

What is the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol?

The Convention on the Rights of Persons with Disabilities (CRPD) is an international agreement that promotes and protects human rights for persons with disabilities. 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.

Canada agreed to follow the Convention in 2010. The Convention has 50 articles, and 33 of these articles provide specific rights for persons with disabilities.

These rights include:



accommodations at work;



accessible voting;



getting accessible information, and many other rights and freedoms;



living independently;



being part of the community; and



getting access to education.

Can complaints be made about violations of the Convention rights that affect many people?

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

What is the Optional Protocol?

- The Optional Protocol is an additional part of the Convention.
- Canada agreed to follow the Optional Protocol in 2018. This means that in some specific 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 Convention.

Who can make an Optional Protocol Complaint?

- If a person believes that their Convention rights were violated, they can make a complaint. They must be personally and directly affected by the violation.
- The person making the complaint can have a representative, like a lawyer, family member, or disability organization. However this is not required.
- 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.
- Under the Optional Protocol, complaints about violations of an individual person's Convention 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 United Nations Committee or another United Nations body.
- Only if the rights violation happened after December 3rd, 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 Convention 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.

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.



The Committee will then make a decision.



It usually takes about 2 to 4 years to get a decision.

For More Information

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

www.archdisabilitylaw.ca/initiatives/advancing-the-un-CRPD/

ARCH offers public legal education presentations and free, confidential, summary legal advice about the Convention, the *Accessible Canada Act*, and other accessibility laws to persons with disabilities in Ontario. To find out more about ARCH's services, go to: www.archdisabilitylaw.ca/services
You can also contact ARCH by telephone at 1-866-482-2724, teletypewriter service (TTY) at 1-866-482-2728 or by email at intake@arch.clcj.ca

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 Convention rights were violated.
- If the complaint is accepted (or admissible), then the Committee will decide whether the government has violated the person's Convention rights.
- When Convention 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.

This information is not intended to be legal advice. Consult a lawyer or legal worker if you need legal advice on a specific matter.

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