



## The Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol

### What is the *Convention on the Rights of Persons with Disabilities (CRPD)*?

- This Convention is an international agreement that promotes and protects human rights for persons with disabilities.
- It is often called the *CRPD*.
- The *CRPD* says that persons with disabilities have the right to be treated equally, make their own decisions, have their rights respected, and participate in society.
- The *CRPD* has 50 articles. 33 of these articles provide specific rights for persons with disabilities, including:
  - living independently
  - being part of the community
  - getting access to education
  - accommodations at work
  - accessible voting
  - getting accessible information, and many other rights and freedoms
- Canada agreed to follow the *CRPD* in 2010.

### What is the *Optional Protocol*?

- The *Optional Protocol* is an additional part of the *CRPD*.
- Canada agreed to follow the *Optional Protocol* in 2018. This means that in some situations people in Canada can make complaints to the United Nations Committee on the Rights of Persons with Disabilities.
- This United Nations Committee is a group of independent experts who monitor how countries follow the *CRPD*.

### Who can make an *Optional Protocol* complaint?

- If a person believes that their *CRPD* rights were violated, they can make a complaint. They must be personally and directly affected by the violation.
- Another person can make the complaint on behalf of the person whose rights

were violated. If this happens, they must show that the person whose rights were violated agreed to the complaint being made.

- The person making the complaint can have a representative, like a lawyer, family member, or disability organization. However this is not required.
- Under the Optional Protocol, complaints about violations of an individual person's *CRPD* rights are called "Individual Communications".

### **When can someone make an Optional Protocol complaint?**

- Only if the same complaint has not already been made to the UN Committee or another UN body.
- Only if the rights violation happened after December 3, 2018, or if the rights violation happened before December 2018 and also continued after that date.
- Only if the complaint is about a violation of *CRPD* rights.
- Only after the person has already gone through all the relevant complaint procedures available in Canada. These could include legal complaint procedures like making a human rights complaint or going to court. These could also include administrative complaint procedures like asking a government official to review their decision. The complaint procedures that are available will depend on how the person's rights were violated, who is responsible for the rights violation, and when the rights violation happened. Get legal advice if you want to know what complaint procedures are available for your situation.

### **How can someone make an Optional Protocol complaint?**

- Usually, a person making a complaint will write it down and mail, email or fax to:  
Petitions Team, Office of the United Nations High Commissioner for Human Rights  
United Nations Office at Geneva  
1211 Geneva 10, Switzerland  
E-mail: [petitions@ohchr.org](mailto:petitions@ohchr.org)  
Fax: +41 22 917 90 22
- The UN will accept complaints in English, French, Russian or Spanish.
- The UN Committee's model complaint form may help when writing down the complaint. For the model complaint form go to:  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/5/3/REV.1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/5/3/REV.1&Lang=en)

### **What happens after someone makes an Optional Protocol complaint?**

- The UN Committee will tell Canada that a complaint has been made. Canada then has 6 months to send a written response to the Committee.

- The person who made the complaint may get a chance to respond in writing.
- Next, the Committee will make a decision.
- It usually takes 2-4 years to get a decision.

### What decisions does the UN make about Optional Protocol complaints?

- The UN Committee may decide to reject the complaint because it is not admissible. This means that the complaint did not meet all the requirements in the Optional Protocol and so the Committee cannot decide whether the person's *CRPD* rights were violated.
- If the complaint is accepted (or admissible), then the Committee will decide whether the government has violated the person's *CRPD* rights.
- When *CRPD* rights are found to have been violated, the Committee will make **recommendations** to the Government of Canada about steps it should take to stop or prevent the rights violation. It is up to governments to decide whether to follow the Committee's recommendations.

### Can complaints be made about violations of *CRPD* rights that affect many people?

- Yes. These complaints are called "Inquiries".
- If the UN Committee gets reliable information that governments in Canada are violating *CRPD* rights broadly and systemically, then the Committee can begin an inquiry.

### For more information

To learn more about ARCH's work to advance the *CRPD* in Canada, go to:

<https://archdisabilitylaw.ca/initiatives/advancing-the-un-crpd/>

To learn more about the UN Committee on the Rights of Persons with Disabilities and Optional Protocol complaints, go to:

<https://www.ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx>

ARCH offers public legal education presentations and free, confidential, summary legal advice about the *CRPD*, the *Accessible Canada Act*, and other accessibility laws to persons with disabilities in Ontario. Contact ARCH for more information.

*\* The information provided in these materials is not intended to be legal advice. Consult a lawyer or legal worker if you need legal advice on a specific matter. This information is current as of November 2019.*