



KNOW AND ACHIEVE YOUR HUMAN RIGHTS TOOLKIT

The United Nations
Convention on the Rights
of Persons with Disabilities
and its Optional Protocol










Canadian
Association of the Deaf

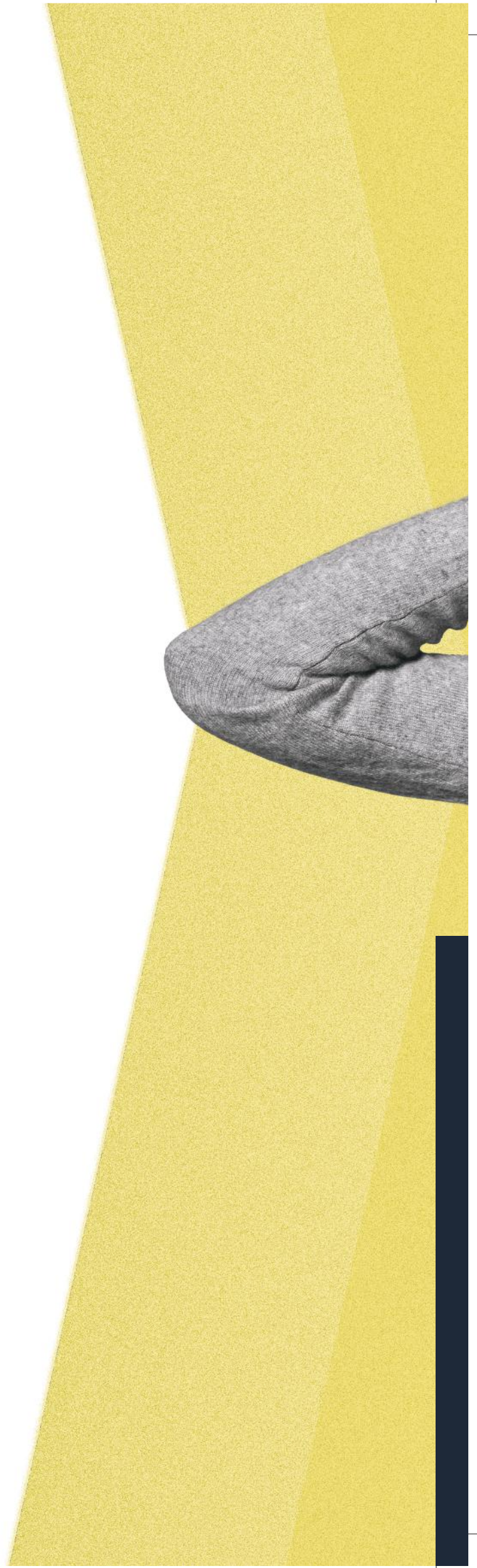


Association
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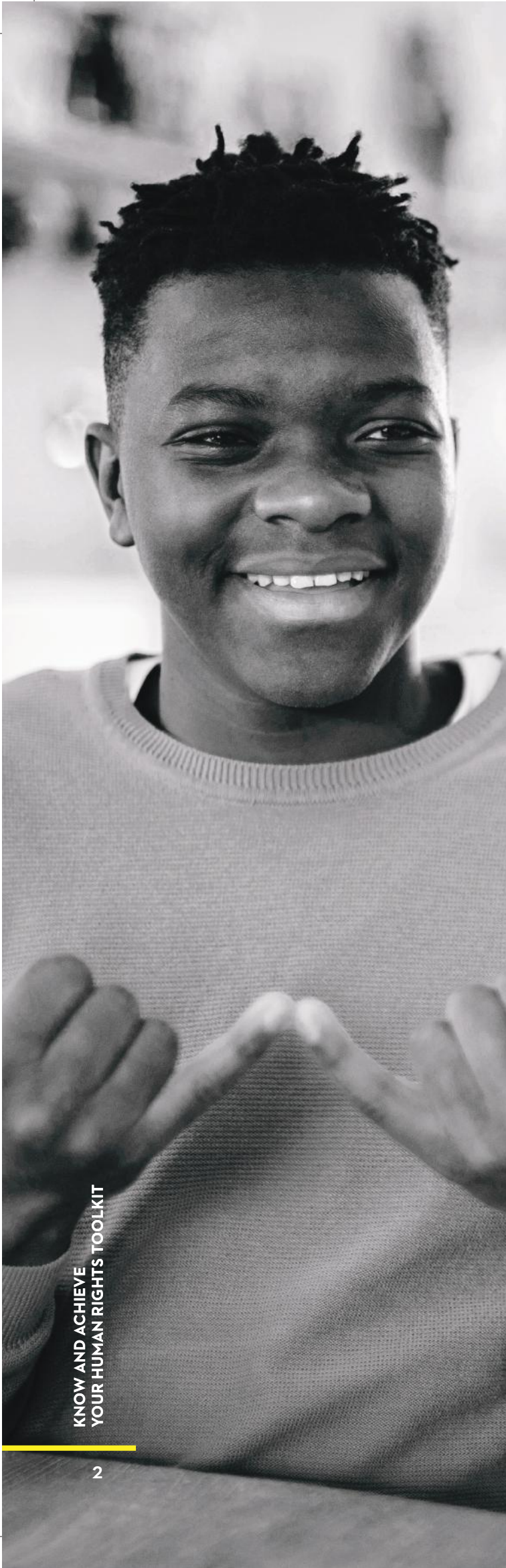
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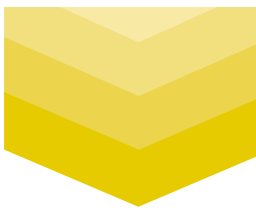
Introduction

“Know and Achieve your Human Rights: The United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol” is a project of the Canadian Association of the Deaf - Association des Sourds du Canada (CAD-ASC). The purpose of this toolkit is to introduce Deaf, Deaf-Blind, and Hard of Hearing Canadians to the international human rights mechanism, and to the processes of monitoring and implementation of the CRPD. It aims to empower them to become effective advocates for meaningful changes to improve the human rights of Deaf, Deaf-Blind, and Hard of Hearing Canadians.



About the CAD-ASC

Founded in 1940, the Canadian Association of the Deaf - Association des Sourds du Canada (CAD-ASC) is the oldest national consumer organization of, by and for Deaf, Deaf-Blind and Hard of Hearing individuals in Canada for having its interests represented at national level. The CAD-ASC provides consultation and information on our issues to the public, business, media, educators, governments and others; it conducts research and collects data on subjects that are important to Deaf Canadians. CAD-ASC promotes and protects the rights, needs, and concerns of Deaf, Deaf-Blind and Hard of Hearing people who use American Sign Language (ASL) and langue des signes québécoise (LSQ). CAD-ASC is affiliated with the World Federation of the Deaf (WFD), and it is a United Nations-accredited Non-Governmental Organization (NGO) to the Convention on the Rights of Persons with Disabilities.



International Human Rights Convention

An international human rights convention is a written agreement between countries to obey the same law about a particular issue. Conventions, which are sometimes called treaties, covenants, and international agreements are legal instruments that tell governments what to do to make sure all people can enjoy their rights.

The Universal Declaration of Human Rights was adopted by the United Nations in 1948. It is the first international document that states the human rights that all people have. Since then, other human rights covenants and conventions have been developed that expanded on the human rights in the Universal Declaration.

Two of these documents are called “covenants”, and they cover broad human rights issues. The most important covenants are *International Covenants on Human Rights*, *International Covenant*

on Economic, Social and Cultural Rights, and *International Covenant on Civil and Political Rights*.

The two Covenants and the Universal Declaration of Human Rights together are known as the *International Bill of Rights*.

There are nine core international human rights treaties. Each of these treaties established a committee of experts to monitor the implementation of treaty provisions by its States Parties. Some of the treaties are supplemented by Optional Protocols dealing with specific concerns.

1. International Convention on the Elimination of All Forms of Racial Discrimination: Adopted in 1965; Entered into force on January 4, 1969

2. International Covenant on Civil and Political Rights: Adopted in 1966; Entered into force on March 23, 1976

3. International Covenant on Economic, Social and Cultural Rights: Adopted in 1966; Entered into force on January 3, 1976

4. Convention on the Elimination of All Forms of Discrimination Against Women: Adopted in 1979; Entered into force on September 3, 1981

5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Adopted in 1984; Entered into force on June 26, 1987

6. Convention on the Rights of the Child: Adopted in 1989; Entered into force on September 2, 1990

7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: Adopted in 1990; Entered into force on July 1, 2003

8. International Convention for the Protection of All Persons from Enforced Disappearance: Adopted in 2006; Entered into force on December 23, 2010

9. Convention on the Rights of Persons with Disabilities: Adopted in 2006; Entered into force on March 30, 2007



United Nations Convention on the Rights of Persons with Disabilities (CRPD)

The Convention on the Rights of Persons with Disabilities is an international treaty that identifies the rights of persons with disabilities, as well as the obligations on States parties to the Convention to promote, protect and ensure those rights. The Convention also establishes two implementation mechanisms: the Committee on the Rights of Persons with Disabilities, which is established to monitor implementation, and the Conference of States Parties, established to consider matters regarding implementation.

The Committee on the Rights of Persons with Disabilities (CRPD) oversees implementation of the Convention on the Rights of Persons with Disabilities through its consideration of State reports, individual complaints, early-awareness and urgent actions, and inquiry requests, and its preparation of general comments and general discussion days. As of January 2020, 181 countries including Canada are party to the Convention on the Rights of Persons with Disabilities.

CRPD AND SIGN LANGUAGES

There are five Articles of the CRPD Convention referring to sign language, but every Article carries importance for all persons with disabilities, including Deaf, Deaf-Blind and Hard of Hearing persons. It is important to know these five articles to understand how it can be achieved with human rights and sign languages.



Article 2: Definition

“Language” includes spoken and **sign languages** and other forms of non-spoken languages including written languages.



Article 9: Accessibility

Governments shall also take appropriate measures to:

- (e) Provide forms of live assistance and intermediaries, including guides, readers and professional **sign language** interpreters, to facilitate accessibility to buildings and other facilities open to the public;



Article 21: Freedom of Expression and Opinion, and Access to Information

Governments shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (b) Accepting and facilitating the use of **sign languages**, Braille,

augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

- (e) Recognizing and promoting the use of **sign languages**.



Article 24: Education

3. Governments shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, Governments shall take appropriate measures, including:

- (b) Facilitating the learning of **sign language** and the promotion of the linguistic identity of the deaf community;

4. In order to help ensure the realization of this right, Governments shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in **sign language** and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.



Article 30: Participation In Cultural Life, Recreation, Leisure And Sports

Governments shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including **sign languages** and deaf culture.

The CRPD Convention helps to increase public and educational awareness of barriers faced by Deaf, Deaf-Blind, Deaf with additional disabilities, and Hard of Hearing people in all areas of life, listed in the Articles of the Convention. It promotes legal and policy changes at the national level that support the rights of the Deaf, Deaf-Blind, Deaf with additional disabilities, and Hard of Hearing people. In addition, the CRPD specifically states that governments

are obliged to recognize sign languages, ensure professional interpreting services, guarantee equality, non-discrimination and accessibility in education, employment, and in other areas listed in the Articles, to Deaf, Deaf-Blind, Deaf with additional disabilities, and Hard of Hearing people in their sign language. In addition, it includes the recognition and support of cultural and linguistic identities.



CRPD Reporting Cycle

Each State party to the Convention must submit to the Committee on the Rights of Persons with Disabilities an initial comprehensive report on measures taken to implement the Convention. The report must be submitted within two years of the ratification and entry into force of the Convention. After that, the State Party submits a State Parties Report every four years. State Parties Reports are also called Periodic Reports. Periodic reporting can be seen as a cycle. This means that it is not a single action or single event, but rather it is a multi-step procedure.

After the Committee receives the State Party's Report, a member of the Committee, represented by the country's rapporteur, inspects the documents. Once the documents have been examined, the Committee decides whether any information is missing from the Report and returns **List of Issues** to the State Party. The latter then prepares to complete the information and its **written responses to the Lists of Issues** that are a prerequisite for the meeting with the Committee.

The State Party and the Committee then meet in Geneva for a constructive dialogue that takes place in the form of a plenary session. During this meeting, representatives from a country's government and the Members of the UN CRPD Committee discuss the progress that has been made towards the implementation in a constructive manner. Following the constructive dialogue, the Committee issues its opinions and **Concluding Observations** for the follow-up of the implementation. The Concluding Observations are **recommendations** that will form the basis for preparation of the next cycle.

The State Party must prepare a follow-up report on Recommendations for the next cycle on this basis. Additionally, in accordance with the Article 36 of the Convention, the State Party must ensure that the State Party Reports are available to the public in their own country, and that the public has access to general suggestions and Recommendations about the State Party's Reports.



Human Rights Laws in Canada

Human rights legislation exists in every provincial, territorial and federal jurisdiction. Jurisdiction is determined by the constitutional division of powers: e.g. complaints involving banking, national airlines, railways, telecommunications and broadcasting, or census taking, military are in the federal jurisdiction. On the other hand, complaints involving school boards, education, health, city government, or restaurants are in the provincial jurisdiction. In general, both federal and provincial human rights law prohibits discrimination in all aspects of employment; the leasing and sale of property; public accommodation, services and facilities; membership in labour unions and professional associations; and it prohibits the dissemination of hate propaganda.

In Canada, there are several laws in place to make sure that the rights of people with disabilities and Deaf, Deaf-Blind and Hard of Hearing persons are protected. The two main Canadian Human Rights laws are the Canadian Human Rights Act and the Employment Equity Act. The Canadian Charter of Rights and Freedoms, which is a part of Canada's Constitution, guarantees fundamental freedoms for everyone in the Canadian society. It also guarantees the equality of all persons in the eyes of the law.

There are also the federal accessibility law, the Accessible Canada Act, and other provincial and territorial accessibility laws: the Nova Scotia Accessibility Act, the Accessibility for Ontarians with

Disabilities Act, and The Accessibility for Manitobans Act. These legislative acts aim to improve accessibility in the areas that impact the daily lives of people with disabilities and Deaf, Deaf-Blind, and Hard of Hearing persons, within the constitutional division of powers. Furthermore, there are federal, provincial and territorial human rights legislative acts, which provide protections from discrimination. These anti-discrimination laws in Canada prohibit discrimination based on many different personal characteristics, including: race, ancestry, place of origin, ethnic origin, colour, citizenship, religion, creed, sex, sexual orientation, age, marital status, family status, and disability.



Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities

The Optional Protocol is an additional agreement to the United Nations Convention on the Rights of Persons with Disabilities. The Committee may consider individual complaints that allege a violation of an individual's rights under the Convention if the State has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities. As of January 2020, 96 countries including Canada are party to the Optional Protocol.

The Optional Protocol establishes two procedures aimed at strengthening the implementation and monitoring of the Convention. The first is an individual communications procedure allowing individuals to bring petitions

to the Committee claiming breaches of their rights. The second is an inquiry procedure giving the Committee authority to undertake inquiries of grave or systematic violations of the Convention.

WHO CAN MAKE AN OPTIONAL PROTOCOL COMPLAINT?

If a person or a group of people believe that their rights were violated from the CRPD Convention's perspective, they can make a complaint. The person(s) filing the complaint must be personally and directly affected by the violation. Additionally, another person can make the complaint on behalf of the person whose rights were violated. If this happens, it is very important to show that the person whose rights were violated agreed to the complaint being made.

The Committee will first make a decision on the admissibility of the individual complaint based on the criteria set forth in Article 2 of the Optional Protocol to the Convention on the Rights of Persons with Disabilities. If the complaint is admissible, the Committee will then issue a decision on the merits, in which it would indicate whether or not the State is responsible for violating the Convention.



MAKING AN OPTIONAL PROTOCOL COMPLAINT

It is important to understand the Optional Protocol Complaint procedure that was established by the United Nations. The guidelines specify the information that complainants should keep in mind when submitting their 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 3, 2018, or if the rights violation happened before December 2018 and also continued after that date. The date is where Canada entered as the ratification to the Optional Protocol with the United Nations Convention on the Rights of Persons with Disabilities.

- » The author and victim's identifying information related to human rights violations under the Convention and the State party in which the complaint is directed against.
- » Only after the person has already gone through all exhausted domestic resources for making human rights complaint procedures available in Canada. These could include legal court or a human rights complaint or administrative complaint procedures like asking a government official to review the 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.

Submitting your complaint

If you would like to submit a complaint to the United Nations Committee, you will need to send it in your primary sign language, in writing, or in another accessible format, such as audio, Easy Read, or braille. Complaints can be submitted in English, French, Russian, or Spanish. When sending your complaint in your primary sign language or in writing, it is important to give as much detail as you can about the human rights violation you are talking about.

Once you've finished writing your complaint, you can send it to:

Petitions Team

Office of the High Commissioner
for Human Rights
United Nations Office at Geneva
1211 Geneva 10 (Switzerland)
Fax: + 41 22 917 9022 (particularly
for urgent matters)
Email: petitions@ohchr.org

After submitting the complaint, there are procedures that the United Nations Committee on the Rights of Persons with Disabilities will take to determine if your complaint properly indicates that your rights were violated in Canada. The UN Committee on the Rights of Persons with Disabilities 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 the Committee cannot decide whether the person's CRPD rights were violated.

If the complaint is accepted, then the United Nations Committee on the Rights of Persons with Disabilities will decide whether the government has violated the person's CRPD rights under the Convention. The Committee is also authorized to undertake inquiries regarding alleged grave or systematic violations of any of the rights set forth in the Convention by any State party to the Optional Protocol. The inquiry procedure is **confidential** and the **State party's cooperation** is sought at all stages.

The overall process after someone makes an Optional Protocol complaint will usually takes 2 to 4 years to get a decision from the UN Committee. 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 violation of that person's rights.

Generally, the inquiry procedure proceeds in five steps:

1

The Committee receives information that the rights contained in the Convention are being systematically violated by the State party.

2

The Committee invites the State party to submit relevant observations.

3

Based on the relevant submissions and observations, the Committee may then designate one or more of its members to conduct an inquiry and then submit an urgent report to the CRPD. With the State party's consent, the initial inquiry may involve a visit to the country.

4

The Committee examines the report and then transmits any findings, along with comments and recommendations to the State party.

5

The State party is then requested to submit its own observations and any measures it took regarding the CRPD's findings, comments, and recommendations within a specified time period.

References

International Human Rights Convention:

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

United Nations Convention on the Rights of Persons with Disabilities:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

CRPD Optional Protocol Model

Compliant Form: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/5/3/REV.1&Lang=en

Know and Achieve Your Human Rights Toolkit by World Federation of the Deaf:

<https://wfdeaf.org/our-work/human-rights-of-the-deaf/>

Complete the Puzzle: Connecting the Deaf Community with the CRPD and SDGs by World Federation of the Deaf:

<https://wfdeaf.org/resources/crpdsg-stoolkit/>

Canadian Charter of Rights and

Freedoms: <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd1/>

Federal Accessibility Law (Accessible

Canada Act): <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-81/royal-assent>

Provincial and Territorial Accessibility Laws:

- » **Accessibility for Ontarians with Disabilities Act:** <https://www.ontario.ca/laws/statute/O5a11>

» **Nova Scotia Accessibility Act:**

https://www.nslegislature.ca/legc/bills/62nd_3rd/3rd_read/b059.htm

» **The Accessibility for Manitobans Act:**

<https://web2.gov.mb.ca/bills/40-2/b026e.php>

Human Rights Agencies in Canada:

- » [Canadian Human Rights Commission](#)
- » [Alberta Human Rights Commission](#)
- » [British Columbia Human Rights Tribunal](#)
- » [B.C. Office of the Human Rights Commissioner](#)
- » [Manitoba Human Rights Commission](#)
- » [New Brunswick Human Rights Commission](#)
- » [Newfoundland and Labrador Human Rights Commission](#)
- » [Northwest Territories Human Rights Commission](#)
- » [Nova Scotia Human Rights Commission](#)
- » [Nunavut Human Rights Tribunal](#)
- » [Ontario Human Rights Commission](#)
- » [\(Ontario\) Human Rights Tribunal of Ontario](#)
- » [\(Ontario\) Human Rights Legal Support Centre](#)
- » [Prince Edward Island Human Rights Commission](#)
- » [\(Québec\) Commission des droits de la personne et des droits de la jeunesse](#)
- » [Saskatchewan Human Rights Commission](#)
- » [Yukon Human Rights Commission](#)

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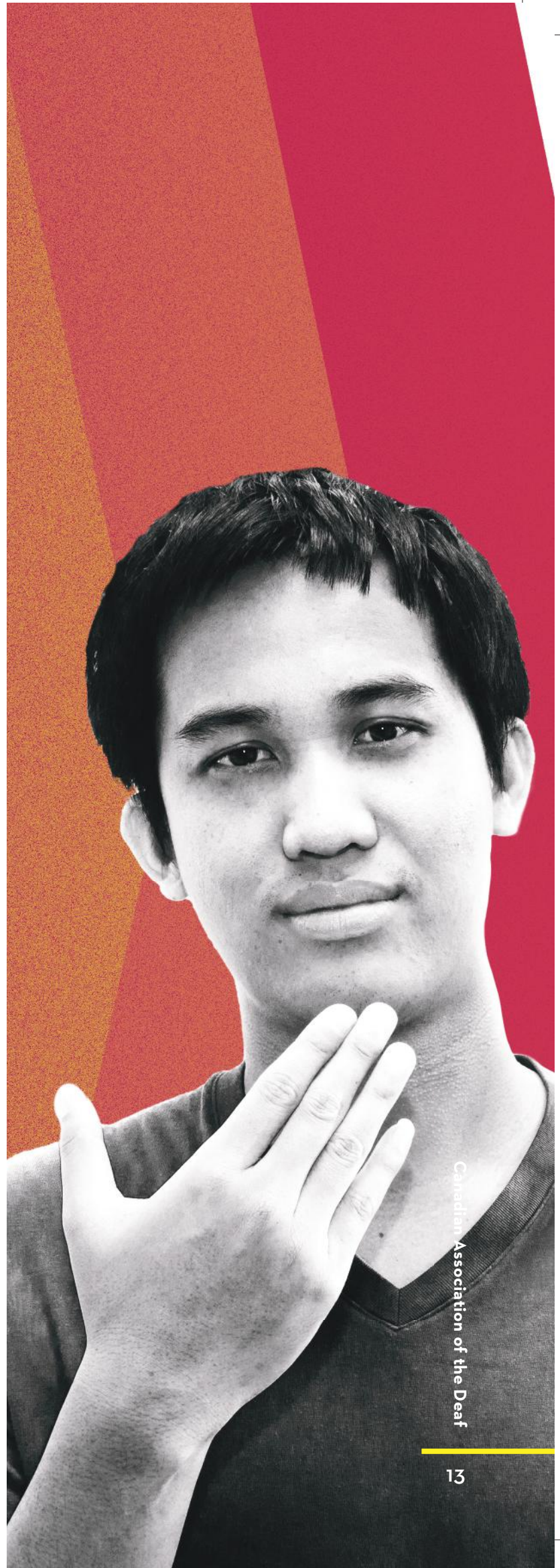
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British Columbia Aboriginal Network
on Disability Society (BCANDS)



Canadian Association of the Deaf

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