

**Submission**  
**by the**  
**Canadian Labour Congress**  
**to the**  
**Employment and Social Development Canada**  
**c/o Office for Disability Issues**  
**regarding the**  
**Consultation - Accessibility Legislation for**  
**Canadians with Disabilities**

**February, 2017**



## **Introduction**

On behalf of 3.3 million members, the Canadian Labour Congress (CLC) is pleased provide our submission to the Government of Canada (hereinafter Government) as part of the consultation process on legislation regarding Canadians with disabilities. Many of the CLC's 52 affiliates have participated in this consultation because we believe that much remains to be done in addressing the growing inequities faced by Canadians with disabilities.

The CLC concurs with the Government's objective for this consultation that states: "Canadians, communities and workplaces benefit when everyone can participate equally in everyday life. There has been much progress in making our society more inclusive, but we can do better." We are further heartened by the Government's commitment to "developing new planned accessibility legislation to promote equality of opportunity and increase the inclusion and participation of Canadians who have disabilities or functional limitations." Moving forward, the CLC will vigorously hold the Government to account on this commitment.

The CLC believes that the consultation parameters of accessibility and barriers presents too narrow a scope. In this historic moment in our history, on Canada's 150<sup>th</sup> birthday, the new legislation has to be strong and aspirational. The CLC proposes that the title and architecture of the new legislation needs to be based on a human rights framework with a social justice approach.

## **Canadian Adults with Disabilities**

There were 3,775,900 (14%) Canadians with disabilities aged 15 years and older.<sup>1</sup> Among the working age population, Canadians between 15 and 64 years, 2,338,200 (10%) had a disability<sup>2</sup>; while an estimated 1.2 million Canadians lived with episodic illness - such as cancer, multiple sclerosis (MS),

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<sup>1</sup> Statistics Canada. A profile of persons with disabilities among Canadians aged 15 years or older, 2012, Canadian Survey on Disability, 2012 (89-654-X). <http://www.statcan.gc.ca/daily-quotidien/150313/dq150313b-eng.pdf>

<sup>2</sup> Till, Matthew, Tim Leonard, Sebastian Yeung and Gradon Nicholls. December 3, 2015. Canadian Survey on Disability, 2012: A Profile of the Labour Market Experiences of Adults with Disabilities among Canadians aged 15 years and older, 2012. <http://www.statcan.gc.ca/pub/89-654-x/89-654-x2015005-eng.htm>

Chronic Obstructive Pulmonary Disease (COPD) – that resulted in unpredictable periods of good and poor health due to their illness or disability. There were more women with disabilities (15%) compared to men with disabilities (10%). Over 75% of Canadians with disabilities reported living with multiple disabilities. About 13% of working age Canadians with disabilities were born with disabilities. Working age Canadians who acquired their disabilities usually do so starting in their early 40s. Prevalence of disability also increases with age: 10.1% for Canadians 15 to 64 years compared to 33.2% for those 65 years and over.<sup>3</sup>

According to the Parliamentary Budget Officer, there were also 20,539 disabling injuries at federally-regulated job sites in 2014; an increase from 19,212 in the previous year. Overall, serious injuries increased by 7% in 2014 at federally-regulated job sites – the largest single year increase since 2011.<sup>4</sup>

The prevalence of disabilities is also likely to be under-reported in official figures, as many people do not view themselves as living with a disability. For example, some Canadians may consider loss of hearing, mobility and dexterity as part of ageing as opposed to the acquisition of disabilities. As well, others who do not identify as having a disability include Deaf people, who consider their difference to be one of culture rather than disability; and those who find alternative ways to address them such as enlarging the size of font while working on the computer.

## **Mental Health**

Many Canadians with “invisible” disabilities do not self-identify, especially individuals with mental health challenges, because of the high

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<sup>3</sup> Arim, Rubab. March 13, 2015. A profile of persons with disabilities among Canadians aged 15 years or older, 2012. Statistics Canada: Catalogue 89-654X. <http://www.statcan.gc.ca/pub/89-654-x/89-654-x2015001-eng.htm>

<sup>4</sup> Parliamentary Budget Officer (PBO). January 10, 2017. Expenditure Monitor 2016-2017 Q2. <http://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2017/Expenditure%20Monitor%202016-17%20Q2/Expenditure%20Monitor%202016-17%20Q2.pdf>

degree of stigma associated with mental health and illness in society and the workplace.

In 2012, about 9.1 million (33%) Canadians lived with a mental illness or substance abuse at some point in their lives.<sup>5</sup> Women were more likely to have mental health challenges than men.<sup>6</sup> Mental health problems make up about 30% of all short and long-term disability claims.<sup>7</sup>

Poor mental health is costly: the cost of depression to the Canadian economy is at least \$32.3 billion a year, and anxiety costs \$17.3 billion a year. About one quarter of Canadians with a mental illness are unable to work because of their symptoms.

A large share of the workforce have unmet mental health needs. Industries with the highest number of workers (four in ten) with unmet mental health needs were<sup>8</sup>:

- administrative support and waste management;
- accommodation and food services; and
- professional, scientific and technical services.

An estimated 352,000 healthy Canadians may join the workforce per year if they had access to better treatments and supports for depression and anxiety. The Government and organizations can do more to address mental health issues in the workplace.

## **Federal Laws for Canadians with Disabilities**

The *Canadian Charter of Rights and Freedoms*, the *Canadian Human Rights Act* and the *Employment Equity Act* are the main federal laws which protect the rights of people with disabilities. These existing laws are dependent

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<sup>5</sup> Pearson, Caryn, Teresa Janz and Jennifer Ali. September 18, 2013. Mental and substance use disorders in Canada. Statistics Canada Catalogue no. 82-624-X. <http://www.statcan.gc.ca/pub/82-624-x/2013001/article/11855-eng.htm>

<sup>6</sup> Ibid.

<sup>7</sup> Sairanen, S., Matzanke, D., & Smeall, D. (2011). The business case: Collaborating to help employees maintain their mental well-being. *Healthcare Papers*, 11, 78–84. <http://www.longwoods.com/content/22413>

<sup>8</sup> Ibid.

on individuals to file complaints to address situations that result, often from systemic discrimination. The burden of responsibility is on the individual with the disability to expend their own personal and financial resources to seek recourse.

## **Employment Equity**

When it comes to employment, Canadians with disabilities count on the *Employment Equity Act*. This *Act* was established in 1986 to help designated equity groups – women, Indigenous People, racialized persons and persons with disabilities – gain parity in employment.

In 1995, the *Employment Equity Act* was expanded to include non-federally regulated employers with 100 workers or more who held federal contracts of \$200,000 and more under the Federal Contractors Program (FCP). Although the FCP did not have the same reporting requirements as the federally-regulated employers, the compliance program obligations such as an employment equity plan, training and data collection on representation and earnings of the designated groups were the same.<sup>9,10</sup>

In 2012, an amendment was made to the *Employment Equity Act* that reverted the FCP back to voluntary pre-1995 compliance obligations.<sup>11,12</sup> The 2012 amendment decreased FCP employers' obligations, Employment and Social Development Canada's (ESDC) enforcement of compliance and the number of employers covered under FCP by increasing the threshold requirement of federal contracts from \$200,000 to \$1 million.<sup>13</sup> A strengthened *Employment Equity Act*, including the FCP, to at least the 1995 parameters is

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<sup>9</sup> Lahey Kathleen A. December 21, 2012. Canada's Gendered Budget 2012: Impact of Bills C-38 and C-45 on women. <http://femlaw.queensu.ca/sites/webpublish.queensu.ca.flswwww/files/files/workingPapers/KLCanGenderedBudgetDc312012subm-printToPDF.pdf>

<sup>10</sup> Griffin Cohen, Marjorie. June 1, 2012 Federal Budget Bill and Employment Equity. <http://www.policynote.ca/federal-budget-bill-and-employment-equity/>

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Amendments to the Contracting Policy regarding the Federal Contractors Program for Employment Equity (FCP). Contracting Policy Notice: 2013-3. Date: July 2, 2013. <http://www.tbs-sct.gc.ca/hgw-cgf/business-affaire/gcp-agc/notices-avis/2013/06-27-eng.asp>

essential for the inclusion of Canadians with disabilities, especially given the Government's large infrastructure investments.

## Poorer Employment Outcomes for Workers with Disabilities

One of the most under-represented groups in the labour force is workers with disabilities. Just over one million persons with disabilities are employed. In 2011, among Canadians ages 25 to 64 years, these were the comparative labour force outcomes<sup>14</sup>:

	Persons with disabilities	Persons without disabilities
<b>Participation rate</b>	55%	84%
<b>Unemployment rate</b>	11%	6%
<b>Employment rate</b>	49%	79%

The employment rate for workers with disabilities decreases as the severity of their disabilities increases.<sup>15</sup> But more concerning was the estimated 411,600 persons with disabilities who could have worked but were not employed – and close to half of them had post-secondary education.<sup>16</sup>

The stubbornly persistent labour force gaps and poorer outcomes for Canadians with disabilities are rooted in systemic barriers and discrimination. The outcomes are clear. In 2012, 12% of Canadians with disabilities, between 25 and 34 years, reported having been refused employment because of their disability in a five-year period; the refusal rate was 33% for Canadians with a severe or very severe disability.<sup>17</sup>

Workers with disabilities have been more successfully employed in the federal public sector than in the private federally-regulated sector. The

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<sup>14</sup> Turcotte, Martin. December 2014. Persons with disabilities and employment. Catalogue no. 75-006-X. <http://www.statcan.gc.ca/pub/75-006-x/2014001/article/14115-eng.pdf>

<sup>15</sup> Ibid.

<sup>16</sup> Till, Matthew, Tim Leonard, Sebastian Yeung and Gradon Nicholls. December 3, 2015. Canadian Survey on Disability, 2012: A Profile of the Labour Market Experiences of Adults with Disabilities among Canadians aged 15 years and older, 2012. <http://www.statcan.gc.ca/pub/89-654-x/89-654-x2015005-eng.htm>

<sup>17</sup> Turcotte, Martin. December 2014. Persons with disabilities and employment. Catalogue no. 75-006-X. <http://www.statcan.gc.ca/pub/75-006-x/2014001/article/14115-eng.pdf>

unionization rate for the federal government public sector is 76% and 34% in private federally-regulated sector in 2015. In the federal public service with a high unionization rate, workers with disabilities were over-represented in relation to their availability rate (their availability as a percentage of their labour force population), but underrepresented in the federally-regulated private sector.

Each year, the Treasury Board of Canada has to present an Employment Equity Annual Report to Parliament on Employment Equity in the Public Service of Canada, the same requirement is in effect for the private federally-regulated sector. We know that higher unionization rates, in combination with strong compliance of federal public sector employers to the *Employment Equity Act*, have made a difference to workers with disabilities.

The CLC believes persons with disabilities deserve respect, dignity and to be valued for their work. In our view, one of the gravest injustices is the employment of persons with disabilities as very cheap labour in “sheltered workshops” that are usually segregated and pay them a pittance for their work. In some “sheltered workshops”, workers with disabilities make 50 cents per hour to build wooden crates, put together Remembrance Day poppies for 1 cent per poppy, or assemble windshield wiper tubes for 5 cents apiece. There are “sheltered workshops” across Canada, although Ontario had opted to close its provincially-funded workshops in 2015. We believe all work is valuable and Canadians with disabilities should be paid a living wage.

### **Lower Employment Income for Workers with Disabilities**

In 2012, 31% of Canadians with disabilities ages 15 to 64 years received solely employment income, 37% received non-employment income such as pensions or investment income, 20% received both employment and non-employment income, and 12% had no income.<sup>18</sup>

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<sup>18</sup> Arim, Rubab. March 13, 2015. A profile of persons with disabilities among Canadians aged 15 years or older, 2012. Statistics Canada: Catalogue 89-654X. <http://www.statcan.gc.ca/pub/89-654-x/89-654-x2015001-eng.htm>

Among those between 15 and 64 years, the median income (2010 dollars) of Canadians with disabilities was 66% of Canadians without disabilities. The income gap between Canadians with disabilities and those without disabilities increases with age during their working life but narrows when they are 65 years and over. According to Statistics Canada, this narrower income gap was likely due to income support programs specifically for seniors and the development of their disability when they were older, which had less of an impact on their pension contributions and their savings.<sup>19</sup> Examples of income support programs for seniors are Old Age Security (OAS) and Guaranteed Income Supplement (GIS).

Canadians with episodic illness and disability following a serious permanent work injury find their employment earnings, status and prospects are profoundly affected. The first year after the injury sees the largest drop in earnings. For Canadians with disabilities with the highest level of severity, their earnings may drop to just over 5% of their peers without disabilities.<sup>20</sup>

## **Employment Supports for Workers with Disabilities**

Too many employers who have job vacancies to fill are failing to hire persons with disabilities who are highly educated and skilled. They still overlook hiring persons with disabilities because of a lack of awareness of the benefits and misconceptions about disability-related accommodations.

Retention and return to work are also key issues. The results from the 2006 Participation and Activity Limitation Survey (PALS) show that the challenge is not just exclusion from job opportunities, but also a lack of accommodations and supports which would allow people to work with less difficulty and to their full potential. A study by the Canadian Abilities Foundation, called Neglected or Hidden, estimated that annual workplace accommodation costs are under \$1,500 for almost all workers with a

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<sup>19</sup> Ibid.

<sup>20</sup> Tyler Meredith and Colin Chia. September 3, 2015. Leaving Some Behind: What Happens When Workers Get Sick. Institute for Research on Public Policy. <http://irpp.org/wp-content/uploads/2015/09/report-2015-09-03.pdf>

disability.<sup>21</sup> A common workplace accommodation required for persons with disabilities is modified work hours or days.

The Government has committed to amending the *Canada Labour Code* to allow workers in federally-regulated sectors to formally request flexible work arrangements from their employers. Hopefully, the amendment will take into account the unique needs of persons with disabilities as a way to enhance their long-term attachment to the labour force. Once implemented, the Government should monitor the effectiveness for workers with disabilities.

## **Disability Benefits**

The disability benefits system is a patchwork of income, employment-related and taxation measures at each level of government, in addition to interactions with private insurance for short-term disability (STD) and long-term disability (LTD). Many of the gaps and system failings comes from a lack of coordination and a lack of standardized criteria to qualify for programs. These disability benefits are often tied to the worker having a relationship to employment such as Employment Insurance (EI), CPP Disability (CPP-D) and the Disability Tax Credit (DTC).

With the rise of precarious work, more and more Canadians with disabilities are “falling through the cracks” of the fragmented social safety net that was originally designed in an era where full-time employment was the unquestioned norm.

Criteria to qualify for social protections are often set at levels that results in disqualifying many Canadians with disabilities who are eligible such as the CPP-D program discussed later in this section. Canadians with disabilities are on their own in navigating through the fragmented system of disability benefits.

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<sup>21</sup> Canadian Abilities Foundation. May 2004. *Neglected or Hidden: Connecting Employers and People with Disabilities in Canada*.  
<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1290&context=gladnetcollect>

## **Employment Insurance (EI) – Sickness Benefit**

Employment Insurance (EI) provides special benefits for sickness and compassionate care. EI Sickness Benefit provides temporary financial assistance to eligible workers who cannot work because of sickness, injury or quarantine. The EI Sickness Benefit offers:

- 55% wage replacement of covered earnings;
- no active employment supports are provided; and
- dollar-for-dollar reduction for any additional employment income received.

This benefit assumes complete withdrawal from employment during the period of the claim with completely no ability to top-up the low wage replacement amount nor the ability to enhance through employment supports. The assumption that the benefit recipient completely withdraws from employment is very problematic for Canadians with episodic illness who experience unpredictable periods of poor and good health.

Compared to other developed countries, Canada has high requirements to qualify for EI Sickness Benefit, and pales in the amount of wage replacement and duration for the benefit. For example, in order to be eligible in Canada, the claimant cannot work compared to France and Germany that has no specific criteria, and the UK that requires the claimant to be sick for 4 days to qualify. In terms of the duration, the benefit in Canada is available to a maximum of 15 weeks compared to France (51 weeks), UK (28 weeks) and Germany (78 weeks).<sup>22</sup>

Under the EI program, the duration of 15 weeks for Sickness Benefits is misaligned with the 26 weeks provided for compassionate care. Potentially, the caregiver for the person with the illness has a longer duration for their benefits than the person they are caring for.

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<sup>22</sup> Tyler Meredith and Colin Chia. September 3, 2015. Leaving Some Behind: What Happens When Workers Get Sick. Institute for Research on Public Policy. <http://irpp.org/wp-content/uploads/2015/09/report-2015-09-03.pdf>

## **Expanded Canada Pension Plan (CPP)**

The enhancement of the CPP has been a priority for Canada's unions for decades, despite the fact that the majority of union members have pension plans at work. Today, fewer than 40% of Canadian workers have access to a pension plan at work. In the private sector, that number drops to less than 25%, and for workers under 29 years of age, to just 13%.

After years of advocating for the enhancement of the CPP, Canada's unions celebrated the adoption of Bill C-26 by the House of Commons. The current state of the labour market, where decent work is difficult to come by, the enhanced CPP will help workers to save more for their future retirement.<sup>23</sup>

However, there were two omissions from the new CPP bill that need to be rectified: the "child rearing dropout" and the "disability dropout" that protect workers who are mostly women and persons with disabilities against having their low or no earnings periods from child rearing or their disability included in the calculation of their CPP benefits.

## **Canadian Pension Plan–Disability (CPP-D)**

CPP-D is failing many of the most vulnerable Canadians with disabilities. For Canadians who contributed to the CPP during their working years, qualifying for CPP-D is very difficult due to the application of the "severe and prolonged disability" requirements. Applying for CPP-D takes tenacity as applicants have to complete an application kit with eight (8) documents totaling 42 pages. This is an unreasonable barrier to applicants.<sup>24</sup>

Many Canadians with disabilities who qualify for CPP-D are rejected when they apply to the program. More than one-half of Canadians (39,707 or 57%) who initially applied for CPP-D benefits were denied in the

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<sup>23</sup> Bill C-26: An Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act. <https://openparliament.ca/bills/42-1/C-26/>

<sup>24</sup> Kwan, Elizabeth. February 4, 2016. Canadian Pension Plan Disability is Failing Many of the Most Vulnerable Canadians. Blog unionresearch. <https://unionresearch.org/2016/02/04/canadian-pension-plan-disability-is-failing-many-of-the-most-vulnerable-canadians/>

2014-15 fiscal year. Of the Canadians denied CPP-D benefits, 13,159 applied for reconsideration by ESDC, of which 4,661 or 35%, were approved even though they were initially denied.<sup>25</sup>

Canadians who were denied in the reconsideration have two more levels of appeal through the Social Security Tribunal (SST). Canadians with appeals had to wait, on average, for almost 2.5 years or more than twice as long to get a decision under the SST than the previous system. One in three Canadians who filed appeals to the SST in fact qualified for the CPP-D benefits even though they were denied twice. Only 7% of terminally ill applicants had a decision within 48 hours in 2015, a drop from 11% in 2013 - another indicator of how the program is letting down Canadians with disabilities. These staggeringly high rejection rates and the long wait time for an appeal are systematic barriers for many Canadians with disabilities who are eligible for CPP-D.

In 2011, the last CPP-D evaluation found that on average, CPP-D benefits made up half of a recipient's income. And unfortunately, CPP-D benefits were the only income for 12% of recipients.<sup>26</sup>

Canadians with disabilities are additionally penalized by the interactions of CPP-D with other programs. The CPP-D amount is deducted dollar-for-dollar from workers compensation and private disability plan benefits. In addition, many private long-term disability (LTD) benefits are non-taxable while CPP-D benefits are taxable. So, Canadians receiving both CPP-D and LTD pay more taxes compared to those in receipt of only LTD benefits.

The Government should immediately review, revise and enhance the CPP-D program so that eligible Canadians with disabilities can access the benefit.

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<sup>25</sup> 2015 Fall Reports of the Auditor General of Canada. Report 6—Canada Pension Plan Disability Program. [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201602\\_06\\_e\\_41063.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201602_06_e_41063.html)

<sup>26</sup> Human Resources and Skills Development Canada. January, 2011. Summative Evaluation of the Canada Pension Plan Disability Program. [http://publications.gc.ca/collections/collection\\_2011/rhdcc-hrsdc/HS28-186-2011-eng.pdf](http://publications.gc.ca/collections/collection_2011/rhdcc-hrsdc/HS28-186-2011-eng.pdf)

## **Disability Tax Credit (DTC)**

The disability tax credit (DTC) is a non-refundable tax credit for Canadians with disabilities to reduce the amount of income taxes they pay. However, only Canadians with disabilities who have enough income to owe taxes can make use of the DTC.

Qualifying for the DTC triggers eligibility for other tax measures including the disability amount, registered disability savings plan, the working income tax benefit and the child disability benefit.

However, Canadians who qualify for the CPP-D, worker's compensation, or other disability and long-term insurance, may not meet the requirements to qualify for the DTC. For example, "severe and prolonged disability" criterion is used in both the CPP-D and DTC but their definition and requirements are different: CPP-D is based on an individual's ability to work and the DTC on the degree of the individual's impairment. All to say, the patchwork of fragmented disability benefits and support programs and provisions are not-aligned, each with their own objectives and requirements to qualify.

An estimated 680,185 adults qualified for the DTC in 2014. Under the current non-refundable DTC, adults with family incomes below the poverty line after tax, who qualified for the DTC received an average benefit of \$29 annually compared to \$511 annually if the DTC was made refundable. Under the non-refundable DTC, only 0.2% of adults with family incomes below the poverty line after tax qualified; under a refundable DTC 56.4% would qualify.<sup>27</sup> We urge the Government to make the DTC refundable.

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<sup>27</sup> Simpson, Wayne and Harvey Stevens. June 2016. The Disability Tax Credit: Why It Fails And How To Fix It. School of Public Policy: University of Calgary. Vol. 9, Issue 24. <https://www.policyschool.ca/wp-content/uploads/2016/07/disability-tax-credits-simpson-stevens.pdf>

## Canadians with Disabilities Have High Rates of Poverty

Currently, 9% of Canadians live in poverty compared to 23% Canadians with disabilities.<sup>28</sup> To deal with poverty, it is also necessary to address food insecurity, inadequate and poor housing, homelessness, social exclusion, and the lack of access to transportation, services and education. The risk of living in poverty increases for Canadians with disabilities if they are also women, racialized, Indigenous, a lone parent and/or single. Canadians with disabilities are twice more likely to live in poverty than those without disabilities. The poverty rate for women with disabilities is 33%.<sup>29</sup>

Poorer labour market outcomes and the fragmented patchwork of social protections exacerbates the risk of poverty for many Canadians with disabilities. There are no provisions to transition the person with a disability from one program to the next – forcing the individual to either rely on their savings and assets, or social assistance to get by. Even worse, the fragmented system is out of reach for Canadians with disabilities who are precariously attached to the labour market, or who are unemployed.

Two policy areas that would immediately help alleviate the daunting pressures of making ends meet for low income Canadians with disabilities and their families are pay equity, and an affordable high-quality national early learning and child care. We also know that increasing public homecare, affordable housing, accessible transportation and establishing a public universal National Pharmacare Program would lift many Canadians with disabilities out of poverty and facilitate their full participation in the labour force and society.

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<sup>28</sup> Government of Canada. October 2016. Towards A Poverty Reduction Strategy Discussion Paper. [http://publications.gc.ca/collections/collection\\_2016/edsc-esdc/Em20-53-2016-eng.pdf](http://publications.gc.ca/collections/collection_2016/edsc-esdc/Em20-53-2016-eng.pdf)

<sup>29</sup> Canadian Women's Foundation. The Facts About Women and Poverty. <http://www.canadianwomen.org/facts-about-women-and-poverty>

## Violence and Canadians with Disabilities

Canadians with disabilities are at much greater risk of violence and victimization than people without disabilities. In 2004, violent victimization rate for Canadians with disabilities was twice that of those without disabilities; the rate was four times higher for Canadians with mental or behavioural disabilities.<sup>30</sup> Unfortunately, 65% of violent crimes against Canadians with disabilities were committed by someone they knew.<sup>31</sup>

Persons with disabilities were 2 to 3 times more likely to be victims of the most severe forms of spousal violence as well as experience longer periods of spousal violence relative to Canadians without disabilities.<sup>32</sup> Women with disabilities are at much greater risk of violence when they also younger, racialized, Indigenous, LGBTQ, immigrant, migrant worker, non-status migrant, or live in rural areas.

One in three workers have experienced domestic violence and for many the violence follows them to work. Often abusers harass, bully and stalk victims at their work place. Over 80% of domestic violence victims report that their work performance was negatively affected. Absenteeism and poor work performance can leave victims vulnerable to discipline, and some even to lose their jobs. Co-workers and others in the workplace can also experience the negative effects of domestic violence through increased workloads, stress, calls or visits from their co-worker's abuser, and other potential safety risks.

The CLC and affiliates have been advocating against violence in the workplace, and violence and abuse especially against vulnerable populations.

### Definition of violent crimes:

*Sexual assault:* Forced sexual activity, attempted forced sexual activity, or unwanted sexual touching, grabbing, kissing or fondling.

*Robbery:* Theft or attempted theft in which the perpetrator has a weapon or there is violence or the threat of violence against the victim.

*Assault:* An attack (victim hit, slapped, grabbed, knocked down or beaten), a face-to-face threat of physical harm, or an incident with a weapon present.

Source: Perreault, Samuel. 2009.

<sup>30</sup> Perreault, Samuel. 2009. Criminal Victimization and Health: A Profile of Victimization Among Persons with Activity Limitations or Other Health Problems. Canadian Centre for Justice Statistics Profile Series. Statistics Canada Catalogue no. 85F0033M — No. 21. <http://www.statcan.gc.ca/pub/85f0033m/85f0033m2009021-eng.pdf>

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

We have fought hard for, and will continue to fight for better protections, health and safety standards and supports.

A recent ground-breaking CLC initiative has been the domestic violence in the workplace initiative. We did research in partnership with Western University and are providing resources and training for unions, and advocating for paid, protected employment leave – and additional unpaid time if survivors need time away from work.

The Government should introduce legislation to provide paid protected employment leave (and additional unpaid time) for workers who are victims of domestic violence, if they need time away from work.

## **Conclusion**

Canadians with disabilities face many challenges and often encounter systemic exclusion and discrimination in society. The stigma and attitudes toward disability is still rampant. The exclusion of Canadians with disabilities from the labour market from decent employment, despite their education and abilities is a recipe that has impoverished many. The siloed and incoherent fragmented array of policies and programs that impact Canadians with disabilities creates exclusion and constructs poverty. For all the compelling reasons outlined in this submission, it is time to have a strong pro-active Canadian with Disabilities Act.

## **CLC Recommendations – Scope and Model of Legislation**

1. The new Canadian with Disabilities Act (CDA) must be proactive legislation with a human rights framework and social justice approach that addresses systemic exclusion and discrimination of Canadians with disabilities.
2. The CDA should complement and strengthen existing laws that protect the human and labour rights of Canadians with disabilities, and build on existing relevant federal standards and regulations.

3. The CDA needs to be comprehensive, coherent and effective by including both prescriptive and outcome-based measures – see consultation discussion guide.
4. The CDA should apply to all organizations:
  - a. under the federal jurisdiction:
    - i. Parliament of Canada
    - ii. Departments, agencies and institutions of the Government of Canada
    - iii. Federal Crown corporations
    - iv. Federally-regulated businesses and industries (e.g. banking, broadcasting, cross-border transportation)
    - v. Federal courts
    - vi. Canadian Armed Forces
    - vii. Royal Canadian Mounted Police
    - viii. Other federal lands
  - b. Federal Contractors Program (FCP) employers.
5. The CDA should have an independent Advisory Council comprised of Canadians with disabilities, government, unions, employers and other relevant stakeholders.
6. The CDA should consult more widely with Canadians with disabilities and relevant stakeholders every three to five years.
7. The CDA should contain strong compliance requirements that would be effectively monitored and enforced with adequate resources.
8. The CDA should require transparency and annual accountability from all organizations under federal jurisdiction, and FCP employers including action plans, progress reports, reviews and audits.

9. The CDA should have a range of non-compliance mechanisms including:
  - a) formal and informal mediation processes;
  - b) public reporting and monetary penalties for non-compliant organizations; and
  - c) remedial measures within fixed timelines for non-compliant organizations.
10. The CDA should provide supports and encouragement to organizations including recognition of organizational leadership, funding for research, and a centralized mechanism to provide information, tools and good practices.
11. The Government of Canada should provide an annual CDA report to Canadians on the progress of implementation and effectiveness of the legislation.
12. The CDA should be reviewed every five years to ensure that the legislation is relevant and effective for Canadians with disabilities.
13. The CDA should complement and support the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) and Canada's accession to the United Nations Optional Protocol to the CRPD.

### **CLC Recommendations – Key Policy Areas of Legislation**

14. The CDA should focus of employment, employment-related supports, training, social protections and tax fairness for Canadians with disabilities.
15. The CDA should contain a process or processes to enhance the demand for labour of Canadians with disabilities including, but not limited to, employer education for attitudinal change, benefits of employees with disabilities, and the low cost and effort of providing

accommodation. Further, the Government could provide a subsidy or a tax incentive for this accommodation.

16. The CDA should contain a process or processes by which existing Canadian laws, regulations, organizational programs and practices that constitute discrimination, creates inequities and/or exacerbates inequities for Canadians with disabilities would be reviewed and revised, starting immediately with, but not limited to:
  - a) employment e.g. Employment Equity;
  - b) employment-related supports e.g. pay equity, national early learning and child care program;
  - c) training and education e.g. Labour Market Agreements for Persons with Disabilities (LMAPDs);
  - d) social protections e.g. EI Sickness Benefit, CPP “disability drop-out” provision, CPP Disability (CPP-D); and
  - e) tax fairness e.g. Disability Tax Credit (DTC).
17. The CDA should contain a process to review and revise the laws, regulations, policies and programs for disability benefits and supports to shift the current fragmented system to an aligned seamless system that truly serves and supports Canadians with disabilities.
18. The Government should strengthen the *Employment Equity Act*, its implementation and accountability, in particular restoring the obligations of the Federal Contractors Program (FCP) to equivalence with the federally regulated employers covered under the Act, and to revert the FCP threshold back to a minimum of \$200,000 of Government contracts from \$1 million.
19. The Government needs to eliminate sheltered workshops and find other means to provide decent employment for Canadians with disabilities.

20. The Government should immediately work with the provinces and territories to amend the new legislation to ensure that no Canadians, particularly women and persons with disabilities who are already vulnerable to post-retirement poverty, are not excluded relatively disadvantaged under the terms of the enhanced benefit.
21. The Government should immediately review, revise and enhance the CPP-D program so that eligible Canadians with disabilities can access the benefit.
22. The Government should make the Disability Tax Credit (DTC) refundable.
23. To alleviate the financial pressures on low income Canadians with disabilities and their families, the Government should:
  - a) immediately introduce pay equity legislation;
  - b) establish an affordable high-quality national early learning and child care;
  - c) increase public homecare;
  - d) increase affordable housing;
  - e) increase accessible transportation; and
  - f) establish a public universal National Pharmacare Program.
24. The Government should introduce legislation to provide paid, protected employment leave for workers who are victims of domestic violence, and additional unpaid time – if they need time away from work.