



CRPD, Optional Protocol and Inquiries

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. 30 of these articles provide specific rights for persons with disabilities, including living independently
 - being part of the community
 - getting access to education
 - accommodations a
 - 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*.

What are inquiries?

- An inquiry is an investigation by the UN Committee to find out whether a country has violated CRPD rights in ways that are serious and affect many people with disabilities.
- The CRPD Optional Protocol allows the UN Committee to do inquiries in certain situations.
- This fact sheet gives more information about inquiries.
- The CRPD Optional Protocol also allows persons with disabilities to make a complaint to the UN Committee if they believe that Canada has violated their CRPD rights.
- These complaints are called “Communications”. More information is available at: <https://archdisabilitylaw.ca/resource/factsheet-the-crpd-and-the-optional-protocol/>

What happens during an inquiry?

- During an inquiry, the UN Committee investigates grave or systematic violations of the CRPD.
 - Grave violations are serious. They have negative effects on the rights and everyday lives of persons with disabilities important.
 - Systematic violations are on a larger scale. They relate to government institutions, programs, laws, policies, and patterns of decision-making that violate the rights of many people with disabilities.
- An inquiry starts when the UN Committee receives information and reliable evidence that a state is committing grave or systematic violations of CRPD rights.
- If the UN Committee decides to do an inquiry, it will gather information.
- The UN Committee will ask the country to cooperate with the inquiry. This includes giving the Committee information about how the country protects or violates CRPD rights.
- The UN Committee may ask persons with disabilities and disabled persons organizations to give their input.
- The Committee will also read public and confidential documents.

- Representatives of the UN Committee may also visit the country, with that country's permission.
 - During a visit, the Committee may conduct hearings. A hearing gives people with disabilities an opportunity to share their expertise and lived experiences with UN Committee members.

What is the outcome of an inquiry?

- The UN Committee writes a report. In the report the Committee decides whether the country violated CRPD rights in grave or systematic ways.
- The report includes recommendations for steps the country should take to stop violating CRPD rights. For example, one inquiry recommended that Spain make changes to its laws, policies and school system to remove barriers for students with disabilities and promote access to inclusive learning.
- The UN Committee will send these recommendations to the country.

Does the country have to respond to the UN Committee's recommendations?

- The country must respond to the UN Committee's recommendations within 6 months.
- The UN Committee may ask the country to explain what changes it has made, or to submit additional reports.

Who can ask the UN Committee to start an inquiry?

- Disabled persons' organizations and civil society organizations may ask the UN Committee to start an inquiry.
- Organizations can send requests by e-mail to crpd@ohchr.org and hfuentes@ohchr.org.
- A request may be stronger if many organizations ask for an inquiry together. A request that comes from many disabled persons organizations helps to show the UN Committee how serious and widespread the rights violations are.
- It is also possible for one organization to successfully request an inquiry on its own.

How long does an inquiry take?

- An inquiry will often take a few years.
- How long an inquiry takes depends on the issues that are raised and how much information the Committee needs to gather and review.

What if the UN Committee needs to act sooner?

- During an inquiry, the UN Committee can ask a country to take “interim measures”. This means that the UN Committee asks a country to take steps to immediately stop violating CRPD rights. These steps are only temporary – they last only until the inquiry ends.
- Usually the UN Committee won’t ask a country to do anything until after the investigation is done and the Committee decides whether the country has violated CRPD rights in a serious and systematic way.
- However, the UN Committee will make an exception to prevent certain kinds of harm to persons with disabilities that cannot be fixed or compensated later.
- A country has the chance to argue why it should not take interim measures. The UN Committee may agree with the country and decide that interim measures are not needed.

Inquiries are confidential. What does that mean?

- Usually, while an inquiry is happening, information about the inquiry is kept private. This means that until there is a public report, persons with disabilities may not know that an inquiry is happening.
- When disabled persons’ organizations and civil society organizations participate in an inquiry, they may not be able to tell anybody else about it.
- Meetings of the UN Committee to discuss inquiries are not open to the public.

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 inquiries, 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 July 2020.*