country that has ratified the Convention and that, in his opinion, has taken its obligations very seriously. He spoke about a key lesson learned from Australia's experience, namely, the systematic inclusion of persons with disabilities (who have "lived the experience") during the development of policies. He called for federal leadership and a similar approach here in Canada.

Anna MacQuarrie focused on the Convention as an opportunity for Canada to make a difference at the international level. She also raised the ideas of the Convention as an opportunity for

the community to recognize its own power and to take action to ensure the ratification and implementation of the Convention.

Plenary: Facilitated open discussion

This plenary session served as an open forum for discussion, offering participants the opportunity to raise any further issues they wished to bring forward on the ratification of the Convention. These issues included those outlined in this section.

| Ratification

Participants expressed a desire for ratification as soon as possible.

| Benefits of ratification

A participant wanted to ensure that the economic benefits of the Convention are understood. Persons with disabilities are therefore viewed not as people that consume resources but as drivers of market and industry.

| Inclusion of persons with disabilities

A participant expressed a desire to ensure that the voices of the people who cannot speak for themselves are included in the consultation. In addition, a frustration was expressed over observing persons with disabilities in prison and in hospitals, with no one speaking for them. There is a lack of accommodations for persons with disabilities in our legal system. The police, the courts and the prisons do not properly accommodate persons with disabilities. Without these accommodations, individuals do not have an opportunity to express themselves clearly within the legal system. The result is that many individuals are wrongfully imprisoned or locked up in hospitals.

One participant applauded the provision in the Convention that would prevent the discriminatory denial of food and water to persons with cognitive disabilities.²³ In the United States, there has been interest expressed that families could use a document, such as the Convention, to help prevent the starvation and dehydration of persons with cognitive disabilities.

| Aboriginal engagement

There was a suggestion that there were not many Aboriginal organizations at the roundtable. It was hoped that the importance of Aboriginal engagement and the needs of Aboriginal persons with disabilities could be communicated to Canadians. Participants felt that the Convention could be beneficial to First Nations persons with disabilities.

Closing remarks

Mr. Royal Galipeau, Member of Parliament Ottawa—Orleans, presented closing remarks. Recognizing the diversity of the organizations present at the roundtable and acknowledging the work accomplished during the two days, Mr. Galipeau encouraged participants to take part in the online consultation to ensure that the broadest range of opinions are captured about what actions are needed to implement the Convention in Canada.

Question period and discussion

Mr. Galipeau answered questions and heard comments from participants. Participants reiterated their desire to see Canada ratify the Convention by December 3, 2009.

23. See article 25(f).

Appendix B: National roundtable – Program

Delta Hotel Ottawa
361 Queen Street
Ottawa, Ontario
June 25 and 26, 2009

Informal caucus among stakeholders (June 24th)

7:00–9:00 p.m.
Delta rooms A and B

Moderators:

- **Laurie Beachell**, National Coordinator, Council of Canadians with Disabilities
- **Anna MacQuarrie**, Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living
- **Steve Estey**, Chair, International Development Committee of the Council of Canadians with Disabilities

June 25

Breakfast and registration

8:00–8:30 a.m.

Delta Room

Welcome and opening remarks

8:30–8:45 a.m.

Delta rooms A and B

- **Karen Jackson**, Senior Assistant Deputy Minister, Human Resources and Skills Development Canada

Plenary panel: The UN Convention – Background and Overview

8:45–9:35 a.m.

Delta rooms A and B

- **Sabine Nolke**, Director, United Nations, Human Rights and Economic Law Division, Department of Foreign Affairs and International Trade
- **Steve Estey**, Chair, International Development Committee of the Council of Canadians with Disabilities
- **Anna MacQuarrie**, Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living

Question period and discussion

9:35–10:00 a.m.

Delta rooms A and B

Health break

10:00–10:30 a.m.

Delta room

Plenary panel: The Ratification and Reporting Processes

10:30–11:00 a.m.

Delta rooms A and B

- **Elisabeth Eid**, Director General and Senior General Counsel, Human Rights Law Section, Department of Justice Canada
- **Laurie Sargent**, Counsel, Human Rights Law Section, Department of Justice Canada
- **Liane Venasse**, Manager, Human Rights Program, Canadian Heritage

Questions and answers

11:00–11:15 a.m.

Delta rooms A and B

Plenary discussion: Civil Society's Views on Canada's Ratification of the Convention – Benefits and Challenges

11:15 a.m. to 12:00 p.m.

Delta rooms A and B

- **Speaker: Laurie Beachell**, National Coordinator, Council of Canadians with Disabilities
- **Government resource panel:**
 - › **Elisabeth Eid**, Director General, Human Rights Law Section, Department of Justice Canada
 - › **Liane Venasse**, Manager, Human Rights Program, Canadian Heritage
 - › **Laurie Sargent**, Counsel, Human Rights Law Section, Justice Canada

Lunch

12:00–1:30 p.m.

Champlain Room

CONCURRENT WORKSHOPS I

1:30–3:00 p.m.

Workshop A: Equality, Non-Discrimination and Accessibility

Delta rooms A and B

– Translation and interpretive services available

- **Presenter: Leilani Ferha**, Executive Director, Centre for Equality Rights in Accommodation
- **Government Resource Panel:**
 - › **Josée Filion**, Counsel, Human Rights Law Section, Department of Justice Canada
 - › **Carmelita Olivotto**, Director, Office for Disability Issues, Human Resources and Skills Development Canada

Workshop B: Living Independently and Inclusion in the Community

Algonquin Room A

- **Presenter: Krista Flint**, Executive Director, Canadian Down Syndrome Society
- **Government resource panel:**
 - › **Collinda Joseph**, Analyst, Office for Disability Issues, Human Resources and Skills Development Canada

Workshop C: Promoting, Protecting and Monitoring the Rights Set Out in the Convention

Confederation Room

- **Presenter: Harvey Goldberg**, Director, Strategic Initiative, Canadian Human Rights Commission

- **Government resource panel:**

- › **Liane Venasse**, Manager, Human Rights Program, Canadian Heritage
- › **LaReine Passey**, Senior Policy and Reports Officer, Human Rights Program, Canadian Heritage
- › **Nancy DeClerq**, Counsel, Public Law Policy Section, Department of Justice Canada
- › **Martin Saidla**, Counsel, Public Law Policy Section, Department of Justice Canada

Health break

3:00–3:30 p.m.

Algonquin rooms and delta Room

CONCURRENT WORKSHOPS II

3:30–5:00 p.m.

Workshop A: Equality, Non-Discrimination and Accessibility

Algonquin Room A

- **Presenter: Leilani Ferha**, Executive Director, Centre for Equality Rights in Accommodation
- **Government resource panel:**
 - › **Josée Filion**, Counsel, Human Rights Law Section, Justice Canada
 - › **Carmelita Olivotto**, Director, Office for Disability Issues, Human Resources and Skills Development Canada

Workshop B: Living Independently and Inclusion in the Community

Confederation Room

- **Presenter: Krista Flint**, Executive Director, Canadian Down Syndrome Society
- **Government resource panel:**
 - › **Collinda Joseph**, Analyst, Office for Disability Issues, Human Resources and Skills Development Canada

Workshop C: Promoting, Protecting and Monitoring the Rights set out in the Convention

Delta Rooms A & B

– Translation and interpretive services available

- **Presenter: Harvey Goldberg**, Director, Strategic Initiative, Canadian Human Rights Commission
- **Government Resource Panel:**
 - › **Liane Venasse**, Manager, Human Rights Program, Canadian Heritage
 - › **LaReine Passey**, Senior Policy and Reports Officer, Human Rights Program, Canadian Heritage
 - › **Nancy DeClerq**, Counsel, Public Law Policy Section, Department of Justice Canada
 - › **Martin Saidla**, Counsel, Public Law Policy Section, Department of Justice Canada

Dinner

6:00–9:00 p.m.

Champlain Room

June 26

Breakfast

8:00–8:25 a.m.

Delta Room

Housekeeping issues

8:25–8:30 a.m.

Delta Rooms A and B

**Plenary discussion: Equal Recognition Before the Law,
Decision Making and Legal Capacity**

8:30–10:00 a.m.

Delta rooms A & B

- **Presenter: Anna MacQuarrie**, Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living
- **Government resource panel:**
 - › **Laurie Sargent**, Counsel, Human Rights Law Section, Department of Justice Canada

Health break

10:00–10:30 a.m.

Delta Room

CONCURRENT WORKSHOPS III

10:30 a.m. to 12:00 p.m.

Workshop A: Equality, Non-Discrimination and Accessibility

Confederation Room

- **Presenter: Leilani Ferha**, Executive Director, Centre for Equality Rights in Accommodation
- **Government resource panel:**
 - › **Josée Filion**, Counsel, Human Rights Law Section, Department of Justice Canada
 - › **Vangelis Nikias**, Senior Analyst, Service Policy Oversight and Implementation Division, Treasury Board of Canada Secretariat

Workshop B: Living Independently and Inclusion in the Community

Delta Rooms A and B

- Translation and interpretive services available
 - › **Presenter: Krista Flint**, Executive Director, Canadian Down Syndrome Society
 - › **Government resource panel:**
 - › **Collinda Joseph**, Analyst, Office for Disability Issues, Human Resources and Skills Development Canada

Workshop C: Promoting, Protecting and Monitoring the Rights Set Out in the Convention

Algonquin Room A

- **Presenter: Harvey Goldberg**, Director, Strategic Initiative, Canadian Human Rights Commission
- **Government resource panel:**
 - › **Liane Venasse**, Manager, Human Rights Program, Canadian Heritage
 - › **LaReine Passey**, Senior Policy and Reports Officer, Human Rights Program, Canadian Heritage
 - › **Martin Saidla**, Counsel, Public Law Policy Section, Justice Canada

Lunch

12:00–1:30 p.m.

Champlain Room

Plenary discussion: The Convention within the International Human Rights Context

1:30–2:00 p.m.

Delta rooms A and B

- **Presenter: Alex Neve**, Secretary General, Amnesty International Canada

Report on workshops

2:00–3:00 p.m.

Delta Rooms A & B

Health break

3:00–3:30 p.m.

Delta room

Plenary: Facilitated open discussion

3:30–4:30 p.m.

Delta Rooms A and B

• **Panel:**

- › **Leilani Ferha**, Executive Director, Centre for Equality Rights in Accommodation
- › **Krista Flint**, Executive Director, Canadian Down Syndrome Society
- › **Harvey Goldberg**, Director, Strategic Initiative, Canadian Human Rights Commission
- › **Anna MacQuarrie**, Director of Government Relations and Strategic Initiatives, Canadian Association for Community Living
- › **Steve Estey**, Chair, International Development Committee of the Council for Canadians with Disabilities

Government resource panel:

- › **Liane Venasse**, Manager, Human Rights Program, Canadian Heritage
- › **Laurie Sargent**, Counsel, Human Rights Law Section, Department of Justice Canada
- › **Martin Saidla**, Counsel, Public Law Policy Section, Department of Justice Canada

- › **Vangelis Nikias**, Senior Analyst, Service Policy Oversight and Implementation Division, Treasury Board of Canada Secretariat

Closing remarks: Next steps

4:30–4:45 p.m.

Delta rooms A and B

- **Royal Galipeau**, Member of Parliament for, Ottawa–Orleans

Appendix C:

National roundtable List of attendees

Carole Barron

President and CEO, Canadian Council on Rehabilitation and Work

Laurie Beachell

National Coordinator, Council of Canadians with Disabilities

Catherine Bell

Board Member, March of Dimes Canada

Gary Birch

Executive Director, Neil Squire Society

James Borer

Board of Directors, VOICE for Hearing Impaired Children

Phil Brake

National Coordinator, Canadian Injured Workers Alliance

Jim Browne

Senior Policy Advisor, Saskatchewan Social Services

Theresa Claxton

Chair, Canadian Mental Health Association, National Consumer Advisory Council

Dr. Karen Cohen

Member, Executive Committee, Canadian Alliance on Mental Illness and Mental Health

Ray Cohen

CEO, Canadian Abilities Foundation

Audrey Cole

Board Member, Canadian Association for Community Living

Kirk Crowther

Advocacy Leadership Manager, Canadian Down Syndrome Society

Fran Cutler

Chair Emeritus, Canadian National Institute for the Blind

Nancy DeClerq

Counsel, Public Law Policy Section, Department of Justice Canada

Doreen Demas

Executive Director, First Nations disABILITY Association of Manitoba Incorporated

Marie-Josée Desmarais

Counsel on International Relations / Human Rights,
Government of Quebec, Department of International Relations

Elisabeth Eid

Director General and Senior General Counsel, Human Rights
Law Section, Department of Justice Canada

Steven Estey

Chair, International Development Committee, Council of
Canadians with Disabilities

Leilani Ferha

Executive Director, Centre for Equality Rights in
Accommodation

Josée Filion

Counsel, Human Rights Law Section, Department of Justice
Canada

Krista J. Flint

Executive Director, Canadian Down Syndrome Society

Jennifer Forsyth

Senior Policy Advisor, Inuit Tapiriit Kanatami

Kathryn Fournier

Policy Advisor, International Relations Directorate, Indian and
Northern Affairs Canada

Harvey Goldberg

Director, Strategic Initiatives, Canadian Human Rights
Commission

Rick Goodfellow

National Chairperson, Independent Living Canada

Deanna Grotzinger

Vice President, Government Relations and Policy, Multiple
Sclerosis Society of Canada

Carmela Hutchison

President, DisAbled Women's Network

Collinda Joseph

Analyst, Office for Disability Issues, Human Resources and
Skills Development Canada

Anna MacQuarrie

Director of Government Relations and Strategic Initiatives,
Canadian Association for Community Living

Gary Malkowski

Special Advisor to the President, Public Affairs, Canadian Hearing Society

Celeste McKay

Director of Human Rights and International Affairs, Native Women's Association of Canada

Constance McKnight

National Executive Director, National Network for Mental Health

Carolyn Monaco

President, Canadian Deafblind Association

Ed Montigny

Staff Lawyer, ARCH: Disability Law Centre

Sheila Montney

President, Canadian Association for the Deaf

Cathy Moore

Director, Consumer and Government Relations, Canadian National Institute for the Blind

Bill Mussell

President, Native Mental Health Association

Alex Neve

Secretary General, Amnesty International Canada

Vangelis Nikias

Senior Analyst, Treasury Board of Canada Secretariat

Sabine Nolke

Director, United Nations, Human Rights and Economic Law
Division, Foreign Affairs and International Trade Canada

Carmelita Olivotto

Director, Intergovernmental Relations and Special Projects,
Office for Disability Issues, Human Resources and Skills
Development Canada

Karen O'Neill

Chief Operating Officer, Rick Hansen Foundation

LaReine Passey

Senior Policy and Reports Officer, Human Rights Program,
Canadian Heritage

Vanessa Pfaff

National Director of Programs, Easter Seals Canada

Mark Pickup

Founder, Human Life Matters

Kathleen Provost

Executive Director, Autism Society Canada

Mary Reid

Director, Disability Policy Office, Government of Newfoundland
and Labrador

Marcia Rioux

Co-Director, Disability Rights Promotion International

Nicole Roberto

Senior Policy Analyst, Ontario Ministry of Community and
Social Services

Richard Ruston

President, People First of Canada

Martin Saidla

Counsel, Public Law Policy Section, Department of Justice
Canada

Laurie Sargent

Counsel, Human Rights Law Section, Department of Justice
Canada

Bachir Sarr

Programs Consultant, Canadian AIDS Society

Harold Schnellert

National President, Canadian Council of the Blind

Duane Simpson

Regional Co-Chair, National Council of Federal Employees with
Disabilities

Marthe St-Louis

Senior Policy Advisor, Children's Rights, Disabilities, Human
Rights Policy Division, Foreign Affairs and International Trade
Canada

Jack Styan

Executive Director Planned Lifetime Advocacy Network

Mahadeo Sukhai

President, National Educational Association of Disabled
Students

Marie-Josée Therrien,

Acting Manager, Intergovernmental Relations, Office for
Disability Issues, Human Resources and Skills Development
Canada

Phil Upshall

National Executive Director, Mood Disorders Society of Canada

Liane Venasse

Manager, Human Rights Program, Canadian Heritage

Wenda Watteyne

Advisor, Métis National Council

Carole Willans

National President, Canadian Hard of Hearing Association

Marc Workman

National Secretary, Alliance for Equality of Blind Canadians

Appendix D: Online public consultation – Consultation activities

The online consultation, conducted by the Office for Disability Issues (ODI), was held from June 25 to August 14, 2009, by means of a public consultation website. Input was sought from Canadian organizations, individuals residing in Canada and any Canadian citizens residing abroad who were interested in sharing their views on the ratification, implementation and reporting of the *Convention on the Rights of Persons with Disabilities* (Convention). A member and/or employee of an organization could participate on his or her own behalf and/or on the organization's behalf.

D.1 Methodology and accessibility

An email invitation was sent to over 1 000 stakeholders (organizations and individuals) across Canada to participate in the online consultation. ODI collaborated with a number of key players in the development of its consultation process and materials, including a core group of five federal departments (Human Resources and Skills Development Canada, the Department of Justice Canada, Canadian Heritage, Foreign Affairs and International Trade Canada, and Indian and Northern Affairs Canada), provinces and territories, and an advisory group of non-governmental organizations (NGO) from the disability community.

The invitation emphasized that recipients were free to link the consultation website to their own website and to share the link with others who may have an interest in taking part in the consultation. Respondents were informed that while the preferred means was to submit views online through the website, any organizations or individuals wishing to participate also could

choose to submit their views by regular mail, by email, by fax or by phone instead.

The content of the consultation website was available in the following alternate formats upon request: large print, Braille, audio cassette, audio CD, e-text diskette, e-text CD, American Sign Language, Quebec Sign Language and DAISY. The consultation website featured a simple design to allow easy navigation.

D.2 Questionnaire

The questionnaire offered a series of 13 questions to consider in providing respondent views to the Government of Canada on the Convention.

Respondents who did not wish to follow the provided questionnaire format also could choose to provide general comments by email, by regular mail, by fax or by phone.

A copy of the questionnaire can be found in Appendix E of this report.

D.3 Response rate

Close to 225 responses were received through the online consultation, the majority of which were submitted through the consultation website. Two of the responses were provided in sign language on CD. Approximately two thirds responded on behalf of an individual and/or themselves, while one third responded on behalf of an organization.

D.4 What we heard through the online public consultation

This section highlights the views collected during the online consultation process. Summaries of these views, and key themes identified, are described under the following headings:

- Barriers to community participation
- Positive federal initiatives
- Canada's compliance with the Convention
- Key areas for federal government action
- Ratification: Domestic opportunities and challenges
- Ratification: International opportunities and challenges
- Implementing the Convention in Canada
- Data management
- Consulting and engaging persons with disabilities and disability organizations
- Promoting the Convention to the Canadian public
- Feedback on the consultation process

D.4.1 Barriers to community participation

Respondents were asked to identify the significant barriers encountered by persons with disabilities that affect their ability to participate fully within the community. One submission summarized the thinking about barriers in this manner:

“Disability is no longer seen as a deficit or ‘problem’ located in the person, rather, it is understood as an interaction between a person and environmental and attitudinal barriers that prevent or hinder the person’s full participation in society. The Convention provides a strong tool to continue to drive this shift.”

Reported barriers related predominantly to the following themes: built environment, housing, transportation, education, health, support systems, employment, financial autonomy, societal attitudes, legislation, policy and the legal system.

Built environment, housing and transportation

Respondents felt that physical barriers are a major obstacle to participating fully in the community. Inaccessible public buildings and washrooms, workplaces, schools, festival grounds and other leisure spaces, and shelters (such as women’s and homeless shelters) were suggested as being significant challenges to full participation. Respondents were concerned about accessibility features that are inadequate (such as automatic doors opening the wrong way), hard to operate (such as buttons that are difficult to reach), or out of order (elevators, for instance).

With respect to housing, reported barriers concerned a lack of affordable and accessible housing in proximity to public transit,

shopping centres, social activities and a person's workplace. One respondent noted that inaccessible dwellings (washrooms, stairs, narrow hallways, etc.) make it hard or impossible for a person with a physical disability to visit the homes of friends and family.

A lack of accessible transportation, including public transportation, taxi services and issues relating to subway platforms, was also noted as negatively affecting the independence of persons with disabilities. Inclement weather can also make it difficult for those with reduced mobility to get around, particularly in suburban and rural communities. Slow and inadequate snow clearing of public roads and sidewalks was identified as a barrier in this regard. One participant remarked that mobility rights are essential for ensuring that persons with disabilities can flee situations of abuse.

Education, health and support systems

Barriers were reported at all levels of education. In primary school, barriers included a lack of integration of children with physical and non-physical disabilities in mainstream classes, little early childhood learning opportunities, and a lack of understanding from the school system on the needs of children with disabilities. The high level of illiteracy among those who are blind, or who use alternate modes of communication such as sign language, was also highlighted as a significant barrier. Other respondents noted that persons with disabilities experience a lack of access to continuing education and are not always made aware of services available on campus, such as assistance for note taking.

Respondents emphasized that there are many out-of-pocket expenses to cover one's health care needs, such as medications not covered by health care plans, home care services, and aids

and devices (such as accessible computers or assistive listening devices). These expenses can be burdensome for persons with disabilities. Additional barriers included lack of access to medical and paramedical services; lack of choice in service providers/workers, method of care, appropriate treatment and therapies (such as occupational and speech therapies, and intensive behavioural intervention); lack of preventative care; as well as lack of personal care services, proper nutrition and other supports. A number of comments also identified inadequacies concerning mental health services. For instance, one respondent noted the lack of “mental health walk-in clinics”—similar to typical medical walk-in clinics but specializing in mental health issues—and that hospital systems are unable to cope with, and understand, mental health illnesses.

Concerns regarding support systems were also identified. These included lack of cohesion between federal, provincial and territorial levels in terms of service delivery; lack of supports for persons with episodic disabilities; lack of accessible and affordable support in learning life skills; long wait lists to access technical aids and consultations with specialists; lack of access to attendants; lack of rehabilitation and training opportunities; inadequate supports for family caregivers; and insufficient individualized community supports.

Employment and financial autonomy

A number of responses highlighted barriers relating to employment. These concerned the following: lack of meaningful employment and sustainable pay for persons with disabilities; discrimination from employers and colleagues; few opportunities for promotions, advancement, career development and training; and a lack of workplace accommodations. System disincentives, such as disability pensions that do not allow for work trials, were also perceived as making it difficult for persons with disabilities to gain and sustain meaningful employment.

One significant barrier reported by respondents was poverty faced by persons with disabilities and their families. Many emphasized that despite tax measures and specialized funding, the high cost of managing a disability often puts them in “survival mode.” This prevents them from saving for the long term and obtaining the specialized services, treatment, aids and devices that they may require. In addition, tax measures and special savings accounts are not helpful to those living in or near poverty. Simply, such financial concerns impede the ability of persons with disabilities, and their families, to enhance their quality of life. These issues are often heightened by those who face other compounding issues; for example, a person with disabilities would face additional barriers if he or she were homeless. Other compounding issues include gender, age and geographic location.

While the aforementioned barriers were individually oriented, a number of organizations reported a lack of funding to develop and deliver programs and services to their members. Representatives of organizations, as well as members or clients of these organizations, wished to see additional accessible, inclusive and flexible funding mechanisms.

Societal attitudes

Respondents raised several concerns regarding attitudinal barriers and disabilities. A lack of awareness, understanding and sensitivity concerning all types of disabilities, by all parts of society, was highlighted as a significant concern. Many respondents, for instance, reported an inadequate and inaccurate portrayal of persons with disabilities by, and in, the media. Others noted that some persons with disabilities encounter discrimination based on their lack of non-verbal and social interaction skills. Such attitudinal barriers—coupled with persons with disabilities lacking an awareness of their rights, as suggested by many respondents—have the potential to foster issues of isolation,

violence and harassment. For example, one respondent remarked that some women are denied food, fluids, bathing and toileting as a form of control or punishment. This is compounded by other societal attitudes these individuals may encounter as a result of their gender, race, religion, sexual orientation and other personal characteristics.

Other respondents reported fatigue and a lack of self-esteem related to the management of their disability or a loved one's. Some also indicated a lack of accessible opportunities for parents with disabilities to take part in the lives of their children and families.

Legislation, policy and the legal system

Respondents identified a variety of barriers relating to legislation, policy and the legal system. These included: lack of national disability legislation, enforcement of current laws and regulations pertaining to accessibility; lack of follow-up and oversight mechanisms for social policies; lack of access to legal services and lack of publicly funded legal assistance; as well as lack of support and representation for persons with disabilities. One organization stated that “people with disabilities are often erroneously assumed not to have legal capacity.” In addition, respondents noted the removal of the Court Challenges Program as a barrier, as well as the inadequacy of human rights tribunals and commissions, the administrative inflexibility and complexity of processes related to some programs and services, and the lack of inclusion of persons with disabilities in disaster planning.

D.4.2 Positive federal initiatives

A number of federal government actions were reported to have had a positive impact on the lives of persons with disabilities. The most frequently reported programs, policies, legislation and initiatives are listed below. For additional information and bibliographical references on the initiatives mentioned throughout this section, please refer to Appendix F.

- employment equity initiatives, such as the *Employment Equity Act*
- federal grants and funding programs for education, such as the Canada Study Grant for the Accommodation of Students with Permanent Disabilities
- income tax measures, such as the Canada Child Tax Benefit, and tax credits for medical expenses, assistive devices and caregivers
- research and community projects (Opportunities Fund for Persons with Disabilities, Enabling Accessibility Fund, etc.) made available to civil society and to disability organizations
- the Canada Pension Plan Disability Program
- the Court Challenges Program of Canada (terminated in 2006)
- the Registered Disability Savings Plan

Other federal programs, policies, legislation and initiatives respondents felt a positive impact on the lives of persons with disabilities included those listed below.

General

- Canada's participation in the negotiation of the Convention and the signing of the treaty
- federal public awareness campaigns, including health promotion and injury prevention
- the establishment of the federal Office for Disability Issues
- the Homeowner Residential Rehabilitation Assistance Program
- the Social Development Partnerships Program – Disability Component
- the Veterans Independence Program, by Veterans Affairs Canada
- training programs for federal employees
- the publication of resources such as *In Unison: A Canadian Approach to Disability Issues* (1998)

Health

- the establishment of the Mental Health Commission of Canada and federal initiatives on mental health promotion
- universal health care

Education, employment and training

- federal hiring practices that expressly include persons with disabilities
 - funding of rehabilitation programs (such as the Canada Pension Plan Disability Vocational Rehabilitation Program) and training programs for workers with disabilities (such
-

as the Entrepreneurs with Disabilities Program, available in Western Canada through Western Economic Diversification Canada)

- Targeted Wage Subsidies, an employment program of Human Resources and Skills Development Canada (HRSDC): provides funding to employers to encourage them to hire individuals whom, in the absence of such a subsidy, they would not normally hire
- the ability to earn income while receiving benefits
- the Permanent Disability Benefit (HRSDC)
- the Registered Education Savings Plan
- the Working Income Tax Benefit–Disability Supplement (Canada Revenue Agency)

Disability-specific

- the Canadian Human Rights Commission’s reports²⁴ on multiple chemical sensitivities, as well as the Canada Mortgage and Housing Corporation’s inclusion of “environmental hypersensitivity” and “allergy” in its Residential Rehabilitation Assistance Program for Persons with Disabilities
- the federal government’s inquiry into the services provided to children with autism,²⁵ as well as the recognition of World Autism Awareness Day

24. The Canadian Human Rights Commission’s reports, entitled *The Medical Perspective on Environmental Sensitivities* (2007) and *Accommodation for Environmental Sensitivities: Legal Perspectives* (2007), may be reviewed at www.chrc-ccdp.ca/research_program_ and www.chrc-ccdp.ca respectively.

25. The inquiry resulted in the Senate Standing Committee on Social Affairs, Science and Technology producing a 2007 report entitled *Pay Now or Pay Later: Autism Families in Crisis*. The report may be accessed at www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/.

Legislation

- current federal, provincial and territorial legislation on human rights and issues of discrimination
- principles concerning reasonable accommodation
- the *Canadian Charter of Rights and Freedoms*, particularly section 15, which addresses equality rights: includes direct references to “mental or physical disability,” among other characteristics

Accessibility

- allowing persons with disabilities extra time to fill out forms and questionnaires in federal processes, such as during the 2006 Census
- initiatives taken by Elections Canada to improve the efficiency and inclusiveness of the voting process for all Canadians
- improvements concerning the accessibility of federal buildings and sites (such as public spaces under Parks Canada jurisdiction and policies for new buildings) and with making federal information and resources more accessible, including by making them available in alternate formats (such as large print, Braille, audio CD and DAISY)
- larger print and tactile characters on currency
- the recent decision by the Canada Radio-television and Telecommunications Commission regarding the accessibility of telecommunications, websites and documents²⁶
- the recent decisions by the Canadian Transportation Agency to improve the accessibility of air, rail and marine transportation for persons with disabilities²⁷

26. For more information on the ruling, please refer to www.crtc.gc.ca/eng/.

27. For more information on accessible transportation, please refer to the Canadian Transportation Agency's website at www.otc-cta.gc.ca/doc.php?sid=25&lang=eng as well as its *Moving Ahead* newsletter at www.otc-cta.gc.ca/doc.php?sid=1022&lang=eng

Some respondents suggested that the majority of federal programs are not applicable in Quebec. A few respondents commented that local and provincial initiatives serve the needs of persons with disabilities better than those undertaken by the federal government. Others noted that finding out about available programs can be challenging and that there may be a role for the federal government to play in better promoting its programs, policies and initiatives.

D.4.3 Canada's compliance with the Convention

To help assess Canada's current state of compliance, respondents were asked whether they felt that existing laws and policies were generally consistent with the Convention's provisions. Feedback was mixed in this regard.

Canada's policies and laws: Generally consistent with the Convention

A number of policies and laws were identified as being currently consistent with the Convention and its goals of facilitating choice, independence, accessibility, freedom from discrimination and participation in society. These included:

- the *Canadian Human Rights Act* (1985);
- the *Privacy Act* (1985);
- the *Access to Information Act* (1985);
- the Supreme Court of Canada's Eldridge and VIA Rail decisions²⁸;

28. The Eldridge case "concerned the availability of equal medical treatment for persons who are deaf." For more information, please refer to: <http://dsp-psd.pwgsc.gc.ca/Collection-R/> and the Supreme Court of Canada's decision at: <http://csc.lexum>. According to the Canadian Transportation Agency, the VIA Rail case concerned accessibility issues regarding some of VIA Rail Canada's train cars. For more information, please refer to www.cta-otc.gc.ca/doc. and the Supreme Court of Canada's decision at <http://scc.lexum>.

- the Federal Court of Canada’s decision concerning the Canadian Association of the Deaf, as supported by the *Canadian Charter of Rights and Freedoms*²⁹;
- the Constitution Acts (1867 to 1982);
- the *Canada Health Act* (1985); and
- the *Employment Equity Act* (1995).

Other participants, however, asserted that Canada’s general compliance with the Convention could be enhanced by recognizing additional and/or reinforcing existing areas in policy and law. For instance, some participants perceived environmental illness as being recognized in the United States and other jurisdictions throughout the world. It was their belief that such recognition should be easy to do in Canada as a result. Others noted a need to reinforce the law on bioethics so as to halt eugenic practices, and emphasized the importance of ensuring that Canada’s existing laws and policies are enforced, including the need for the provinces and territories to ensure that the *Canadian Charter of Rights and Freedoms*, especially section 15, is applied to their citizens.

Canada’s policies and laws: Changes and measures required

Several respondents indicated that Canada’s policies, laws and programs required changes or measures to ensure consistency with the Convention. Many suggested that Canada needs to develop a comprehensive approach to disability, including national legislation “with teeth” and accompanying standards and regulations. It was felt that this would, among other objectives, increase the cohesiveness of laws, regulations and policies between all levels of government; improve the portability of programs and policies between provinces and territories; facilitate monitoring of compliance with the Convention; and support

29. This decision concerns the federal government’s provision of services for deaf or hard of hearing people. For more information, refer to <http://decisions.fct-cf.gc.ca/en/2006/2006fc971/2006fc971.pdf>

the establishment of accountability measures. Respondents suggested that this would assist Canada in addressing article 33 of the Convention, including the requirements to “maintain, strengthen, designate or establish within the State Party, a framework [...] to promote, protect and monitor implementation of the present Convention” and help “government to facilitate related action in different sectors and at different levels.”

Respondents also identified specific policy and program changes that they deemed would be of benefit to persons with disabilities in Canada. Echoing the general principles in article 3 of the Convention, which highlights the necessity of “full and effective participation and inclusion in society,” inclusion was cited as a central value for ensuring that Canada’s laws and policies reflect the provisions of the Convention. Respondents indicated that persons with disabilities are often not involved in the development of laws and legislation that affect them. Article 4(3) of the Convention, however, indicates that persons with disabilities are to be closely and actively consulted in this regard.

More specifically, the various changes suggested by respondents included the following:

- **Political Participation** – Article 29(a)(i) of the Convention emphasizes that the voting process must be “appropriate, accessible and easy to understand and use.” In this regard, some respondents emphasized the importance of ensuring that voting booths, campaign literature and other procedures are accessible in nature.
- **Housing and independent living** – Article 19 of the Convention addresses independent living and community inclusion. Some respondents highlighted a need to stop the institutionalization of persons with disabilities in Canada. As article 28(2)(d) of the Convention references the need to ensure access by persons with disabilities to public housing

programs, some respondents also identified a need for an affordable housing strategy—possibly through the Canada Mortgage and Housing Corporation.

A number of respondents commented on the value of facilitating independent community living and participation through the freedom to choose a place of residence. Residential and community support services, which promote inclusion and help prevent the isolation or segregation of persons with disabilities from the community, were also emphasized by respondents.

- **Health** – Article 25(b) of the Convention states that countries need to “provide those health services needed by persons with disabilities specifically because of their disabilities.” Respondents offered various suggestions in this regard, including developing national strategies and legislation to address specific disability issues and ensuring that the *Canada Health Act* adequately addresses all disabilities and required services.
- **Legal system** – Articles 12 and 13 of the Convention address issues relating to access to justice. Some respondents suggested that the criminal justice system in Canada may not be in compliance with the Convention. For instance, article 12(1) notes that “States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.” One organization responded that “legal rights are meaningless in the absence of access to legal resources to enforce these rights. Access to legal representation and advice is a practical necessity for adults dealing with mental capability issues. Research suggests that persons with capability issues are less equipped to adequately self-advocate in the legal system, are often over-represented within that same system, and have little access to publicly funded legal aid.”

Other respondents suggested that persons with mental health issues are being criminalized in Canada rather than being provided the necessary mental health services, and emphasized a need for the legal system to recognize and acknowledge the differences between mental health and intellectual disabilities. Doing so, it was suggested, highlights a need to enhance disability-specific supports, therapies and rehabilitation for prisoners with disabilities.

- **Accessibility** – respondents highlighted the importance of improving accessibility in Canada, such as is addressed by article 9 of the Convention. To do so, some respondents perceived a need for accessibility audits of buildings, facilities, programs and services to be undertaken by government. Others suggested implementing universal design in retrofits and new constructions, as well as developing/strengthening federal building codes to help make streets, curbs, playgrounds, theatres, beaches, parks and workplaces more accessible.
- **Income and employment** – articles 27 and 28 of the Convention concern work, employment and standard of living. In this context, respondent suggestions included providing financial incentives to both employers and persons with disabilities to return to work, having government provide a lifelong income, and ensuring that persons with disabilities are not under-represented in the federal workforce.
- **Children** – address the needs of children with disabilities better, as stated in article 7 of the Convention, some respondents advocated the establishment of a federal agency for children with disabilities. This may be similar in idea to the Children’s Ombudsman in Sweden, which, according to its website, “[promotes] the rights and interests of children and young people as set forth in the United Nations Convention on the Rights of the Child (the CRC).

The agency monitors the implementation of the CRC in Sweden.”³⁰

- **Accessible formats** – Article 21 of the Convention addresses access to information, including alternate formats. Respondents therefore suggested that there be a requirement to ensure that events, services and festivals are equipped with the means to accommodate persons with disabilities. This includes communication access to real-time translation, sign language interpreters (American Sign Language and Quebec Sign Language), and intervenors for deaf-blind persons, among others. One participant stated that “there’s a lack of services in general, especially with interpreting services, which are very limited. Very often I find myself unable to participate in a particular event due to the inability to receive services in [sign language].”
- **Diversity of disability** – Respondents emphasized the importance of not viewing persons with disabilities as a homogenous group. Raising awareness and recognition of the diversity of disability issues was therefore cited as a means to help ensure that Canada’s laws and policies take into consideration those facing compounding issues.

Overall, respondents indicated a need for more proactive, rather than reactive, policies and for such policies to be clear, timely, user-friendly and comprehensive. To help ensure that any policies or legislation incorporate disability issues, some participants advocated applying a “human rights lens,” “disability lens” or “inclusion lens” to all federal policies.

30. For more information concerning the Children’s Ombudsman in Sweden, refer to www.barnombudsmannen.se/Adfinity.aspx?pageid=85.

D.4.4 Key areas for federal government action

In light of the obligations set out in the Convention, respondents identified a number of key areas for federal government action related to the protection and promotion of the rights of persons with disabilities.

Federal leadership

A number of respondents praised the leadership role shown by the Government of Canada during the negotiation stages of the Convention. They called on the Government to maintain this role with respect to the ratification and implementation of the Convention on both domestic and international levels.

Within Canada, respondents indicated that opportunities for leadership included developing a solid implementation plan with reliable indicators for monitoring and reporting on the Convention, on disability rights and on human rights in general. Respondents suggested creating and/or enhancing a national body of experts that would provide guidance and advice to all levels of government, civil society and non-governmental organizations and help ensure that current laws and policies—in areas such as human rights, immigration and transportation—are enforced.

Other opportunities for leadership included increasing awareness training for federal employees, granting more space to disability issues in displays in national museums such as the Canadian Museum for Human Rights, better defining “disability” (such as its social, physical and intellectual aspects), and strengthening accountability measures. Concerning the latter, some respondents called for all federal departments, Crown corporations and agencies to make available a periodic report

on their accessibility measures and initiatives. Areas where the federal government could be active in facilitating this includes consulting with the disability community—taking into account its difference and diversity—and ensuring that disability groups are involved in developing and implementing federal initiatives related to protecting and promoting the rights of persons with disabilities. As one respondent stated, “Just because we have the right doesn’t mean we are given the right.”

Many respondents called for the federal government to establish a strong complaint mechanism, such as an ombudsperson, for Canadians to report human rights violations pertaining to disability issues. This mechanism would have the power to compel changes without requiring people to exhaust the number of appeals processes through courts and tribunals.

Public awareness

Strategies aimed at increasing public awareness on disability and human rights issues were suggested, not only for the general public, but also for service providers as well as for persons with disabilities themselves. Several respondents commented on their own situation or that of a loved one and reported that some persons with disabilities were regularly refused service and suffered discrimination, harassment, abuse and violence based on their disability. Respondents offered many suggestions as to how the federal government could get involved in this area, including launching public awareness campaigns about the Convention, human rights and disability issues; broadcasting public service announcements concerning disability issues; and increasing discussion around disability issues through public, private and governmental forums.

Key elements to include in the public awareness initiatives, as reported by respondents, include the different types of disabilities, stigmas associated with having a disability, the

rights guaranteed by current Canadian legislation and by the Convention, as well as the responsibility that comes with having these rights, for persons with and without disabilities. Other suggestions included highlighting the many “firsts” of the Convention (such as the Convention being the first human rights treaty of the 21st century and the fastest-negotiated human rights convention in United Nations history), increasing the cultural recognition of persons with disabilities through representation in museums and galleries, and portraying disability in a positive manner in the media.

Legislation and legal capacity

A number of respondents called on the federal government to develop and implement a national disability strategy with the collaboration of provinces, territories and the disability community. In accordance with the strategy, national legislation could set out the obligations under the Convention, outline national standards, and address rehabilitation, literacy (alternate modes of communication such as Braille), and equal access to health, education and economic participation for all Canadians. There was also a call for a national poverty strategy to establish the right to an adequate level of income for all Canadians, including those with disabilities. The strategy could include poverty-reduction initiatives such as making the Disability Tax Credit refundable.

Suggestions pertaining to legal capacity included recognizing that all persons with disabilities have the right to make decisions for themselves and to have those decisions respected; that the federal government has a role in ensuring that persons with disabilities can access supported decision-making where assistance in exercising legal capacity is needed; and the development of supported-decision-making legislation throughout Canada.

Other suggestions included reviewing legal aid policies across Canada to ensure that they are accessible to persons with disabilities; making available to persons with disabilities no- or low-cost legal representation and advice for any events (including criminal issues, landlord/tenant issues and divorce), especially from those with expertise in human rights and disability issues; and reinstating the Court Challenges Program of Canada or developing a similar program.

Standard of living

One respondent commented that having a disability should not confine a person to a life of poverty and that an adequate standard of living is a prerequisite for being able to participate fully in society. Factors that support enhancing the quality of life for persons with disabilities include income security programs that don't carry a "welfare model" stigma; inclusive poverty-reduction plans for persons with visible, invisible and episodic disabilities and their families; and initiatives for persons with disabilities to build their wealth and assets, as well as to own a home.

Education, health and support systems

While education and health fall mostly under provincial and territorial jurisdiction, many respondents felt that further action from the federal government in these areas would benefit persons with disabilities. Areas of particular interest included no- or low-cost treatment and therapies, treatment for mental health and drug addiction among persons with disabilities, more flexible parameters in care, early diagnoses and treatment, disorders and other illnesses/issues experienced by returning soldiers, and injury prevention.

Some respondents also commented on disability and aging. It was suggested that persons with disabilities may experience life

expectancies and the process of aging differently than persons without disabilities. One respondent explained it this way:

“People with mental, intellectual or physical disabilities may age differently, facing many of the challenges typically associated with the senior years in advance of their non-disabled counterparts: they may experience secondary health problems like heart disease, diabetes and cognitive dysfunction much earlier. Although at increased risk of other health problems, access to preventive and diagnostic care may not be accessible in absence of turning 65. Despite these facts, most systems use the apparently neutral chronological marker as an entitlement trigger. Attaining age 60 or 65 means access to retirement, old age and additional health benefits as well as other services. Chronology is an overly crude device for triggering entitlement that effectively prevents people from accessing much needed benefits in a timely manner, resulting in systemic discrimination against people with disabilities. In order to cope with additional challenges people with disabilities may require differential treatment. Existing policies in the area of health care and retirement should be evaluated to ensure they do not deny older adults with disabilities access to benefits in a timely manner, thereby compromising health care in the name of fairness and facial neutrality.”

Other areas that were identified for federal government action included recognition of the role that families play in supporting a family member (child or adult) with a disability and provision of adequate supports and assistance (such as respite care, caregiver benefits, paid leave and employment security); enhanced tax measures; increased access to care and services such as homecare and family caregivers; the development of a national pharmaceutical strategy that would include a catastrophic drug

plan; initiatives to assist families that can no longer meet the care needs of their relative with a disability (due to aging of the caregivers, for example); income support; and earned income initiatives.

Employment

Many respondents wished to see further federal supports to foster fair and equal access to employment opportunities for persons with disabilities. This might include income security measures; subsidies to employers who voluntarily create flexible jobs to enable the hiring of a person with a disability and/or who provide employment accommodation to persons with disabilities; subsidies for employment aids such as job coaches, job matching, accommodations and technical aids at work; interpreting services; attendant care services; and accessible training manuals (made available in alternate formats). One respondent called for the creation of an economic model where persons with disabilities can compete on a fair basis in the job market. The *Multilateral Framework for Labour Market Agreements for Persons with Disabilities* was also cited as a positive employment initiative for persons with disabilities. Respondents felt that persons with disabilities should also be recruited to ensure equitable regional, racial and gender representation on federal boards, committees and agencies.

Accessible information and technology

Lack of access to information was a prevalent theme in the online consultation. “Information” includes messages broadcast from any form of telecommunication (television, radio, Web and new technologies); printed in the media; featured in training materials for work or school; promoting festivals, fairs and other public events; presenting current events and news; or outlining

government programs and policies, legislation, medical resources and weather warnings.

Respondents wished to see an increase in accessible new technologies and websites. They also wished to see improvements to the accessibility of cinemas and theatres and in the availability of assistive tools, such as listening devices, technical aids, adapted documents, teletypewriters (TTY) and light systems (for doorbells, fire alarms, alarm clocks, etc.) in public places and in the workplace. One respondent felt that federal government information in alternate formats is either unavailable or provided after a considerable delay, thus making it harder for Canadians requiring this format to benefit from the information that is otherwise widely available to most other Canadians.

Some comments called on the federal government to reform copyright laws to ensure that all publications are available in alternate format—at the time of standard print publication—and that they help facilitate sharing of accessible material on an international level.

D.4.5 Ratification: Domestic opportunities and challenges

Respondents were asked to provide their views on the opportunities or challenges presented by Canada's ratification of the Convention, particularly for persons with disabilities. Overall, respondents felt that ratification of the Convention ought to be a public commitment followed by meaningful action. Respondents acknowledged that ratification will pose some challenges, but that the benefits and opportunities on the domestic and international levels are much greater in scope.

Domestic opportunities

Some respondents viewed ratification as an opportunity “to make theory a reality.” Respondents felt that, in theory, most of the rights outlined in the Convention are included in Canada’s current legal and policy framework; however, they felt that, in reality, all rights are not necessarily enforced. It was suggested that ratification would therefore create an opportunity for the federal government to respond with a comprehensive national disability strategy. As one participant noted, implementation should “provide a broad social policy framework to describe the work that needs to be done to enable the full participation of people with disabilities in society.” It was noted that the Convention has intensified the dialogue among policy makers.

The Convention was identified as providing an instrument against which Canada’s programs and policies can be measured. This provides an opportunity for Canada to ensure that its programs, services and policies are consistent across provinces and territories, to close gaps in service delivery, and to create consistency across the country. This would require improved coordination between federal, provincial and territorial governments and associated ministries that deliver programs to persons with disabilities. Some respondents suggested using ratification as an opportunity to launch an evaluation of Canada’s current legislative framework to ensure consistency with the Convention.

More specifically, ratification was viewed as an opportunity to demonstrate a commitment to the rights of persons with disabilities in a number of areas, as well as an opportunity to standardize universal rights in Canada. The Convention itself was regarded as an additional tool to reinforce the human rights dimension of laws that affect persons with disabilities. For instance, one respondent suggested that “the Supreme Court of Canada has, in recent years, indicated a willingness to use

international instruments to interpret domestic legislation. This may help provide for a more generous interpretation of Canada's constitutional equality rights and human rights legislation." Another respondent, the parent of a child with a disability, hoped that ratification would ensure that her son is not considered a burden requiring funding, but rather, that he is viewed as a Canadian citizen with full rights and recognized as such by the law. Ratification was regarded as an opportunity to draw attention to Canada's leadership in terms of advancing and promoting the rights of persons with disabilities.

Ratification was also regarded as an opportunity to improve income security, financial stability and wealth accumulation of persons with disabilities. To facilitate such improvements, respondents offered various suggestions, which included improving financial supports for individuals and for their caregivers, increasing opportunities for affordable housing, as well as managing and dispensing disability pensions apart from income assistance. Ratification was also deemed as having a positive impact on employment opportunities and working conditions for persons with disabilities. This may include, for instance, improved training and advancement opportunities, work accommodations (such as flexible working hours and physical accommodations), and mechanisms (including employment insurance and worker's compensation boards) that allow persons with invisible and episodic disabilities to obtain and sustain meaningful employment.

A number of respondents also suggested that addressing disability issues preventively would be of economic benefit to Canada, as costs related to not treating an illness or condition are substantive in nature. For instance, a lack of access to employment and training can result in numerous costs associated with health (stress, depression) and economically related issues (depreciating skills, productivity loss). Respondents perceived the cost of prevention to Canada as

being less than that associated with the treatment of disability. This was emphasized as an important cost-saving opportunity for Canada, particularly as the country's population ages and the incidence of disability increases. Respondents felt that this could be applied to economic models at all levels of government and across jurisdictions across Canada. As such, it was suggested that costs related to preventing and managing a disability could even be a driver of the economy.

Domestic challenges

Respondents identified implementing, enforcing and monitoring the Convention as the primary domestic challenges associated with Canada's ratification of the Convention. In this regard, a number of respondents were concerned that ratification would be meaningless if there was no mechanism to consistently enforce and monitor the implementation of the Convention in all jurisdictions across the country. Respondents expressed concern regarding possible loopholes in legislation and discrepancies between policies and actual practice, as well as the potential for implementation of the Convention to be open to interpretation. To address this, respondents suggested involving civil society, particularly the disability community, in monitoring the implementation of the Convention. Raising awareness among public authorities and institutions would help ensure that their practices are in conformity with the Convention.

More specifically, respondents cited issues concerning a lack of accountability and coordination by all levels of government as potentially hampering implementation and enforcement of the Convention in Canada. A number of respondents wondered who, after ratification, would be holding organizations, departments and Crown corporations accountable for following through on the Convention. One suggestion offered was to establish strong links with ministries of labour and unions to ensure compliance with accommodation requirements. Other respondents expressed

uncertainty regarding what public or government body would have the authority to compel changes and reward and recognize successes concerning the Convention in Canada. As one respondent remarked, “There is a need for public accountability and commitment for citizens to support the Convention at the local level.”

Other respondents mentioned issues surrounding the coordination of federal, provincial and territorial responsibilities as an additional challenge. One respondent, for instance, feared that non-governmental organizations may not know who to turn to on issues surrounding employment programs—the federal government, provincial and territorial governments, or municipalities. Thus, it would be important for governments to clearly define their responsibilities. Respondents acknowledged that, as many of the areas addressed by the Convention are governed by provincial and territorial jurisdiction, it may be challenging for the federal government to achieve consensus. One suggestion was to convene a first ministers’ meeting to address these inter-jurisdictional issues.

Another challenge identified by respondents was a potential lack of funding and resources to follow through with implementation of the Convention. Canada’s expansive geography could pose challenges as well; policy and program initiatives required to meet the obligations of the Convention could be harder to implement in rural and remote communities (for example, infrastructure money may be needed in rural communities to address accessibility and mobility issues). The current economic downturn, as well as program cuts and restrictions, could also hinder implementation.

In terms of capacity, heightened awareness of the rights covered by the Convention after ratification may increase the instances of complaints and cases for human rights tribunals—the federal

government needs to ensure that proper resources are available to persons with disabilities and groups lodging complaints.

D.4.6 Ratification: International opportunities and challenges

Respondents indicated opportunities related to the following key thematic areas: leadership, development of best practices, awareness, and international development and cooperation. Challenges related mostly to accountability and financial concerns.

International opportunities

Respondents felt that, by ratifying the Convention, Canada would maintain its role as a defender of human rights, a progressive society and a social model for others to follow. They felt that ratification would demonstrate Canada's commitment to change the status quo for the better, as well as afford it a greater visible international presence. Respondents noted that ratification would also allow Canada to nominate its candidate at the *Conference of States Parties to the Convention on the Rights of Persons with Disabilities*,³¹ the United Nations (UN) body of independent experts that monitors the implementation of the Convention by States Parties. They believed that ratification may also result in Canada placing a higher priority on developing and participating in international development initiatives that promote the inclusion and rights of persons with disabilities. It was felt by respondents that this may help facilitate the reduction of barriers and improve the quality of life of persons with disabilities, both domestically and abroad.

31. For information on the membership process for the Committee on the Rights of Persons with Disabilities, visit the UN Enable website at www.un.org/disabilities/default.

In addition to the aforementioned international opportunities, respondents suggested that Canada would benefit from developing and sharing best practices in terms of implementing, monitoring and reporting on the Convention with other countries and NGOs around the world. They believed that ratification could also increase opportunities for Canada to engage in international joint ventures and discussions on disability, such as seminars and conferences. One respondent noted, for instance, that ratification could increase partnerships between Canada and its North American counterparts to improve coordination of policies and regulations related to insurance, health organizations and mobility. Finally, the majority of respondents called on Canada to ratify the Convention and to sign and ratify the *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (Optional Protocol).

Overall, participants indicated that actions such as these would enhance Canada's ability to be a strong voice for persons with disabilities at the international level.

International challenges

A number of participants expressed their concern regarding a potential lack of accountability upon ratification. One example given was the apparent perceived lack of follow-up or oversight done by Canada after receiving recommendations from the Universal Periodic Review. Other participants expressed frustration and embarrassment that Canada had not yet ratified the Convention. For instance, a few respondents noted that Canada had been instrumental in the development of the Convention, but was lagging behind other nations in the ratification process.

Respondents also reported a lack of resources for international disability organizations and for coordinating the sharing of best practices, as well as the disparity in international accessibility standards.

D.4.7 Implementing the Convention in Canada

The Convention requires countries to establish and maintain mechanisms to protect and promote the rights set out in the Convention as well as to monitor matters relating to its implementation. At the federal level, Canada already has the Canadian Human Rights Commission (CHRC) and the Office for Disability Issues, and at the national level, it has other bodies, such as disability organizations, that engage in protecting, promoting and monitoring many of the rights set out in the Convention.

Respondents were asked whether they believe these existing mechanisms are sufficient for the purposes of Canada's ratification of the Convention; that is, whether they promote and protect the rights of persons with disabilities and are sufficient for the monitoring of the implementation of the Convention at the federal level. Responses were mixed; a number of respondents believed the existing mechanisms to be insufficient. However, a number of respondents deemed the current mechanisms sufficient but requiring additional support, resources and authority to adequately fulfill their role. Overall, respondents called for the roles of these mechanisms to be better defined and publicized to civil society.

Several respondents remarked that existing complaints mechanisms subject clients to lengthy and costly processes (such as when accessing the Canadian Human Rights Tribunal). One respondent remarked that "the appeals processes are so fraught with distress and fear of loss of benefits that persons with disabilities become overwhelmed and most often give up." Some respondents noted a lack of acknowledgement or follow-up from the CHRC. Other respondents felt that current mechanisms and policies are reactive rather than proactive, and

that these mechanisms (tribunals, commissions, etc.) have little or no provisions for alternate formats. One comment stated that “there is [currently] no independent entity to turn to and certainly no consequences for those who show discrimination.”

One suggestion was to create an arm’s-length federal agency accountable to Parliament, with a clear mandate to be an impartial monitor of government activities and to receive complaints made against federal agencies, departments and Crown corporations regarding disability issues. Respondents felt that this role could be taken on by ODI. Another respondent wished to see the CHRC’s role redefined and the CHRC provided with enhanced resources, such as by increasing the number of officers for employment equity audits and reinforcing mechanisms outside of alternate dispute resolution venues (tribunals and courts). Another respondent called for the creation of an autonomous department or agency to help uphold the CHRC’s rulings. This body could provide consulting services to corporations and governments to help them attain the highest standard of services to better suit persons with disabilities. Consulting fees would help self-finance the body.

Respondents were asked whether there are additional mechanisms they would suggest, what their role would be and how they would interact with existing federal mechanisms. Many wished to see the establishment of a “one-stop shop” with respect to disability issues that would provide information and refer Canadians to services or resources across all levels of government. It was suggested that an online portal could show available resources by province, city, subject, language, availability in alternate formats, etc. One respondent stated that he was interested in volunteering with a disability organization, didn’t know how to start the process and felt that having access to a central source of disability information would make it easier for him and others like him to get involved.

Other suggestions included:

- appointing an ombudsperson for disability issues;
- creating a ministry for persons with disabilities with offices in each province and territory;
- increasing the efficiency and reducing delays of the human rights complaint process for persons with disabilities;
- integrating disability issues into current mechanisms instead of creating more “offices” and commissions;
- having elected and government officials shadow a child or person with a disability for a day, resulting in first-hand experience of a typical day;
- enhancing public accountability;
- signing and ratifying the Optional Protocol;
- developing national disability legislation;
- providing resources, such as office space and training of volunteers, to volunteer organizations that can assist with monitoring;
- improving and increasing coordination and information sharing between agencies, offices and commissions, and between the federal, provincial and territorial levels of government;
- enhancing any existing advisory / ad hoc committees made up of representatives from the federal, provincial and territorial governments as well as NGOs;
- reinstating the Court Challenges Program of Canada and ensuring that affordable complaint mechanisms are made available to persons with disabilities;
- minimizing loopholes and implementing tougher legislation;
- involving persons with disabilities in decision-making processes and in policy development;

- monitoring and participating in UN summits, reviews and committees;
- providing more information to persons with disabilities and their families and caregivers on how federal, provincial and territorial organizations, Crown corporations, and other bodies and organizations are involved in disability issues and how they help Canadians;
- ensuring access to advocates on a local level who can assist in bringing concerns/cases forward to monitoring bodies, as well as ensuring that government bodies liaise often with local advocates;
- imposing financial penalties for practices that contravene the Convention's principles and for public and private sector agencies in whose workforce persons with disabilities are under-represented, as well as creating a recognition mechanism to reward exemplary practices;
- creating a national innovation organization that would provide information and support on how technology can support those with various types of disabilities;
- involving federal departments that may not normally be concerned with disability issues;
- consulting with constitutional experts; and
- making available a special yearly report to Parliament on progress made with respect to the Convention.

D.4.8 Data management

The Convention specifies that countries agree to collect and make available appropriate information, including statistics and research, to measure how well the Convention is being implemented. Respondents were asked to explain whether they felt that Canada's existing sources of data such as the census, the Participation and Activity Limitation Survey (PALS) and other

administrative information are adequate to meet this obligation. The majority of respondents stated that Canada's existing sources of information would not be adequate to assess the collective impact of the Convention on the lives of persons with disabilities.

Types of data and scope

A number of respondents felt that in order for sufficient and proper information to be collected, existing sources of data need to be enhanced or new sources need to be created. Respondents suggested that information collected could relate to themes or articles in the Convention, such as data on Canada's compliance with the Convention and the impact of the Convention on different types of communities (such as suburban, rural and remote), as well as gaps, barriers and the progress on implementation.

The type of data in which respondents were the most interested included:

- employment and labour market data on persons with disabilities—respondents indicated that the current system does not provide enough information to monitor the inclusion of persons with disabilities in the labour market;
- employer compliance with accommodation policies and accessibility of goods and services;
- number of housing units dedicated for and being used by persons with disabilities, number of supported housing options, poverty and homelessness rates among persons with disabilities, etc.;
- number of children whose registrations at a school were refused and reasons for the exclusion;
- Canadians' experiences in their interactions with the federal government;

- Canadians' knowledge of the Convention (for example, when and how they learned about the Convention); and
- effectiveness of Canada's human rights mechanisms.

Improvements to methodologies

Participants felt that the broader use of qualitative information would help persons with disabilities better articulate their “story” and experience. Some persons with disabilities may be reluctant to disclose information through an online mechanism and would be more comfortable with sharing details in person to a community canvasser, disability commissioner or regional co-coordinator. This approach could draw on expertise within the disability community to minimize gaps in collection and to ensure accuracy of the data. It was felt that any canvasser or census official collecting information in person and by phone should receive training on collecting information from persons with disabilities. If a sign language interpreter is provided by Statistics Canada, he or she should be accompanied by a subject matter expert in disability issues so that he or she can adequately interpret the technical terms in the survey questions and answer questions from the respondent. One respondent, speaking on behalf of an organization, urged the federal government “to move cautiously in the field of information gathering and research to ensure that there is not erosion of the social model or human rights definitions of disability.”

Many suggestions were made for how data should be collected, such as sending questionnaires along with income tax mailings and/or through Elections Canada, surveying persons with disabilities more often, and using data collection tools developed by the private sector. In addition to individuals, disability organizations (local, regional and national) could be surveyed and provide useful information based on their vast experience

in disability issues. Respondents suggested that the federal government work with master's and PhD students, as well as researchers from universities' to collect and analyze certain types of data.

Respondents emphasized that persons with disabilities and their families need to be consulted in the development and design of any existing and new data collection mechanism. Respondents suggested that questions be added or modified over time to reflect the changing needs of and conditions facing persons with disabilities. They believed that more specific questions could help capture the diversity and experiences of persons with disabilities, as well as reveal more in-depth information on barriers and progress.

Respondents indicated that targets needed to be developed, and progress tracked, in terms of meeting the data collection obligation set out by the Convention.

Views on the Participation and Activity Limitation Survey

PALS is a post-censal survey funded by HRSDC and conducted by Statistics Canada on Canadians (adults and children) whose day-to-day activities may be limited because of a condition or health problem. Survey results help to identify difficulties and barriers these Canadians may face. Results are used to plan services and programs required by persons with disabilities to participate fully in our society.

Respondents felt that PALS is a very useful tool necessary for the data collection requirement of the Convention, and a number of them (with and without previous experience with the survey) expressed an interest in participating in the next

survey. There were a number of suggestions on how to improve PALS, such as:

- increased data on intellectual disabilities and environmental illnesses;
- additional information on the experiences of Aboriginal peoples (First Nations, Inuit and Métis) and youth with disabilities;
- additional focus on youth, as it was noted that this demographic group is often under-identified because diagnoses are not always made at an early age;
- increased disability-specific streams of questioning;
- further distinguishing between segments within a disability type, such as differentiating between “hard of hearing,” “people who are culturally deaf” and “people who are deaf” or differentiating between high-and low-functioning groups within the Autism spectrum; and
- additional data on invisible disabilities, including sets of questions pertaining to mental health, drug addiction, brain injury, certain forms of Autism and environmental illnesses, as well as to learning, intellectual and neurological disabilities.

Many respondents had concerns about the accessibility of PALS data and research and suggested that it should be made available more widely through a simple process. Other suggestions included making the data and research available at no cost, in plain language and in other alternate formats. As the PALS mechanism is closely tied into the census process, a number of respondents felt that accessibility could be improved during this process.

Finally, respondents wished to see the results and research promoted and widely distributed domestically, as well as shared with other countries.

D.4.9 Consulting and engaging persons with disabilities and disability organizations

The Convention states that countries need to consult with and engage persons with disabilities, including children and disability organizations, concerning issues relating to persons with disabilities. Participants were asked for their views on when and how the Government of Canada should engage persons with disabilities and disability organizations. The majority of respondents indicated that the Government of Canada should engage persons with disabilities and disability organizations as soon and as often as possible, particularly throughout the development of all legislation, programs and policies that affect them.

Those who should be consulted, as cited by respondents, include primary caregivers (including parents and family), organizations at the grassroots level (as opposed to larger regional or national organizations), front-line workers (such as therapists and social workers), places of business that provide employment for persons with disabilities, advocacy groups, commissions, schools and school boards, provincial departments of education, universities, social services organizations, groups involved in the development of the Convention, youth and young adults, elected representatives, and chambers of commerce. It was suggested that an up-to-date database of disability organizations be made available to all Canadians.

With respect to disability organizations, responses noted that consultations with national organizations may be limiting. A number of persons with disabilities reported not feeling represented by some of the national organizations and highlighted the importance of also seeking views and advice from consumer groups. A number of comments supported close collaboration among government, arm's-length bodies and non-governmental organizations in order to positively impact legislative, program and policy changes.

Respondents felt that consultations should be ongoing, broad and transparent, and that consultation materials should be made available in plain language and other alternate formats. Although cited as a cost-effective means to reach Canadians, online and print mechanisms can limit the scope of a consultation. Respondents suggested using methods that are more visual and oral as a complement, such as by holding in-person consultations, which could be carried out by national, regional and local organizations. Other suggestions provided by respondents on how the federal government should consult formally and informally with the disability community included collecting views through surveys similar to the one used during the June–August 2009 HRSDC consultation; through surveys administered by phone or through Statistics Canada; through the use of technology (including email, social networking sites, listservs and blogs); and through canvassing, town hall meetings, focus groups, meetings with elected representatives, agency visits, advisory groups, library meetings and a national conference.

In terms of process, respondents provided a number of suggestions such as ensuring the thorough development of baselines of information on consultation items, ensuring that sufficient resources are committed to the development of implementation plans, and looking at participatory action research as a means to involve a constituency or sector in its

own growth and progress. Respondents also called on the federal government to examine Canada's history of consultation on various federal/provincial/territorial issues that relate to human rights, as well as existing legislation, for additional ideas on implementing strategies related to disability issues.

A number of respondents emphasized the importance of sharing the results of consultations promptly and broadly with the disability community and with civil society and of ensuring that results/reports are made available in alternate formats. In addition, it was suggested that senior government officials and policy makers participate in consultations, conferences and annual general meetings, and respond to questions from the community. Respondents wished to see concrete action stemming from any type of consultation or engagement with the disability community.

D.4.10 Promoting the Convention to the Canadian public

Respondents were asked to provide suggestions as to how the Government of Canada could work with the disability community to promote the Convention to the Canadian public. The majority of responses favoured a government-funded public awareness campaign to inform all members of the public about the meaning of, and the rights covered by, the Convention. Respondents called on the federal government to lead by example and to involve persons with various types of disabilities in all aspects of awareness campaigns, from developing materials to liaising with civil society.

Respondents identified a number of vehicles to promote the messages of the public awareness campaign. These included television, radio, the Internet (such as email, websites and webinars), print media (including news dailies and weeklies,

magazines, and pamphlets that are short, illustrated and easy to read), letter campaigns, wallet-size information cards, videos meant for wide public distribution, use of new technologies (such as social networking sites and text messaging), focus groups, town hall meetings and through various networks (such as professional associations and umbrella organizations). Respondents also emphasized the importance of making all materials related to the awareness campaign available in plain language and alternate formats. In-person outreach initiatives could be held in drop-in and community centres, genetics institutes at hospitals, shelters (women's, homeless, etc.), places of faith, legions, and unions.

Demographic groups identified that would particularly benefit from learning about the Convention included youth, children and adults with disabilities, women, seniors, immigrants, Aboriginal people, and veterans. One respondent remarked that different groups, such as new immigrants and Aboriginal people, may have a different cultural view of persons with disabilities. In addition to civil society, it was suggested that awareness campaigns also target public servants from all levels of government, public agencies and corporations, elected officials, the manufacturing sector (on the benefits of designing accessible products), the education sector, the sports community, and the media, to name a few. According to some respondents, at time of a diagnosis, an information package could be provided by the health care provider to the person with the disability or his or her caregiver. This information package would contain information specific to the disability, useful resources on all levels of government, a listing of disability organizations and local associations, etc.

Some respondents envisioned a large-scale and long-term campaign similar to the “reduce, reuse and recycle” and “ParticipACTION” campaigns, so as to engrain the Convention and human rights / disability issues into a multi-generational mindset. Other suggestions included using the UN International

Day of Persons with Disabilities as a backdrop for campaigns, providing a constant flow of information and updates to disability organizations for them to share with their members (through websites, newsletters and various other means). Respondents suggested creating or enhancing incentives and recognition for employers and organizations that promote the rights of persons with disabilities, that hire them and that advocate for accessibility of education, housing, transportation and other relevant areas.

Respondents provided a number of suggestions on the messaging of the campaign, which could focus on:

- the fact that disabilities affect all Canadians and that with global aging demographics, disability will be more and more a part of Canadians' lives;
- the positive impact that the Convention can have on all Canadians;
- the positive impact that persons with disabilities have on Canadian society; and
- the positive impact of addressing disability issues (such as universal design and access, and accommodations) on the economy and for all Canadians.

Respondents suggested that awareness campaigns showcase the positive work, success stories and progress that have been achieved across Canada, such as inclusive education, the closing of some institutions, increased access to and supports for employment, and work to secure legal capacity for all people. Respondents noted that persons with disabilities should be recognized for their contributions, expertise and competencies. In terms of raising awareness concerning the Convention, it was suggested that governments could work with disability organizations to raise awareness of the societal and attitudinal barriers that continue to challenge persons with disabilities in the enjoyment of their human rights.

D.4.11 Feedback on the consultation process

Participants were asked to provide feedback on their experience with the online consultation process. Some respondents wished to have had more time to submit their feedback and had concerns about the consultation taking place over the summer months. Others identified issues concerning the design of the website, the questionnaire, the registration process and passwords. Respondents also suggested that it may have been beneficial to have downloadable audio files on the consultation website and to have the consultation materials readily available in sign language (American Sign Language and Quebec Sign Language) formats.

Generally, participants indicated that they were pleased with the opportunity to provide feedback. For instance, some participants reported that the consultation process was as accessible as possible and was widely distributed among groups that work with persons with disabilities. Others remarked that while the process was lengthy, the flow of the questionnaire was logical and the questions were designed in the right sequence.

Appendix E: Online public consultation – Questionnaire

The purpose of this questionnaire is to offer a series of questions to consider in providing your views to the Government of Canada on the United Nations *Convention on the Rights of Persons with Disabilities* (Convention). Should you not wish to follow the provided questionnaire format to give your feedback, you may skip to question 12.

- 1) Please identify whether you are participating in this consultation on behalf of yourself, an organization or association, or if you do not wish to disclose.
- 2) What are the greatest barriers that persons with disabilities face to participating fully within the community?
- 3) Please provide examples of federal government actions that have had a positive impact on your life or the lives of persons with disabilities.
- 4) What are your views on the opportunities or challenges presented by Canada's ratification of the Convention, particularly for persons with disabilities?
- 5) It is the Government of Canada's practice to ensure that prior to ratifying a human rights convention, Canada's domestic laws, policies and programs are consistent with the terms of the convention. This process is underway.

With this in mind, in your view, are Canada's existing laws and policies generally consistent with the provisions of the Convention? If not, what specific changes or measures would be required (focusing particularly on the federal level) prior to ratification of the Convention?

- 6) What benefits do you see, on an international level, flowing from Canada ratifying the Convention?
- 7) In your view, what should be the key areas for federal government action related to protecting and promoting the rights of persons with disabilities in light of the obligations set out in the Convention?
- 8) The Convention states that countries need to consult and engage with persons with disabilities, including children and disability organizations, concerning issues relating to persons with disabilities. What are your views on when and how the Government of Canada should engage persons with disabilities and disability organizations?
- 9) The Convention requires countries to establish and maintain mechanisms to protect and promote the rights set out in the Convention as well as to monitor matters relating to its implementation in Canada. At the federal level, Canada already has the Canadian Human Rights Commission and the Office for Disability Issues and, at the national level, other bodies, such as disability organizations, that engage in protecting, promoting and monitoring many of the rights set out in the Convention.

Do you believe these existing mechanisms are sufficient for the purposes of Canada's ratification of the Convention to promote and protect the rights of persons with disabilities and to monitor the implementation of the Convention at the federal level?

Are there additional mechanisms you would suggest? What would their role be and how would they interact with existing federal mechanisms?

- 10) Do you have suggestions as to how the Government of Canada could work with the disability community to promote the Convention to the Canadian public?
- 11) In the Convention, countries agree to collect and make available appropriate information, including statistics and research, to measure how well the Convention is being implemented. Please explain whether you feel Canada's existing sources of data such as the census, the Participation and Activity Limitation Survey and other administrative information will be adequate to meet this obligation.
- 12) Do you have further comments, either generally or on specific articles of the Convention?
- 13) We would appreciate any feedback you may have about this online consultation. In your view, has the consultation addressed the major issues? Was the consultation process with stakeholders and the public inclusive and accessible?

Appendix F: Bibliographical references

Access to Information Act: the purpose of this act is to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific, and that decisions on the disclosure of government information should be reviewed independently of government.

Source: Department of Justice Canada,
<http://laws.justice.gc.ca/eng/A-1/page-1.html>

Canada Child Tax Benefit (CCTB): a tax-free monthly payment made to eligible families to help them with the cost of raising children under age 18. The CCTB may include the Child Disability Benefit and the National Child Benefit Supplement. The Child Disability Benefit is a tax-free benefit for families who care for a child under age 18 who is eligible for the disability amount.

Source: Canada Revenue Agency
www.cra-arc.gc.ca/bnfts/cctb/menu-eng.html

Canada Pension Plan Disability (CPPD): provides financial assistance to Canada Pension Plan contributors who are unable to work because of a severe and prolonged disability.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/oas-cpp/cpp_disability/

Canada Pension Plan Disability Vocational Rehabilitation Program: designed to help people who receive a Canada Pension Plan disability benefit return to work.

Source: Service Canada www.hrsdc.gc.ca/eng/isp/pub/factsheets/vocrehab.shtml

Canada Study Grant for the Accommodation of Students with Permanent Disabilities: can provide up to \$8,000 per loan year to help pay for exceptional education-related costs associated with an individual's disability.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/learning/canada_student_loan/

Canadian Charter of Rights and Freedoms: came into force on April 17, 1982. Section 15 of the Charter (equality rights) came into effect three years after the rest of the Charter, on April 17, 1985, to give governments time to bring their laws into line with section 15.

The Charter is founded on the rule of law and entrenches in the Constitution of Canada the rights and freedoms Canadians believe are necessary in a free and democratic society. It recognizes primary fundamental freedoms (e.g. freedom of expression and of association), democratic rights (e.g. the right to vote), mobility rights (e.g. the right to live anywhere in Canada), legal rights (e.g. the right to life, liberty and security of the person) and equality rights, and recognizes the multicultural heritage of Canadians. It also protects official language and minority language education rights. In addition, the provisions of section 25 guarantee the rights of the Aboriginal peoples of Canada.

Source: Canadian Heritage, www.pch.gc.ca/pgm/pdp-hrp/canada/frdm-eng.cfm

Canadian Human Rights Act: the purpose of this act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle 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, consistent with their duties and obligations as members of society, without being hindered in or prevented from

doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

Source: Department of Justice Canada

<http://laws.justice.gc.ca/eng/H-6/page-1.html>

Canadian Human Rights Commission: the Canadian Human Rights Commission administers the *Canadian Human Rights Act* and is responsible for ensuring compliance with the *Employment Equity Act*. Both laws ensure that the principles of equal opportunity and non-discrimination are followed in all areas of federal jurisdiction.

Source: Canadian Human Rights Commission

www.chrc-ccdp.ca/default-en.asp

Constitution Acts (1867 to 1982): this consolidation contains the text of the *Constitution Act, 1867* (formerly the *British North America Act, 1867*), together with amendments made to it since its enactment, and the text of the *Constitution Act, 1982*, as amended since its enactment. The *Constitution Act, 1982* contains the *Canadian Charter of Rights and Freedoms* and other new provisions, including the procedure for amending the Constitution of Canada.

Source: Department of Justice Canada

<http://laws.justice.gc.ca/eng/Const/ConstDocFull.html>

Court Challenges Program of Canada (terminated in 2006): a national non-profit organization that was set up in 1994 to provide financial assistance for important court cases that advance language and equality rights guaranteed under Canada's Constitution. It was terminated in 2006.

Source: Court Challenges Program of Canada

www.ccppcj.ca/e/ccp.shtml

Disability Tax Credit: recognizes the impact of the costs of some disability-related items on an individual's ability to pay tax. For 2008, the Disability Tax Credit provide a federal tax reduction of up to \$1,053 to individuals who, due to the effects of a severe and prolonged mental or physical disability, are markedly restricted in their ability to perform a basic activity of daily living, or would be markedly restricted were it not for extensive therapy (i.e. averaging at least 14 hours per week) to sustain a vital function.

Source: *2008 Federal Disability Report: Advancing the Inclusion of People with Disabilities*

www.rhdcc-hrsdc.gc.ca/eng/disability_issues/reports/fdr/2008/fdr_2008.pdf

Employment Equity Act: designed to ensure that federally regulated employers provide equal opportunities for employment to the four designated groups: women, Aboriginal peoples, persons with disabilities, and members of visible minorities.

Source: Canadian Human Rights Commission

www.chrc-ccdp.ca/employment_equity/default-en.asp

Enabling Accessibility Fund: supports community-based projects across Canada that improve accessibility, reduce barriers and enable Canadians, regardless of physical ability, to participate in and contribute to their community and the economy.

Source: Human Resources and Skills Development Canada

www.hrsdc.gc.ca/eng/disability_issues/eaf/call2009/index.shtml

Entrepreneurs with Disabilities Program: Western Economic Diversification Canada provides the EDP, a program that targets assistance for people with disabilities. The EDP provides a range of services to entrepreneurs in Western Canadian urban and rural communities who are seeking to start up or expand small and medium-sized businesses. The services include: assistance with

developing business plans, mentoring and counselling, training in business management, help in identifying requirements for specialized equipment, referrals to other government resources, and access to business loans.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/disability_issues/reports/fdr/2008/fdr_2008.pdf

Homeowner Residential Rehabilitation Assistance Program:

Canada Mortgage and Housing Corporation offers financial assistance to low-income homeowners for mandatory home repairs that will preserve the quality of affordable housing. The program helps people who live in substandard dwellings and cannot afford to pay for necessary repairs to their home.

Source: Canada Mortgage and Housing Corporation,
www.cmhc-schl.gc.ca/en/co/prfinas/prfinas_001.cfm

In Unison: A Canadian Approach to Disability Issues (1998):

this vision paper is a government blueprint that will enable persons with disabilities to participate in all aspects of Canadian society. It explains the challenges faced by persons with disabilities in six appendices and proposes policy direction to maximize their independence and enhance their well-being. The paper recommends full citizenship through three building blocks: disability supports (requirements for daily living), employment (training and employment), and income support (safety nets). It also covers values, principles and accountability and sets directions for future reforms.

Source: Government of Canada Publications,
www.publications.gc.ca/site/eng/79880/publication.html

Mental Health Commission of Canada: A non-profit organization created to focus national attention on mental health issues and to work to improve the health and social outcomes of people living with mental illness. The Commission, while funded by the Government of Canada, is a national body, not a federal one.

It has been endorsed by all levels of government, although the Commission operates at arm's length from them.

Source: Mental Health Commission of Canada
www.mentalhealthcommission.ca/English

Multilateral Framework for Labour Market Agreements for Persons with Disabilities: reaffirms the commitment of governments to work towards ensuring that people with disabilities can participate successfully in the labour market. The goal of the Multilateral Framework is to improve the employment situation of Canadians with disabilities by enhancing their employability, increasing the employment opportunities available to them, and building on the existing knowledge base.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/disability_issues/labour_market_agreements/index.shtml

Office for Disability Issues (ODI): a focal point within the Government of Canada for key partners working to promote the full inclusion and participation of Canadians with disabilities in all aspects of society and community life. ODI strives to provide leadership and foster excellence for the Government of Canada in this area of shared responsibilities.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/disability_issues/mandate/index.shtml

Opportunities Fund for Persons with Disabilities: by providing contribution funding to individuals, employers and organizations, the Opportunities Fund for Persons with Disabilities helps people with disabilities prepare for, obtain and maintain employment or self-employment.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/disability_issues/funding_programs/opportunities_fund/index.shtml

Permanent Disability Benefit: allows for the forgiveness of Canada Student Loans for persons who have a permanent disability and are experiencing hardship repaying their loans due to their disability. Delivered by Human Resources and Skills Development Canada.

Source: Service Canada www.servicecanada.gc.ca/eng/goc/permanent_disability_benefit.shtml

Privacy Act: the purpose of this act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.

Source: Department of Justice
<http://laws.justice.gc.ca/eng/P-21/page-1.html>

Registered Disability Savings Plan: a long-term savings plan to help Canadians with disabilities and their families save for the future.

Source: Human Resources and Skills Development Canada
www.hrsdc.gc.ca/eng/disability_issues/disability_savings/rdsp_you.shtml

Registered Education Savings Plan: is a special savings plan (like a savings account) that helps family or friends to save early for a child's education after high school. RESPs are registered by the Government of Canada and allow savings for education

after high school to grow tax-free and possibly also to gain government money through the Canada Education Savings Grant and the Canada Learning Bond, if certain criteria are met.

Source: CanLearn

www.canlearn.ca/eng/saving/resp/index.shtml

Social Development Partnerships Program – Disability (SDPP-D): by providing funding to the not-for-profit sector for projects that meet the social development needs and aspirations of people with disabilities and by supporting innovative solutions to remove barriers through improved access to programs and services, SDPP-D helps to ensure that people with disabilities benefit from the same quality of life as all Canadians.

Source: Human Resources and Skills Development Canada

www.hrsdc.gc.ca/eng/community_partnerships/sdpp/call/disability_component/page00.shtml

Universal health care: Canada’s publicly funded health care system is best described as an interlocking set of 10 provincial and 3 territorial health insurance plans. Known to Canadians as “medicare,” the system provides access to universal, comprehensive coverage for medically necessary hospital and physician services. Universal coverage ensures that medically necessary health care services are provided on the basis of need, rather than the ability to pay.

Source: Health Canada

www.hc-sc.gc.ca/hcs-sss/index-eng.php

Veterans Independence Program: a national home care program provided by Veterans Affairs Canada. The program was established in 1981 to help clients remain healthy and independent in their own homes or communities.

Source: Veterans Affairs Canada www.vac-acc.gc.ca/clients/sub.cfm?source=services/vip

Working Income Tax Benefit (WITB) – Disability Supplement: the WITB is a refundable tax credit administered by the Canada Revenue Agency intended to provide tax relief for eligible working low-income individuals and families who are already in the workforce and to encourage other Canadians to enter the workforce. If an individual is eligible for the WITB and the Disability Tax Credit, may also be eligible to claim an annual disability supplement.

Source: Service Canada www.servicecanada.gc.ca/eng/goc/witb/index.shtml