



Consultation Report



Canada's Possible Accession
to the United Nations Optional Protocol
to the Convention on the Rights
of Persons with Disabilities

This publication is available for download at :
canada.ca/publiccentre-ESDC

It is also available upon request in multiple formats (large print, Braille, audio CD, e-text CD, or DAISY), by contacting 1 800 O-Canada (1-800-622-6232). By teletypewriter (TTY), call 1-800-926-9105.

© Her Majesty the Queen in Right of Canada, 2017

For information regarding reproduction rights :
droitdauteur.copyright@HRSDC-RHDCC.gc.ca

PDF

Cat. No. Em12-32/2017E-PDF
ISBN/ISSN: 978-0-660-09040-5

ESDC

Cat. No. SSD-194-07-17E

OVERVIEW

Canada is a party to the *United Nations Convention on the Rights of Persons with Disabilities* (Convention). The Convention entered into force for Canada on April 10, 2010. Its purpose is to ensure that all people with disabilities enjoy the same human rights, freedoms and respect as other people. It requires countries to promote equality and prohibit discrimination against people with disabilities.

As a party to the Convention, Canada can accede to (or join) the *Optional Protocol to the Convention on the Rights of Persons with Disabilities*. The Optional Protocol contains two procedures to strengthen the implementation of the Convention: an individual communications procedure and an inquiry procedure.

CONSULTATIONS

The Government of Canada, in close consultation with provincial and territorial governments, is currently reviewing the Optional Protocol prior to making any decision regarding accession to the treaty.

As part of this review, in February and March 2017, the Government of Canada consulted with civil society to seek its views on Canada's accession to the Optional Protocol. It did so through an in-person roundtable with approximately 30 non governmental organizations and Indigenous organizations on February 16, 2017, as well as a four week, online public consultation between February 17 and March 17, 2017. Through the online consultation, over 140 submissions were received.

Specifically, the consultation sought views on the following five areas:

- the obligations contained in the Optional Protocol;
- the impact that accession would have on individuals, organizations, and the individuals that organizations represented;
- the advantages or disadvantages to Canada associated with joining the Optional Protocol;
- whether and how have Canadians with disabilities or the organisations that represent them been using the complaint mechanisms under the other human rights treaties to which Canada is a party; and
- general comments.





WHAT WAS HEARD

Responses to the consultations gave valuable insight on what accession to the Optional Protocol would mean to individuals and organizations. Overall, the responses to these consultations, including the February 16, 2017, roundtable, indicated that:

1. there is overall support for Canada's accession to the Optional Protocol;
2. the decision on accession will impact how Canada is perceived internationally;
3. similar complaint procedures under other international human rights treaties to which Canada is a party have been used by some civil society organizations to effect change; and
4. persons with disabilities and their representative organizations may need support to use the Optional Protocol.

These views will be discussed below.

1. There is overall support for Canada's accession to the Optional Protocol.

The majority of respondents indicated that they support Canada's accession to the Optional Protocol. Generally, the Optional Protocol was viewed as an important component of the Convention that strengthens its overall implementation in two main areas:

- **Enforcement:** Many respondents supported Canada's accession to the Optional Protocol because they viewed it as a key element of enforcing Canada's compliance with the Convention, which would ultimately bring about positive change for persons with disabilities. The Optional Protocol was also viewed as a "last resort" for persons with disabilities to seek compliance with the Convention or redress for rights violations. Accession was seen by many respondents as an opportunity to increase the accountability of federal, provincial, and territorial governments, for respecting the rights of persons with disabilities.
- **Protection:** The Optional Protocol was also seen as an important tool that would safeguard the rights of persons with disabilities. Some responses indicated that accession to the Optional Protocol would result in economic, social, and cultural improvements for persons with disabilities, such as the removal of barriers that hinder their participation in these areas of society. Canada's accession to the Optional Protocol would also be viewed symbolically as a positive step, demonstrating federal-provincial/territorial governments' commitment to implementing the Convention and protecting the rights of persons with disabilities in Canada.

One respondent indicated that they did not support Canada's accession to the Optional Protocol because current domestic mechanisms are sufficient. Some respondents raised negative aspects of acceding to the Optional Protocol, including the limited powers of the United Nations Committee on the Rights of Persons with Disabilities to enforce its views on a state party, the strain on the resources of those supporting complainants (e.g. disability organizations), and the amount of governmental resources required to respond to complaints.

2. The decision on accession will impact how Canada is perceived internationally.

Several respondents mentioned the impact that they believed Canada's accession to the Optional Protocol would have internationally. Accession would present Canada as an international leader in the area of human rights and, specifically, protecting the rights of persons with disabilities.

3. Similar complaint procedures under other international human rights treaties to which Canada is a party have been used by some civil society organizations to effect change.

One organization noted that they used similar complaint procedures under other treaties to file complaints from groups of Canadians. Another organization reported using other United Nations treaty reporting mechanisms to inform governments of their failure to implement their treaty obligations. This was seen as a powerful way to advance issues for persons with disabilities.

4. Persons with disabilities and their representative organizations may need support to use the Optional Protocol.

It was noted by some disability organizations that in order to ensure that persons with disabilities are able to effectively use the Optional Protocol, appropriate supports should be put in place to ensure that the process is accessible and that individuals have the capacity and support to follow through with the process. Building the capacity for organizations and civil society (for example, through funding) to support those filing complaints through both domestic complaint mechanisms and the communication process under the Optional Protocol was highlighted as important.

Furthermore, the roundtable discussion on February 16, 2017, dedicated a significant portion of the discussion to build an understanding of how the Optional Protocol works. The nature of this discussion indicates that further education for disability organizations on both the Optional Protocol and Canada's court system may be beneficial.

CONCLUDING SUMMARY

Overall, participants are supportive of Canada's accession to the Optional Protocol, noting that accession will strengthen the implementation of the Convention in Canada and protect the rights of persons with disabilities.

The Minister of Sport and Persons with Disabilities would like to thank all individuals and organizations who contributed to this process, both through the online consultation and at the February 16, 2017 roundtable discussion.

