



ABOUT CANADA

DISABILITY RIGHTS

2ND EDITION

Deborah Stienstra



**FERNWOOD
PUBLISHING**

HALIFAX & WINNIPEG

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Editing: Jessica Antony
Design: John van der Woude
eBook: tikaebooks.com
Printed and bound in Canada

Published in Canada by Fernwood Publishing
32 Oceanvista Lane, Black Point, Nova Scotia, B0J 1B0
and 748 Broadway Avenue, Winnipeg, MB R3G 0X3
www.fernwoodpublishing.ca

Fernwood Publishing Company Limited gratefully acknowledges the financial support of the Government of Canada through the Canada Book Fund and the Canada Council for the Arts, the Nova Scotia Department of Communities, Culture and Heritage, the Manitoba Department of Culture, Heritage and Tourism under the Manitoba Publishers Marketing Assistance Program and the Province of Manitoba, through the Book Publishing Tax Credit, for our publishing program.



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Le Conseil des Arts du Canada

NOVA SCOTIA  Manitoba 

ISBN: 9781773632551

Library and Archives Canada Cataloguing in Publication data has been applied for.

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*To those
— including Patrick Kellerman, Henry Enns, Catherine Frazee, Heidi Janz,
Jim Derksen, Bonnie Brayton, Steve Estey and many others —
who have taught and continue to teach me how to live well,
including with disabilities.*



ACKNOWLEDGEMENTS

For their assistance with the second edition I would like to thank Lara Haines-Love, Shreya Jadhav, Benedicta Hughes, Victoria Watt and the Live Work Well Research Centre at the University of Guelph. Greg Corey is a consistent source of support and love for me, for which I am deeply grateful. My children, Becca and Cailum, and my large extended family and friends keep reminding me how important telling these stories are and I thank them for their support of my work and life.

WHAT ARE DISABILITY RIGHTS?

I am a person with a disability and living on social assistance. I find that after I pay my bills, like rent and phone and cable, I am left with \$250 a month for food, household things like clothing, coffee, and anything else I might need or want to do. That works out to about \$7 a day for everything. The cost of food goes up and my pension cheques stay the same. Other costs go up, like cable or phone, and my disability pension stays the same. I shop for clothes at thrift shops so I don't buy anything new. I have my clothes on today from thrift shops. I like going to Tim [Horton]'s sometimes for lunch or for coffee, but I often don't have any money left to do that. It costs a lot to buy healthy food. I need help to pick the right food and I need more money to buy things that will keep me healthy. I would like to have more to live on...

I would like the public to be aware that living on social assistance puts the person, that is me and many of my friends and most of our People First members, in poverty. And then when we try to work, they cut back on the assistance. And how we can buy clothes for work and pay for the transportation to get there? It is like they try to keep people with intellectual disabilities poor and dependent. We need jobs that will help us to be helpful in our communities and that will help us to live with some respect. We

care that people with intellectual disabilities are still placed in institutions. Imagine how poor they are. No jobs, no going to Tim [Horton]’s with friends, no choices in what to eat. No way to get to be a member of groups like People First. No way to live like the rest of us here, that is in poverty.

I’m learning that we have rights like all Canadians. While I’m not sure is if having rights will help us come out of poverty.¹

— Calvin Wood, President of People First Nova Scotia

Earlier the same year that Calvin Wood wondered if having disability rights would get people with disabilities out of poverty, on March 11, 2010, just before the start of the Paralympics in Vancouver, the Canadian government announced that it ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the international agreement on disability rights. The Convention includes basic principles, such as: respect for inherent dignity; individual autonomy, including the freedom to make one’s own choices; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of human diversity; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacities of children with disabilities. These international rights echo the disability rights embedded in Section 15 of the *Canadian Charter of Rights and Freedoms*, which came into force on April 17, 1985: “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on ... mental or physical disability.”²

Why does Calvin Wood wonder whether having these rights will help him get out of poverty? One of the major reasons that Calvin lives in poverty is because many in Canadian society think that having

an impairment or condition means that he and others are not able to work at a “regular” job, that they shouldn’t have children and that they are “different,” often in ways that are limiting, pitiful or devaluing. The disability is actually created by attitudes and assumptions about difference and impairment, rather than the impairment itself.

This approach to disability, which is often called “socially constructed” or “the social model of disability,” recognizes that humanity is made up of a wide range of bodies. Through the meaning we give to these differences we create societies, schools, workplaces and programs that can include or exclude people. The challenge of disability rights is to recognize the ways in which we discriminate against or exclude people with these impairments and conditions, and work to change so that there can be full participation, inclusion and access for all people in Canada.

The “social model of disability” was created as a response to the dominant perspective on disability, often called “the medical model of disability.” The medical model says people are disabled because they have an impairment or disease. The goal of the medical model is to identify what makes individuals different from what is considered normal, whether that is a variation in their body or difference in how their bodies or minds function. Once the “abnormality” has been identified and labelled, the work is to treat, fix or rehabilitate the individual to maximize their functioning. Interventions most often involve medical or health professionals. Historically, this model has also been linked to eugenics, which distinguished “the fit” from the “unfit.”

WHO ARE PEOPLE WITH DISABILITIES?

Disabled people are us — people who work, play, go to school, live in families, raise children, are gay and straight, eat, cook, care about the environment, surf the internet. No matter where you look, or who

you speak to in Canadian society, you'll find a person with disabilities or someone with disabilities in their lives.

In its 2017 Canadian Survey on Disability, Statistics Canada found that 22 percent of the Canadian population fifteen years and older identify as persons with a disability. This means that more than 6.2 million people live with disabilities in Canada. More women (24 percent) than men (20 percent) experience disability, and the rate of disability increases with age. Thirteen percent of young people aged fifteen to twenty-four, 20 percent of adults aged twenty-five to sixty-four, and 38 percent of seniors aged sixty-five and older identify as persons with a disability.³ Experiences with disability are also complicated by intersections with racial/ethnic backgrounds, immigration status and Indigenousness, as well as type of impairment and activity limitation. Families face barriers and exclusion as a result of disability experienced by children, elders and other family members.

Disability is often confused with impairment or health conditions, and the language we use to talk about disability is not clear or agreed upon by all. Some people think disability is the same as impairment or chronic illness or conditions. Some think people with disabilities are ill or that disability is all about poor health. How we think and speak about disability is critical to how we understand disability and the place of people with disabilities in Canadian society.

Rather than illness or impairment, disability refers to the experiences of meeting barriers or facing exclusion as a result of living with certain bodies or bodily differences. Living in a world built for people who have sight means that blind people face barriers when they are given print documents or walk in public places with signs that are not in Braille or without curb cuts. But accommodations — including documents in Braille or available electronically, audio GPS units, Braille signs and guide dogs — all assist people who are blind to live

independent lives and contribute to their communities. Others meet barriers to mobility, learning and comprehension, as well as stigma about mental health or intellectual disability. Many people with disabilities experience barriers in more than one area of life.

RESPONSES TO DISABILITY

Through these experiences with disability, we recognize what it is. Disability is something that sets some people apart from others and makes them different because of how they look, how they act, how they move or why they need support or assistance. While we see these variations in bodies and minds, too often we assume these differences signal “abnormality.”

Those assumptions lead many of us to avert our gaze from someone using a wheelchair or shush our children who ask loudly why that man sounds, looks or acts so weird. They encourage us to acts of charity for “those poor disabled children” on telethons, or for those who “suffer” with diabetes, cerebral palsy, muscular dystrophy or some other terrible condition. We believe those people with disabilities are challenged, poor, without the possibility of work and suffering, and we want to help because they did nothing to deserve this “problem.” Or, at least, we want to keep them from making us feel bad about all that we do have, and we know that we do not want to become one of them.

These negative assumptions about disability colour all of our society, from the media portrayals of people with disabilities to the policies created to assist them. They depict people with disabilities as dependent, needy, expensive to accommodate, high users of health care, sick, a burden and incapable. In short, they describe people who are less than full and equal citizens of Canada. The Canadian Human Rights Commission recognized this situation:

Canadians with disabilities face obstacles wherever they go. Whether it is a door threshold that is too high for a person using a wheelchair, the absence of publications in Braille or large print, or inadequate tax and social security measures, people with disabilities are far too often denied full citizenship in Canadian society.⁴

Disability rights, or the belief that people with disabilities are fully human with the rights and dignity enjoyed by all people, address the gap between the circumstances, barriers and opportunities that people with disabilities, and those without disabilities, experience. The UNCRPD, adopted by the United Nations in 2006, is the most recent international agreement on disability rights. Its purpose is:

to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Complementing this groundbreaking United Nations Convention, Canada has been shaped by legal decisions interpreting the meaning of disability rights in the Charter of Rights and Freedoms and as a result of complaints made to human rights commissions across the country as well as to other bodies that regulate aspects of disability rights, including the Canadian Radio-Telecommunications

Commission (CRTC) and the Canadian Transportation Agency (CTA).

Over the last three decades there have been improvements in the lives of Canadians with disabilities, in part resulting from these articulations of disability rights. But as Calvin Wood noted, being a Canadian with disabilities, for many, still means living in poverty, being without work, having to cover many costs that result from barriers, being out of the mainstream of communities, being invisible or forced to live in circumstances not of their own choosing and living with abuse, violence and death. Disability rights continue to be elusive for most people with disabilities, and many face discrimination in their daily lives.

In 2018, the Canadian Human Rights Commission noted that disability was the ground of discrimination in 52 percent of its cases, an increase of 33 percent since 2008.⁵ The federal government confirmed the important role of human rights commissions in addressing discrimination when in 2019 it named the Canadian Human Rights Commission as the independent body monitoring Canada's implementation of the UNCRPD.

Even the editorial board of the *Globe and Mail* in 2008 recognized the significance of bringing people with disabilities into the mainstream of Canadian society:

The real question is whether Canadians are content to pay lip service to bringing the disabled into the mainstream while leaving them in effect shut inside their homes. It is a question that involves the mentally ill as well as the physically disabled. Bringing either group into mainstream life — on to regular city or inter-city buses, into subways and movie theatres and the workplace, means making actual accommodations. And paying for them.⁶

Exclusion and discrimination shape and are reinforced by individual attitudes, cultural images and practices, and structures and institutions in Canadian society. Government policies and practices — including social assistance, health care, education, child care, taxation, building codes, Indigenous rights, immigration, development assistance, information technologies and housing — influence how we experience disability.

Disability rights enable people with disabilities to make decisions about their lives and future, claim rights on their own behalf and participate actively in all areas of Canadian society. Disability rights can increase access and inclusion in critical areas like education, employment, transportation, telecommunications and health care. Disability rights also identify new approaches and practices — such as universal design, disability supports and income supports — that transform Canadian society to be more inclusive and accommodating for everyone.

Including people with disabilities fully into Canadian society, with the rights enjoyed by non-disabled people, requires social transformation, not simply “fixing” some bodies. It requires all Canadians to recognize and redress attitudes, cultural images and policies that make people with disabilities invisible, set them aside in institutions, undermine or reject their contributions and value and justify their neglect, abuse and death. It also calls all of us to appreciate the possibilities of living a rich and complex life with disabilities, the liberating benefits of the right supports, the ways in which we belong and the importance of relationships and caring for all in society. It involves the simple recognition and honouring of the dignity, autonomy and rights of all people, including those who experience disabilities.