

Equal Citizenship for Canadians with Disabilities

The will to act



Federal Task Force on Disability Issues



Government of Canada
Gouvernement du Canada

Produced by:
Federal Task Force on Disability Issues

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OTTAWA, October 21, 1996

Last May, my colleagues Clifford Lincoln, Andy Mitchell, and Anna Terrana and I were asked to form a Task Force to look at the appropriate role for the Federal Government in the area of disability issues.

During the course of our deliberations, we received remarkable co-operation from many quarters. Representatives of 22 national organizations assisted us in framing the content and organizing the process for our inquiry.

A reference group was formed, working groups identified and Fred Clark, Lucie Lemieux-Brassard and Traci Walters were selected to sit as observers to the process.

The Task Force is grateful to the organizations and, most particularly, the observers for their willingness to participate.

The Office for Disability Issues within Human Resources Development Canada provided support to the Task Force under the direction of Cathy Chapman. Their professionalism, good humour and genuine commitment to the issue served us all well.

Bill Young of the Library of Parliament added invaluable insight based on almost 10 years of work with the parliamentary committee on Human Rights and the Status of Persons with Disabilities.

As we traveled across Canada various officials from the Departments of Revenue, Finance, Justice, Health, Indian and Northern Affairs and, most noticeably, Human Resources Development Canada lent their time and talent as resource persons, facilitators, rapporteurs, and active participants. Their assistance and interest was appreciated.

Canadians associated with a multitude of organizations, once again, placed their faith in a process that has not always produced results in the past. Their confidence inspired our work.

And individual Canadians poured out their hearts to us appealing to their government to prove worthy of their commitment to Canada.

The members of the Task Force are grateful to the four ministers who made our work possible, our parliamentary colleagues for their support, and the constituents of Fredericton-York-Sunbury, Parry Sound-Muskoka, Vancouver East and Lachine-Lac-St-Louis for their understanding as we undertook this important assignment.



Andy Scott, M.P.

Chair

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CHAPTER ONE



The gap between saying and doing – Message received

Sometimes a whisper has a more profound impact than a shout. For the last several years, Canadians with disabilities have quietly stated their case for action that recognizes and promotes their full and equal participation in the life of our country.

While their arguments have been listened to at the political level and by governments, there has been a growing gap between “saying” and “doing”. Over the course of the last fifteen years, Members of Parliament produced a series of reports and recommendations that started in the early 1980s with the *Obstacles* report and finished with the most recent, *The Grand Design*. Each of them tried to show how Canadian society and governments could move toward achieving equality and inclusion. In 1993 the federal and provincial governments, working together, produced a joint vision for people with disabilities, *Pathway to Integration*, the final report of their collaborative review of services for people with disabilities.

But implementation of these visions and the recommendations has left a lot to be desired. At the federal level, responses to reports have been equivocal and in some cases, non-existent. The response to *The Grand Design*, the last report of the Standing Committee on Human Rights and the Status of Disabled Persons, seemed to indicate that the status quo was good enough.

After this, people with disabilities abandoned whispers and quiet arguments and forcefully told the federal government to treat their concerns seriously.

Their message was received and this is why the Task Force on Disability Issues was created.

CONSISTENT, EQUAL AND INCLUSIVE OUTCOMES

By asking us to prepare this report, the Ministers of Human Resources Development Canada, Finance, Justice and National Revenue recognized that policies, laws and programs do not always lead to outcomes that are consistent, equal and inclusive for people with disabilities.

The Ministers asked us the question: “What is the federal role in the area of disability?”

We quickly realized that to answer this question, we had to try to answer several others:

- What overall vision will promote the inclusion of Canadians with disabilities and allow them to participate equally in the life of the country alongside their fellow citizens?
- How does this vision fit into the larger debate about the nature of our society and our country?
- What general recommendations flow from this vision?
- What specifically can the Government of Canada do in the short, medium and long term?

We knew that in undertaking to study these questions, we were continuing on a voyage that others began before us. We are optimistic that this report can be used as a compass so that governments and the community set the course and move in the right direction.

AN ECHO OF WISE VOICES

Any public inquiry runs the risk of having its recommendations ignored, and countless reports like ours are gathering dust on shelves. A good number of fine and innovative solutions to difficult issues have been dismissed because an inquiry was not perceived as fair, open-minded or complete.

From the outset, we knew that unless we carried out our work as publicly and as thoroughly as possible, our report and our recommendations might share the same fate.

We have mobilized every available resource from across the country both to develop a long-term vision and to provide knowledge and expertise aimed at producing practical and “do-able” recommendations. Not since the Special Committee that produced *Obstacles* in 1981 have disability issues been explored with such breadth or such depth. During the past four months, we listened to men and women with disabilities and many others who came to our meetings. We received briefs from organizations of people with disabilities, businesses, unions and community groups. We commissioned research studies from experts who would give us an independent perspective. We also involved officials from federal departments so that they could contribute their knowledge to our search for realistic approaches.

“Canadians with disabilities do not want any more papers to present, commissions to attend, or research to conduct. Canadians with disabilities want action under the thousands of pages of recommendations and creative solutions that have been tabled by a multitude of groups since 1981.”

— *Participant in Fredericton consultation*

While it is important to remember that processes are only a means to an end, we learned a lot from the very model that we used for our consultations. Observers from the community participated fully and freely with members of the Task Force during the consultations. This created a dynamic environment that encouraged debate and exploration of differences of opinion. The greatest value of the process was the level of expertise and common sense that people with disabilities — individuals as much as organizations — brought to our study of the issue.

To begin our work, we called together representatives of over twenty national disability organizations — organizations that once again made the commitment to participate in a consultation. They set aside their concerns that this process, like others before it, might not make any real difference in the lives of men and women with disabilities. They formed a Reference Group that refined the issues that we used to organize our consultations and research. Their framework of six subject areas — civil infrastructure, legislative reform, labour market integration, income support, the cost of disability/tax and Aboriginal peoples — ensured consistency in our approach to our mandate from the ministers. The Reference Group also selected three observers, two of whom participated at each of our public meetings.

The members of the Task Force want to acknowledge their very great debt to the two thousand people, most of them Canadians with disabilities, who participated in our 15 forums from coast to coast. Although we know that we could never capture their

"I see the federal government role as one of leadership and setting expectations. Protecting disadvantaged Canadians, making sure people do not lose their rights, simply because they have to ask for help to do the things that others take for granted — living, learning and working in our communities."

— *Participant in
Fredericton consultation*

eloquence in this report, we hope that they see in it a true echo of their ideas and suggestions. They reminded us that our true subject remained the day-to-day lives of people with disabilities across the country.

To complete our investigation and to avoid reinventing the wheel, we asked experts to assess the substantial research that has already been completed, to evaluate existing options and to provide us with their views on realistic strategies for the government to remove barriers and promote the inclusion of people with disabilities. Each researcher collaborated with a working group made up of representatives of national organizations of people with disabilities and from relevant federal departments. These working groups provided a “reality test” for strategies and policy options.

Throughout the life of the Task Force we have unapologetically borrowed good ideas from every available source. It should surprise no one that our report contains recommendations that have appeared elsewhere.

“JUST DO IT!”

As we listened to those who came to our forums across the country, one message came through loudly and clearly.

Individuals with disabilities spoke forcefully about the conditions that they, as Canadians, believe are essential:

- They want a country that demonstrates vision and leadership; common principles and values for disability issues.
- They want a country that ensures that people with disabilities have input into policy, programs and decision making; that takes a holistic approach to disability issues, spanning issues related to income, employment, education and other areas of life; that recognizes the importance of sharing information to achieve this end.
- They want a country that makes it possible for all to achieve a decent standard of living, and to contribute to the standard of living of all; that addresses the social causes of disadvantages related to disability.
- They want a country that adopts a common approach to disability issues in all jurisdictions but that is sensitive to individual differences and needs; that guarantees access to similar disability-related supports in all regions, and that holds governments accountable to ensure that this is so.

“It seems that thousands of reports have been produced but there has been very little action on any of those. What we need is action. Come on, get it done. We have done enough talking, we have had enough discussion, we have had enough, we have got to do it.”

— Participant in
Vancouver consultation

- They want a country that makes disability program arrangements secure and predictable; that ensures that core funding and other financial supports are available for disability-related organizations.
- They want a country that uses legal and other carrots and sticks to promote social and economic equity and equality of outcomes.

People were equally clear about how they felt current circumstances limited their inclusion in Canadian life no matter where they lived.

- They pointed to barriers that they face in trying to participate in the country's social and economic life.
- They expressed fear that current attitudes of support for “leaner and meaner” governments, the shift to private responsibility, and a growing burden on those who provide services will lead to greater inequities.
- They spoke of poverty, a state that too many knew only too well.
- They spoke of barriers to their mobility in Canada because disability issues generally, and services in particular, are the responsibility of many separate governments and organizations.
- They lamented public ignorance about disability and the inadequate support for disability organizations that could help effect changes.

“Someone suggested that we are a group of excluded and vulnerable people, and that is how we should be perceived by the federal government. Not as a special interest group.”

— *Participant in
Toronto consultations*

- They said they were looking for leadership, for a sense that governments — and particularly the Government of Canada — have a vision of what should be.
- They said that they were excluded from decisions about things that affect them and they pointed out that society often blames individuals for the consequences of disability instead of looking for the causes of inequity in the social environment.

As people brought these issues to our attention, they urged the Government to act on the recommendations of previous reports, and expressed complete frustration that worthwhile action had been postponed for no apparent reason. People told us in three blunt words: “Just do it!”

WHAT CITIZENSHIP IS REALLY ALL ABOUT

The women and men who expressed these views most often used a short form — a single word — *citizenship* to describe why the federal government should take responsibility for disability issues.

Everywhere we went, we heard people express a positive, passionate and unanimous Canadianism. People with disabilities are looking to the Government of Canada to spell out, in concrete terms, the vision and the specific steps that will allow individuals across the country to live their lives in a way that is consistently equal and inclusive.

“We are Canadian citizens and we are not asking for privileges, we are asking for simple basic human rights.”

— *Participant in
Fredericton consultation*

Citizenship offers a sense of belonging in one's country and gives each individual the right to participate in society and in its economic and political systems. It confers the protection of the State within Canada and abroad, while requiring individuals to obey this country's laws.

The legal and constitutional basis for civil and political rights is in place and is unambiguous. The *Canadian Charter of Rights and Freedoms* enshrines civil and political rights in the highest law of the land. The *Constitution Act, 1867* enumerated the areas of jurisdiction of the federal and provincial governments, but did not include the egalitarian principles included in modern human rights statutes such as the *Canadian Human Rights Act*, or section 15 of the *Charter*, which was part of the *Constitution Act, 1982*. The federal government therefore has authority to legislate on disability issues only in areas of federal jurisdiction.

The *Constitution*, however, binds the federal and provincial governments under section 15 of the *Charter*. It guarantees to persons with disabilities the right to equality before and under the law and to the equal protection and benefit of the law without discrimination in all jurisdictions. Further, the *Charter* was influenced by international conventions which the federal government has signed; it is accountable for their implementation in Canada, regardless of the domestic division of power.

"Citizens of Canada, persons with disabilities are watching the results of this, yet another committee. But there is another audience, an international audience of public opinion, which has looked to Canada for guidance and for emancipation and for enlightenment. ... your group must help us achieve a truly enlightened position in regard to disability. Both inside our country and in the international sphere."
— *Participant in Toronto consultation*

A more complete set of rights

But popular conceptions of citizenship incorporate an increasingly complete set of rights. From “civil rights” such as freedom of speech, thought and faith, citizenship came to include “political rights” as expressed by the right to hold office or to vote. Most recently, twentieth century citizenship is understood to comprise not only these but also “social and economic rights”. These are the level of well-being and security that are required to exist in a society. They represent a commitment that there will be no internal “borders” and that all those who call a particular country home can participate fully in the life of the community.

Section 15 of the *Charter* has become a touchstone for people with disabilities and its guarantees of equal rights for men and women with disabilities form the basis for many of their, and others’, arguments for inclusion.

But the *Charter* too has its limits. These are most obvious in dealing with the place of social and, to some extent, economic rights. This set of guiding principles is more a result of a consensus in society than it is the outcome of constitutional protections. The consensus that the federal government had an obligation to address these rights formed the basis for the social programs established during the three decades after the Second World War. It was the rationale for the introduction of the original programs in the 1950s and 1960s that made provision for pensions for people with disabilities, and later for the Canada Assistance Plan,

“These are not disability issues. These are human rights issues.”

— *Participant in*

Fredericton consultation

which provided many of the disability-related supports and services that they require to participate in the life of their community. Paul Martin, the Minister of National Health and Welfare during the 1950s, in fact called them “a matter of right”.

The arguments that were used to build support for these income, education and health initiatives rested on the requirement of the federal government to provide leadership and to acknowledge the rights of Canadian citizens to have access to inclusive social and economic measures. These initiatives can be seen as the complement to equalization measures that have been put in place to deal with regional inequities.

As a result, citizenship has come to be understood as a commitment, by governments and particularly the Government of Canada, that individuals will not be discriminated against or marginalized. It is also a commitment to provide, in an equitable way, high quality accessible services from sea to sea to sea.

Inclusion

The principle of inclusiveness implied in Canadian citizenship gives the Government of Canada a base for its approach to today's requirements. The federal government can — and should — promote the equality commitments contained in the international and national instruments that underpin full citizenship. It should also support programs and policies that help all Canadians participate effectively in the economic and social mainstream.

“Many of the programs that have helped our equality in Canadian society have been federal programs. ... VRDP, CPP Disability, and the old Canada Assistance Plan, programs to help support housing, accessible housing for people with disabilities....”

Some are shocked that the federal government appears to be withdrawing from support to people with disabilities.”

— *Participant in
Winnipeg consultation*

Canadians have the right to expect inclusiveness, equality and the opportunity to achieve equal outcomes, no matter where they live. The federal government should concern itself with ways to minimize or eliminate additional disadvantages of costs and lack of mobility that Canadian citizens face because they have disabilities.

This means that every government program should, as a matter of principle, incorporate the individual and particular needs of persons with disabilities in the very core of its design. A good example of what we mean is the Canada Student Loans Program. Certain criteria such as the number of courses a student can take, or the length of time to complete a program, are flexible so that all eligible students with disabilities can qualify for a loan.

At the same time, we recognize that the additional disadvantages that result from disabilities cannot always be accommodated in each and every “mainstream” program. Where this is the case, a complementary measure, designed to mesh with the generic program, can be put in place to ensure that no one is denied the opportunity to participate just because of disability. The Canada Student Loans Program, again, provides a model. Individuals with disabilities can receive an additional, non-repayable grant to cover the disability-related cost of attending a post-secondary institution.

Neither our public consultations, nor our own research, nor the information provided by government departments proves, in a definitive way, that the cost of inclusion outweighs the many real, quantifiable and intangible benefits. On the contrary, an initial program design that accommodates people with disabilities and that links to other programs will have a reasonable cost and might save money. For example, the cost of making a television commercial with closed-captioning quadruples when the captioning is added at the end of production and not built into the production design. Arguments that justify postponing action due to the cost of accommodating disability usually exaggerate all these costs without providing definitive proof.

We recommend...

1. The Government of Canada should acknowledge and act on its responsibility for citizens with disabilities to ensure equality and to promote their full inclusion and participation in the life of the country.

CHANGING FEDERAL-PROVINCIAL REALITIES

We know that Canada is changing. Many of these changes cannot be avoided — globalization has given any national government far less control over levers that once were unquestionably within its grasp. We also know that the federal government is engaged in discussions with the provinces and territories around appropriate roles and responsibilities for each level of

"Fundamentally, it is our hope that, as a country, Canada can ensure that persons with disabilities are treated with the same degree of dignity, access and opportunity across all provinces and territories."

— *Canadian Bankers*

Association

government for the future, consistent with jurisdictional mandates, demographic trends, fiscal capacities and other factors. This has already resulted in changes to traditional responsibilities and will inevitably lead to further significant changes to social programs.

But many of these shifts are failing to address the reality of daily life, here and now, for the two thousand men and women that we met as we travelled across the country. People with disabilities are worried that the consensus within our society that encouraged governments to put in place programs like the Canada Assistance Plan has disappeared. They believe that the Government of Canada, which had taken the initiative and shown the leadership that allowed them to participate more fully in the life of the country, is now abandoning them. They seek guarantees that a “new system” will not abandon them to a fragmented, patchwork array of regional activities that mitigates equity and sentences them to return to a marginal existence.

The tension is the push and pull between the scope for regional or provincial diversity in public programs, on one hand, and the equal treatment — or the opportunity for equal outcomes — of similarly placed citizens, irrespective of where they live, on the other. This balance has never been static. Today, as people with disabilities see the pendulum swinging towards regional diversity, they see growing internal borders that compromise their ability to participate in core elements of our life as a country. They feel that they risk being shut out of being able to do what other Canadians do. Men and women with disabilities are afraid that their basic citizenship rights are being lost.

“It certainly may be true that there are some areas where it would be helpful or constructive to have a diminished role for the federal government, but I am not sure how we ever came to the idea that it should be a diminished role with respect to people with disabilities. It certainly never came from our communities.”

— *Participant in*

Edmonton consultation

When they articulated their fear, their perception of federal responsibility led people with disabilities to call for national standards. This term, in effect, became a short form for a guarantee of inclusion. It also reflects their view that a pan-Canadian approach must strengthen the capacity of civil society to allow people with disabilities to achieve their social “rights”.

We recognize that current discussions on Canada’s social and economic union will identify areas where action is required by one level of government or another. They may also identify some common areas for action and others where further negotiations will be necessary to achieve mutual agreement on how to address policy and program gaps.

While respecting this process, we believe the federal government possesses several levers within its jurisdiction that it can use to affirm the citizenship of Canadians with disabilities and advance their civil, political and social rights. Available tools include the tax system, the machinery of the federal government, federal legislation, and federal fiscal transfers to the provinces. These, however, cannot be effectively used to achieve equality or equal outcomes for persons with disabilities without a coordinated and overarching approach that includes *all* relevant departments and agencies of the Government of Canada, and where appropriate, working in partnership with the provinces and territories.

On the other hand, we like to think that these changes will generate a few new ideas. If we can get these new approaches right, they can be the kernels that will grow and play a vital role in assuring Canadians with disabilities that the federal government affirms their citizenship

rights. All of the recommendations in this report are founded on this assumption. We hope that they will re-orient the federal government's thinking about disability issues and point policies and programs in the right direction.

Mobility

Canada's history and its federal system have always allowed for diversity among the provinces and territories. It would be naive, therefore, to support any concept of rights or social citizenship that implies a rigidly uniform set of social programs in all jurisdictions across the country.

On the other hand, the Task Force has been made acutely aware of the fact that the unmet necessities of life very often dictate where Canadians can live in their own country. No province or territory would willingly be seen as a place that is inhospitable to individuals with disabilities. None would want to fall short of the others. And yet, this reality is a fact of daily life for many people with disabilities across Canada.

The list of assistive services supported with public funds is different in each province and territory. An individual who wants to enrol in an employment or training program may only be able to find an accessible one in another province or territory. However, the services he requires to help him live independently may not exist in that region. A woman or man with

"Access to social programs should be a matter of need, not of geography."

— Participant in

Halifax consultation

disabilities may have to ignore education or employment opportunities elsewhere, not because of a free choice to move or not, but because income support, accessible housing or other vital community services are not available in that part of Canada.

To avoid this situation, Canadian governments can work together to establish pan-Canadian objectives, principles and, perhaps most importantly, common values so that all can be inclusive of and accessible to people with disabilities. This does not have to involve any level of government telling another what to do. These objectives, principles and values can be negotiated and developed jointly by the federal, provincial and territorial governments with input from the citizens they affect. They can also reflect regional variations. The discussions would focus the means that will be used to ensure equity and equality of opportunity and to ensure that all Canadians have full rights. The key point is that they would provide for consistent outcomes, not that provinces and territories would provide exactly equivalent programs or services.

We recommend...

2. Given its own significant role in ensuring a broadly based Canadian citizenship, the Government of Canada should invite the provinces to establish a pan-Canadian approach to disability issues that builds disability considerations into mainstream policies and programs in all areas. Where mainstream programs cannot completely eliminate the additional disadvantage of men and women with disabilities, this process must identify complementary action that enables them to benefit fully from mainstream programs.

"Federal endorsement of equitable standards across the nation is essential. There needs to be the ability for mobility across the country. There needs to be a critical minimum of what those are and that needs to be clearly stated. And there needs to be dedicated services specific to disability within any transfer of dollars from the federal government to whatever level of government may end up actually delivering those services."

*— Participant in
Edmonton consultation*

3. The Government of Canada should include in these discussions clear statements of values, principles and objectives which fully include people with disabilities in Canadian society.

THE NEED TO KNOW

Information remains a critical necessity for all levels of government and for the disability community in its efforts to break the circle of rehashed arguments and find solutions to difficult issues. Municipalities, provinces, territories, the federal government, and all of Canada's citizens require information to respond to real needs and to reflect the reality of life, to plan their activities, and to anticipate future requirements. Information also provides a means for citizens to hold their governments accountable for their tax dollars and to ensure that government actions are achieving their stated purposes. A social audit, as proposed during the consultations, would strengthen the capacity of civil society to monitor social needs, to articulate emerging problems and to highlight program deficiencies.

"People with disabilities are equal to other people and should be able to make their own decisions about their lives and have the means to take their place in society."

— *Participant in the
Montreal consultation*

We recommend...

4. The Government of Canada should invite the provinces to work out a common approach to presenting information regarding disability-related spending — and other social spending, including the Canada Health and Social Transfer. In particular, the Government of Canada should provide better means of:
 - continuing to support surveys that capture data on persons with disabilities;
 - tracking and reporting on social spending in areas of its own jurisdiction; and
 - continuing the broad public dissemination of research, reports and other information products.

CHAPTER TWO



Aboriginal Canadians with disabilities — Keeping hope alive

Aboriginal Canadians with disabilities face challenges that are well beyond the capacity of many Canadians to understand. The Task Force held two consultations with Aboriginal people with disabilities, and was overwhelmed by participants' efforts to keep hope alive, given the daily realities they and their families must live with everyday. In our report we cannot even begin to do justice to these realities.

While the Task Force identified five themes that guided its work, we recognized from the outset that the needs and concerns of Aboriginal Canadians with disabilities are broader still, and even more complex than others. Aboriginal Canadians with disabilities have many needs that parallel those of other Canadians with disabilities, but they must seek solutions in a morass of jurisdictional forces that have led to fragmented policies and a patchwork of supports and services, where these are available at all.

BLEAK CHOICES

The net effect of this jurisdictional morass is that Aboriginal Canadians with disabilities are much more disadvantaged than their fellow Canadians. For on-reserve Aboriginal people with disabilities, the lack of supports and services in their home communities means that they may have two stark choices:

- to stay in their community and not have access to the basic types of services and supports that would allow them to exercise some control of their own destiny, or
- to leave their homes and communities to search for the basic necessities of life.

The irony is that in the end, whatever they do, they may be denied access to those necessities, because it is the overlapping and lack of collaboration among jurisdictions that dictate their eligibility. For Aboriginal Canadians with disabilities living off reserve, access to services and supports may be only marginally better, since mainstream programs do not usually deliver services that respond to their needs. And without adequate resources, they do not have the purchasing power to buy what they need.

The message to the Task Force was very clear: the jurisdictional issue, defined in terms of who is responsible for providing what supports and services to whom, and under what conditions, is the cross-cutting issue for Aboriginal Canadians with disabilities, regardless of where they live. The discussions around jurisdictional complexities very quickly led to the issue of citizenship rights, and in that respect the voices of Aboriginal Canadians with disabilities echo those of their non-Aboriginal brothers and sisters.

"As the parent of a disabled child, I have been forced to move off the reserve because of the lack of services."

— Participant in

Edmonton consultation

A LONG WAY TO GO

What does it mean to be a citizen of Canada? More so than any other Canadians, Aboriginal Canadians with disabilities have the farthest to go to be able to participate fully in the economic and social lives of their communities. The responsibility for this is a shared one, and the Task Force heard from many Aboriginal Canadians with disabilities who emphasized that this responsibility must begin at home, with individuals and with the community of Aboriginal leaders. But without a doubt, the Government of Canada has significant responsibility as well. So much has been said about this responsibility, so much has been written about it, and still Aboriginal Canadians with disabilities find themselves caught up in jurisdictional wrangling, coping with a lack of awareness and understanding of their needs both within and among their communities, and struggling with getting and keeping control of their personal destinies.

The Task Force was asked to speak about the federal role in the area of disability. If we believe that the courage to speak, which was so evident in our consultations, must be matched by our wisdom to listen, then the Government of Canada should first of all remind itself that Members of Parliament studied and responded to the situation of Aboriginal persons with disabilities in the 1993 report of the Standing Committee on Human Rights and the Status of Disabled Persons, called *Completing the Circle*. It is fair to say that not much has changed since the Committee issued its report, a sentiment that was echoed clearly, with great patience but overwhelming sadness, by the Aboriginal Canadians with disabilities we listened to during the course of our work.

KEY PRINCIPLES FOR REFORM

The Standing Committee's recommendations reflect key principles that were stated again and again in the Task Force consultations:

- The situation of Aboriginal Canadians with disabilities is a serious one that requires immediate and comprehensive action on the part of all those whose decisions have a direct or indirect impact on the lives of these Canadians.
- Aboriginal Canadians with disabilities themselves know best what their issues are and how they can be resolved.
- Federal government departments whose mandates directly affect the lives of Aboriginal Canadians with disabilities must acknowledge their responsibility to ensure that the programs and services they provide are flexible, transparent and coordinated.

We recommend...

5. The Government of Canada should recognize the ways in which it has contributed to the jurisdictional complexities that prevent Aboriginal Canadians with disabilities from gaining access to the supports and services they need, and begin to work in collaboration with provincial governments and Aboriginal communities to provide flexible, client-centred services and supports to Aboriginal Canadians with disabilities.

"As far as Aboriginal people are concerned, although we have the same problems, the same people, the same disabilities, when we approach a problem with a disability, we have a new set of rules. The rules may apply to everybody in Canada, they do not apply to Aboriginal people."

— *Participant in*

Vancouver consultation

6. The Government of Canada should assess the appropriateness of using the accountability mechanisms outlined in chapter 3 of this report to ensure that federal commitments made to address the needs of Aboriginal Canadians with disabilities are captured, assessed and evaluated in a way that ensures continued action.

CHAPTER THREE



Federal organization and approach to disability issues

Because disability issues cut across the federal government's organizational lines, they often get lost in a bureaucratic shuffle. In some instances, a positive action by one department may be lost because of an action of another that unintentionally cancels out the first. In other cases, a department may have the will to act but need the support and input of others to get the job done. While government departments are able to join forces to meet disability-related goals, it is important to establish clear lines of accountability at the federal level.

Accountability begins at the ministerial level and extends to questions of process — how government works and how citizens access government programs and services. It also includes measuring the effectiveness of government actions.

A DISABILITY POLICY FRAMEWORK

We suggest that the federal government adopt a disability policy framework to help it achieve the objective of an inclusive society. The framework should follow the *Canadian Charter of Rights and Freedoms* as a constitutional beacon to guide the creation and review of public policies and laws. The equality guaranteed by the *Charter* before and under the law must define the purpose of the disability policy framework. The *Charter* applies to all activity of

the federal government and the provinces and territories, including the development of strategies, regulations, policies, rules and practices. It serves as a guide to conducting the business of government, including the work of:

- drafting laws and regulations;
- developing policies, strategies and initiatives;
- assigning priorities and resources;
- negotiating how services will be provided; and
- implementing and administering all of the above.

The goal of equality means that self-determination, autonomy, dignity, respect, integration, participation and independent living must be the effects of *all* federal programs, laws and activities.

The extent to which these effects are achieved must be measured by the concrete results of programs, laws and services. The effects of all government actions on Canadians with disabilities must be examined in a complete social, political, economic and historical context. Policy makers and legislators must acknowledge that, for individuals with disabilities, equality sometimes means receiving the same treatment as others, as in access to “mainstream”

programs and services; other times, it means complementary measures are necessary. A “one-size-fits-all” approach would result in a barrier to participation. In line with these considerations, some of the principles that should help shape the disability policy framework are the following:

- Legislation is bound to make distinctions and not all distinctions are discriminatory.
- Only distinctions that impose burdens, obligations or disadvantages on individuals who are members of groups that are already disadvantaged should be studied and considered for removal.
- Where people require different treatment to achieve equality, the failure to provide it can impose burdens, obligations and disadvantages.
- Affirmative or proactive measures may be needed to remove some barriers and eliminate systemic discrimination.

We recommend...

7. In its own jurisdiction, the Government of Canada should immediately proceed to put in place a disability policy framework using this report as a guide.

A CANADIANS WITH DISABILITIES ACT

Canadian human rights legislation has not addressed a number of issues of systemic discrimination, that is, discrimination that is the unintended effect of a program, policy or law that otherwise appears to treat everyone equally. Because of this limitation, governments have

“One shoe size does not fit all. You cannot make one set of rules that will cover all of the disability community and all of the different people that are a part of it.”

— Participant in
Fredericton consultation

had to introduce legislative measures such as pay equity and employment equity laws. An additional legislative measure is needed to prevent many of the problems being experienced today from continuing over the coming years. It is time for the Government of Canada to introduce a Canadians with Disabilities Act.

A Canadians with Disabilities Act is the complementary measure that can make the rest of the human rights legislation and government structures work for persons with disabilities. It is our assurance that a broad interpretation of their citizenship rights will be applied by the Government of Canada in areas that fall within federal jurisdiction.

The Act should provide for the appointment of a minister or secretary of state with responsibility for disability issues, and should enumerate the principles and values to be embodied in the relationship between persons with disabilities and the federal government. To address disability issues in everyday government business, the Act could also require the federal government to set out the powers, duties, and functions of federal institutions, including private-sector organizations delivering public services, on disability issues. Because these activities would require a coordinated inter-departmental approach to disability issues, the Act should specify appropriate policy and program support and describe responsibilities. The Act could also establish an independent office with the power to monitor departments' compliance with the Act, report to the public, and advocate within government on behalf of the disability community. The legislation could also require the government to consult regularly with the disability community and to conduct specific studies.

"There needs to be an Act, a department, and a minister responsible for Canadians with disabilities."

— Participant in

St. John's consultation

We recommend...

8. The Government of Canada should provide tangible evidence of leadership by introducing a **Canadians with Disabilities Act** that ensures consistent action, coordination and accountability at the federal level.
9. In order to permit action within the shortest possible time frame, the Government of Canada should proceed to implement recommendations 10, 11, 12, 13, 14 forthwith and make statutory provision for them, as appropriate, in a **Canadians with Disabilities Act**.
This Act can initiate certain measures immediately and proceed with a phased implementation for others as follows:
 - a) Year 1
Put in place a **statement of principles and values**, establish the position of minister or secretary of state in law and create the appropriate policy and program support to the Minister. It could also incorporate, by reference, the duty to accommodate as put forward in amendments to the *Canadian Human Rights Act* (see recommendation 21).
 - b) Years 2-4
Make provision for the establishment of **enforcement and reporting mechanisms** and other elements identified for inclusion in the Act.
 - c) Year 5
Legislatively provide for a **review** of the **Canadians with Disabilities Act** itself conducted by an appropriate evaluation mechanism.

A MINISTER WITH RESPONSIBILITY FOR DISABILITY ISSUES

Policy decisions are ultimately made by Canadians' political representatives. Because disability issues have to be dealt with in legislation, in the mandates and activities of a number of departments and agencies, and in new administrative processes, it is essential that a voice at the Cabinet table specifically represent disability issues. This can best be accomplished through the designation of an existing secretary of state or a minister as the Minister with Special Responsibility for Disability Issues.

The federal government also needs to ensure coordination between laws and policies created by different departments. For example, in 1995, the Minister of Human Resources Development Canada introduced Special Opportunity Grants for Students with permanent disabilities. As part of the Canada Student Loans Program, these grants help students with disabilities purchase the adaptive equipment and other services they may need to pursue a post-secondary education. Unfortunately, Revenue Canada considers these grants to be taxable income. As a result, students must pay through the tax system a percentage of the cost of the equipment or service that they had thought would be defrayed.

A minister has access to colleagues across governments and in other governments, to information and to necessary resources. With political will, after all, there is usually a way. With a designated minister, Canadians with disabilities will know that their concerns are being addressed at the highest levels.

"We need that vision to work together. The changes made on a piece-meal basis will be both ineffective and wasteful without a vision, a sense of what this country is going to be like, of what you and I want Canada to be when we call it home."

— *Participant in
Edmonton consultation*

We recommend...

10. The Government of Canada should demonstrate its commitment to consistent action and accountability by taking action at the political level to formally designate an existing minister or secretary of state with the additional responsibility to serve as the **Minister or Secretary of State with Responsibility for Disability Issues**.

A “disability lens”

The machinery of government does not run solely on the efforts of ministers and their departments. Much innovative work is done through the collaboration of ministers in Cabinet.

All ministers and members of Treasury Board, which is a committee of Cabinet, should apply a “disability lens” to their decisions, like the lens that is currently used to assess the impact of policies and programs on women. This disability lens should include an assessment of the effect of policies, programs and decisions on people with disabilities.

We recommend...

11. The Government of Canada should demonstrate its commitment to consistent action and accountability by taking action at the political level to put in place a “**disability lens**” for use by all ministers and members of Treasury Board when they are taking decisions. This would include an assessment of the effect on people with disabilities in all relevant items that are submitted to Cabinet and to Treasury Board.

“I said to him, ‘What is your disability?’ He said, ‘It is that people think I have one.’”

— *Participant in*

Halifax consultation

Government programs

It is important for the Cabinet and the Government of Canada to decide, finally, that all relevant government programs, such as the proposed extension to the Infrastructure Program, must set as a priority support for activities that will promote accessibility for people with disabilities.

We recommend...

12. The Government of Canada should demonstrate its commitment to consistent action and accountability by deciding that relevant government programs, such as the renewed Infrastructure Program, must set aside funds to promote accessibility for people with disabilities.

A CENTRAL FOCUS FOR FEDERAL GOVERNMENT ACTION

If government activity is spread across many departments and agencies, it is difficult to assess its effectiveness. For this reason, it is important for an organization to take on formal and effective responsibility for coordinating actions and responses on disability issues across the federal government. This policy and program infrastructure could follow the model of the National Literacy Secretariat, which is part of Human Resources Development Canada but which has its own responsible minister. Alternatively, it could follow the model of Status of Women Canada, a separate government organization, with a responsible secretary of state.

The organization must be an integral part of a larger process for setting the government's policy agenda. It must also have the scope and authority to work effectively with other departments and central agencies such as Justice, Transport, Health Canada, Treasury Board and others.

The organization responsible for disability issues must establish and maintain strong links with the disability community. It must have the capacity to sponsor innovation and experimentation within the government and in the community at large. The federal organization could also support tests of new approaches to policy issues by other levels of government. These pilot and demonstration projects can also involve private-sector businesses and others interested and involved in disability issues.

We recommend....

13. The Government of Canada should demonstrate its commitment to consistent action and accountability by:

a) Taking action at the bureaucratic level by putting in place a **policy and program infrastructure** to support the minister or secretary of state.

b) Putting in place under the authority of the Minister or Secretary of State with Responsibility for Disability Issues, a **social policy research and development fund** that will support projects that build on the work of this Task Force in all areas including citizenship development, income support, the cost of disability and legislative reform.

THE NEED FOR ACCOUNTABILITY

An accountability mechanism is needed to ensure reconciliation between the needs of Canadians with disabilities with changing programs, policies and laws and to ensure that the change process continues apace.

There are advantages and disadvantages with any approach to keeping government accountable for its actions. In consultation with the disability community, the Government of Canada can determine whether it is better to act proactively, in the manner of the Auditor General, to react to complaints, like the Canadian Human Rights Commission, or to create another type of mediation agency or function to resolve problems as they occur.

We recommend...

14. The Government of Canada should demonstrate its commitment to consistent action and accountability by establishing an **accountability mechanism** to analyze social spending and all federal activities in support of disability and to monitor and report on checks and balances throughout the federal system.

The federal government should make use of the existing accountability mechanisms at its disposal. It would be useful, as a way to track government action across issues and departments, to submit all departmental Estimates dealing with disability issues to the Standing Committee on Human Rights and the Status of Persons with Disabilities. This process should apply to the Minister or Secretary of State with Responsibility for Disability Issues and all relevant departments.

We recommend...

15. The Government of Canada should refer the Estimates of the Minister or Secretary of State with Responsibility for Disability Issues, as well as those of other relevant departments, and important policy and legislative issues, to the Standing Committee on Human Rights and the Status of Persons with Disabilities of the House of Commons.

AN ANNUAL REPORT ON GOVERNMENT ACTIONS

Whatever accountability mechanism is created, it is important to publish an annual report of findings that has the straightforward approach and thoroughness of the Annual Report of the Canadian Human Rights Commission. The report should analyze social spending as well as activities throughout the federal system.

An annual report should provide information on how governments implement the standards they have agreed to adopt. This kind of report can give individuals and organizations

representing Canadians with disabilities the information they need to determine if the services they require are available to all, all across this country. One report should be available on how the programs and services of each province and territory measure against any agreed-upon principles, values and objectives; another should detail the federal government's annual progress in meeting its stated objectives for inclusion and accessibility.

We recommend...

16. The Government of Canada should demonstrate its commitment to consistent action and accountability by publishing an **annual report** setting out the results of any assessment or intervention measures and referring this report to the Standing Committee on Human Rights and the Status of Persons with Disabilities of the House of Commons. This report should outline the problems, challenges and successes of policies, programs and legislation. It should be analogous to the Annual Report of the Canadian Human Rights Commission.

SUPPORT FOR ORGANIZATIONS

Voluntary organizations of all types articulate the policy and program requirements of people with disabilities and other Canadians, and inform governments of the impact of the actions of the State. They are the voice of individuals who face disadvantages in Canadian society, including those living on low incomes, people with disabilities, and those facing discrimination. Concerns about poverty, discrimination and more are important to Canadians with disabilities.

"If you do not have national voluntary organizations, national organizations speaking on your behalf and communicating with other people with similar disabilities, you are alone and you are disempowered. If you don't support these types of organizations, there is no infrastructure for disabled people."

— *Participant in
Regina consultation*

The federal government should provide adequate support to voluntary organizations. This would strengthen society's capacity to monitor social needs and identify emerging problems. It would also allow these organizations to bring their expertise to government to help develop responsive programs, policies and laws.

One of the strengths of the process adopted by the Task Force on Disability Issues was its reliance on consultation. The members invited scores of organizations representing Canadians with disabilities across the country to share their insights and views and to recommend courses of action. The organizations did this on short notice and in a spirit of openness and constructive guidance. This involvement required them to take time from their professional work and personal lives, and to divert energy, time and resources from other important work.

We believe that the decision about which disability organizations get money should not be made by the same federal department that receives their proposals and has to implement social and economic policies. Therefore, we feel that it would be more appropriate for the Department of Canadian Heritage to have responsibility for funding national disability advocates, than for this function to stay with the Department of Human Resources Development Canada.

We recommend...

17. The Government of Canada should continue to **support national organizations of people with disabilities** in recognition of the extraordinary demands that participation and advocacy place on these organizations, which are least powerful and able to sustain this demand to begin with. This commitment should include, but not be restricted to, providing assured **core funding**, with a base amount of \$5 million, to sustain national organizations as a recognition of the additional disadvantage of people with disabilities in having their voice heard at the federal level.

CHAPTER FOUR

Legislative reform – A responsive government

The disability policy framework suggested for government action and described in chapter 3 must address problems in Canada's laws and regulations. Historical stereotypes and prejudices persist in some federal laws, characterizing people with disabilities as dependent, incapable and in need of charity. This depiction must be replaced with a model of equality that promotes:

- the right to full participation in society;
- an entitlement to adequate supports to live in the community;
- the right to choice and control over one's life; and
- the right to dignity, respect, autonomy and self-determination.

The framework must also ensure that existing and proposed laws do not create additional disadvantages for Canadians with disabilities.

Out-of-date laws and programs reflect a belief that the needs of people with disabilities could be handled through income-support programs, institutional care, and programs, policies, laws and regulations that would “protect” them. Unfortunately, “protection” does not get a person an audio-tape version of a just-published and critically important report, adequate warning of dangers in the workplace and public areas, or a job.

THIS IS NOT *JUST* A GOOD THING TO DO

The *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act* prohibit discrimination based on mental or physical disability. Federal laws and policies, indeed all government activity, must follow the principles and values set out in the *Charter*. The *Charter* is Canada's constitutional beacon, guiding policy makers to create rules and guidelines that respect human dignity and social justice. One of the principles that the *Charter* states must be reflected in all government activity is that:

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.

It is essential for the principles and values in the *Charter* to be applied in a *more* effective way to:

- *new* laws, regulations, policies, programs and procedures as they are developed; and
- *existing* laws, regulations, policies, programs and procedures that put Canadians with disabilities at a disadvantage, before these are challenged in the courts.

While the federal government aims for and expects that its laws will not discriminate in their intent or effect, the reality is that, while many laws do not actively discriminate against Canadians with disabilities, their effects are discriminatory and the object of complaints to the Canadian Human Rights Commission under the *Canadian Human Rights Act*. Other laws simply ignore the needs of this large group of citizens.

The reality is that in a majority of cases the needs and concerns of persons with disabilities are seldom considered at the legislative drawing board stage. Consequently, Canadian laws are remarkably silent on disability issues.

— *Carrie Goundry and Peters*
Designing a Legislative Reform Strategy for Persons with Disabilities: Priorities and Options

Legislative review process

The Government of Canada needs to establish an ongoing strategy and process to review laws, regulations, policies, practices and rules to remove barriers to full participation and ensure the equality of people with disabilities. This process can be used to apply a disability-based analysis to new policy, program and legislative initiatives and to plan for a comprehensive review of existing ones. To keep the disability community and others informed of the progress of these efforts, a public awareness campaign is also needed. People with disabilities, as do all Canadians, have a right to information about their rights and the impact of the government's activities on their daily lives. Through educational campaigns, individual Canadians will also be better informed and able to help ensure that the private sector complies with these new directions in program development in areas of federal jurisdiction.

To ensure that the *Charter* is applied vigorously to all existing and new laws, the federal government needs to involve people with disabilities in legislative reform. It may seem easy enough to review existing legislation and policies and change any that place Canadians with disabilities at a disadvantage. The sheer volume of laws and regulations makes this a lengthy task, however. What is needed is a process to involve Canadians who have disabilities in decisions on whatever laws, regulations, policies, programs and procedures should be reviewed as priorities. The consultants should then be part of the decision-making process that determines what other laws need to and should be reviewed over a given period of time, and the revision process itself.

"We want parity, not charity. The federal government has to listen. And it has to ask us prior to the fact, not after the fact."

— *Participant in*

St. John's consultation

We recommend....

18. The Government of Canada should develop a **legislative reform strategy** that proceeds from the conceptual framework of principles and values in the *Canadian Charter of Rights and Freedoms* and that aims to remove barriers to full participation and ensure the equality rights of people with disabilities. The Task Force recommends that this process should begin immediately and any resulting legislative changes be in place by the year 2000. The strategy should include:
- a) a mechanism to **incorporate disability-based analysis** in the design and development of all policy and legislative initiatives;
 - b) a process and timetable to **examine the policies**, rules, practices, interpretive bulletins and guidelines that are responsible for implementing legislation;
 - c) a permanent central mechanism to coordinate an **ongoing and systematic legislative review process**;
 - d) complementary **policy, public awareness and education capacities** to ensure full implementation of legislation;
 - e) a mechanism to deal with the question of **private-sector compliance**; and
 - f) a process to take into consideration meaningful input from the disability community.

19. In conjunction with people with disabilities, the Government of Canada should, by 1998, include in its legislative reform strategy measures that address **emerging issues** of importance to people with disabilities, including genetic and bio-medical technologies, privacy, and information technologies.

SHORT-TERM LEGISLATIVE AND PROGRAM CHANGES

Canadians with disabilities have been telling governments about legislative and other changes needed over a period of many years. There are, therefore, many laws, regulations and programs that can be changed swiftly if the government puts in place a mechanism to involve individuals and organizations in the disability community in the change process. Any mechanism should allow adequate time for organizations to review the terms of the laws.

We recommend...

20. a) The Government of Canada should ensure that bills currently before the House of Commons adequately encourage the participation of, and remove barriers for, people with disabilities.
- b) The Government of Canada should act immediately to use the legislative process to remove barriers and to promote the inclusion of people with disabilities. This action should begin with the **immediate introduction of legislative measures** that are ready for first reading and the setting of legislative priorities for the short, medium and long term.

"To have positive leadership and action we need value statements from governments and parties that articulate that citizens with disabilities are equally valued and are entitled to the support necessary to enjoy the same life as any other Canadian."

*— Participant in
Edmonton consultation*

Some other legislation that can be introduced immediately or in the near future is described below:

The Canadian Human Rights Act

Under the *Canadian Human Rights Act*, if a work process that is not generally discriminatory puts an individual with a disability at a disadvantage, the employer must take reasonable measures to accommodate the individual. If the employer can show that making the change would cause “undue hardship”, he does not have to accommodate the employee.

Persons with disabilities have long argued that the Act should be changed to *require* employers to accommodate workers who have a disability. The Canadian Human Rights Commission has also called for this change to be made to the Act. By introducing a duty to accommodate employees, the Government of Canada would be making a statement to the effect that employing individuals with disabilities is just “business as usual”.

We recommend...

21. The Government of Canada should proceed immediately to amend the *Canadian Human Rights Act* to introduce a duty to accommodate people with disabilities.

The criminal justice system

The *Criminal Code* and the *Canada Evidence Act* present a number of barriers to the participation of persons with a disability in the criminal justice system. Amendments are needed to, among other things:

- remove barriers to receiving testimony from persons with a disability,
- allow witnesses to use the medium with which they are most comfortable when they testify in court,
- allow individuals with a disability to use alternative methods, such as the voice, to identify the accused, and
- eliminate any discrimination against persons with a disability in the jury selection process.

We recommend...

22. During the current session of Parliament, the Government of Canada should introduce amendments to the *Criminal Code* and the *Canada Evidence Act* to improve access to the criminal justice system for persons with disabilities.

The Immigration Act

Not long ago, Canada's *Immigration Act* prohibited many people with disabilities from immigrating here, along with other classes of "undesirable" immigrants including criminals, subversives, terrorists, drug traffickers and persons with contagious diseases. While this provision of the Act is easily described today as discriminatory and offensive, it also presents a stereotype of individuals who have a disability as people who are sick, in what is referred to as the "medical model" of disability. The medical model has been widely used to legitimize what might be called discrimination against persons with disabilities.

In February 1993, the government amended the *Immigration Act* to remove disability as a criterion for prohibiting someone from immigrating to Canada. The Act does, however, allow authorities to refuse immigration status to anyone who might place an "excessive demand on health and social services" in Canada. The point at which a cost becomes excessive has not yet been defined. While the new provision will clearly be an improvement over the old, participants in the Task Force's consultations pointed out that, by determining that potential immigrants to Canada may be an "excessive" burden to our society, the law sends a message to Canadians with disabilities that they too may constitute an excessive burden.

Treasury Board guidelines on access to information

Canadians with a disability have the same need for information as other citizens. The lack of availability of government information in alternate formats prevents them from gaining access to the information they need. Alternate formats are relatively easy to produce using common computer technology, scanners and photocopiers. The Treasury Board guidelines on access to information must be amended to guarantee that Canadians with disabilities can receive information from the federal government in a format that is usable by them. The guidelines should also ensure that this access is extended to people with any type of disability, including one related to the agility needed to turn pages, for example.

Broadcasting policies

The federal Department of Canadian Heritage has asked the Canadian Radio-Television and Telecommunications Commission to be more stringent in applying its licensing requirements for television broadcasters' efforts to serve people with disabilities. The CRTC requires all English television stations earning more than \$10 million a year to caption all *local* programming, including live segments, from September 1, 1998. By the end of the term of their current license, these broadcasters will also have to caption at least 90 percent of all daytime programming. Smaller stations are being encouraged to achieve these same goals.

An individual who uses a wheelchair for mobility is prevented from entering a building at the top of a flight of stairs by the fact that there are stairs, not because he or she uses a wheelchair. If the same building had a ramp, instead of or in addition to stairs, that same individual would no longer be considered handicapped or disabled in relation to gaining entrance to the building.

— *Currie, Goundry and Peters*
Designing a Legislative Reform Strategy for Persons with Disabilities: Priorities and Options

Because French language programming differs from English programming, French broadcasters follow different CRTC guidelines. The CRTC should work with French television broadcasters to put in place a plan to achieve parity in captioning requirements for English and French television.

We recommend...

23. The Government of Canada should establish and make public a timetable for **short-term legislative and regulatory changes** where substantive work has been completed. These legislative changes should include:
 - a) Regulations pertaining to section 19(1)(a) of the *Immigration Act* to take social factors into account and should not impose barriers to people with disabilities on the basis of “excessive demand” considered solely from a medical perspective.
 - b) Effective Treasury Board guidelines on *access to information* to ensure that Canadians with disabilities are able to receive information concerning their own government in a format that is usable by them.
 - c) Action by the **Canada Transportation Agency** to ensure accessibility for people with disabilities to federally regulated modes of transportation, including inter-provincial buses.

“Transportation is a major, major concern. Many people with disabilities have skills and abilities, but, if you cannot get there, you cannot use them. Twenty percent of people considered unemployable are working as volunteers, but they volunteer within the capacity of their disability. Many disabled people can work in some capacity and have intelligence and skills and want to be out there working. It is about being able to get there.”

— Participant in
Parry Sound consultation

d) Action by the Canadian Radio-Television and Telecommunications Commission to ensure access to federally regulated broadcasting for people with disabilities, including those with visual and hearing impairments.

THE COURT CHALLENGES PROGRAM

The Court Challenges Program is operated by an agency outside the federal government and supports test cases brought forward by individuals and groups who are challenging federal laws and regulations that they believe go against the principles of the *Canadian Charter of Rights and Freedoms*. The program is restricted to challenges of federal laws, and should be expanded to cover all equality rights test cases of national importance. The provinces and territories should be invited to participate in the program if they wish.

We recommend...

24. The Government of Canada should explore ways for the Court Challenges Program to fund legal challenges in cases of national importance for individuals with disabilities. The federal government should offer the provincial and territorial governments the opportunity to participate in the program if they choose.

"Way back in the early '80s, we started using that word, consumer.... As a consumer, you have particular rights that are quite limited. But we are not consumers. Damn it, we are citizens. And as citizens, we have obligations and rights under the law."

— *Participant in*

Fredericton consultation

CHAPTER FIVE



The opportunity to work — Labour market integration

Canada's labour market is evolving. New types of jobs are appearing in the workplace as others disappear. Governments are trying to respond to these changes and are working to ensure that all Canadians can participate in the new economy. At the same time, the federal, provincial and territorial governments are reorganizing responsibilities for training and other programs and services related to the labour market. Naturally, there are many uncertainties in this transition period. People with disabilities, who have been marginalized in the past, must be included in all planning for new and existing labour market programming at all levels if they are to become part of Canada's economic mainstream.

Work is important. Our consultations and research told us that this is among the top concerns of Canadians with disabilities. It is important for the dignity of individuals. People told us about the dignity of work, the sense of accomplishment it brings them, its value to the community and to society, and the way it contributes to a sense of belonging. The tangible benefits of income, learning, and participating in the goals of an enterprise give us a sense of control over our destiny. Work is fundamental to one's sense of well-being and to citizenship.

While Canada's skilled workforce is at the centre of our competitive advantage in the world, this country is not capitalizing on the potential of a large segment of the working age population. At the same time, despite our struggle to create employment programs and

"Our greatest wealth is not in mining or forestry or fishing, it is in the people of this country. Whether they are able to see, or whether they are able to walk, it does not make any difference — the resource is there."

— Participant in

Fredericton consultation

supports that respond to the needs of workers with disabilities, and of some potential employers, there remain significant barriers to employment for Canadians with disabilities. The environments of the Canadian workplace and our economic system have a greater impact on the extent to which people with disabilities become employed or find themselves out of the workforce than does the nature of any individual's particular disabilities.

Working age women and men with disabilities face attitudinal, systemic and physical barriers that make it difficult for them to prepare for, find, get and keep jobs. While quotas are *not* the answer, fairness is. It must be acknowledged that many of the barriers to employment and independence are the result of policies, regulations, guidelines and administration that simply ignore the individual circumstances of women and men with disabilities.

Additional investments required to address these barriers will be worthwhile. Experience and research have shown that many Canadians with disabilities are ready to join the workforce and await only the necessary preparation and opportunity. Indeed, the Canadian Association for Community Living has done some singular research to produce an estimate of the value to the economy of including people with disabilities in the workforce. It estimates that if a participation rate similar to other Canadians were achieved, there would be billions of dollars of savings.

"We do not want to sit in our communities, in our houses, being unemployed for our entire lives. We want to get out there and we want to work. And we want to contribute to the economy, and contribute to the communities in whatever capacities we can, whether that means working or participating in volunteer activities."

— *Participant in
Halifax consultation*

AN INCLUSIVE LABOUR MARKET

The Task Force's vision of an inclusive labour market is one in which programs and services are designed in consultation with people with disabilities, in which employers hire individuals on the basis of their skills and abilities, and accommodating different ways to get work done happens as a matter of course in the workplace. Inclusiveness should be a matter of "business as usual".

The ideal world would be one in which "mainstream" labour market programs fully accommodated the needs of people with disabilities and provided for additional complementary programs for these Canadians where necessary. This is the vision the Task Force has for the not-too-distant future. In the meantime, the Government of Canada must work to make its mainstream employment and related programs fully accessible to people with disabilities. The federal government must also recognize that there is a need for some programs for persons with disabilities designed as an integral part of its labour market activities and additional measures to meet the very real, very current needs of these working age Canadians with disabilities.

EMPLOYMENT INSURANCE MEASURES CAN INCREASE EMPLOYMENT AMONG CANADIANS WITH DISABILITIES

The same types of measures that help other unemployed Canadians find and keep jobs can assist people with disabilities to do the same. The federal government does not have to design a whole new set of programs to promote the participation of people with disabilities in the

workforce. Instead, it can use the benefits and supports available under the *Employment*

Insurance Act to increase the number of Canadians with disabilities who are in paid employment.

The federal government can change the way it administers the Human Resources Investment Fund (the HRIIF), to give Canadians with disabilities fair access to its employment measures and other services and supports. The HRIIF is the fund that provides everything that Canada's Employment Insurance (EI) system offers *besides* bi-weekly benefit cheques. The measures and services available under the HRIIF include simple supports such as help with a job search, and access to workshops on how to prepare a résumé, to job-finding clubs and to employment counselling. The HRIIF also includes more substantial supports in the form of employment measures such as financial assistance during the first year of starting a new business, a wage subsidy to encourage an employer to hire an individual, and access to employment opportunities created through job-creation partnerships in the community.

The changes that the federal government can make to the HRIIF quickly will make some of this mainstream programming accessible to Canadians with disabilities. Other changes involve creating parallel programs to serve Canadians with disabilities while additional work is done to ensure their full integration in labour market programs.

"Stop putting the emphasis
on disability and start
putting the emphasis on
what we can do."

— *Participant in
Fredericton consultation*

Eligibility for the HRIIF's employment measures

Few women and men with disabilities are eligible for the employment measures offered under the HRIIF, because only people who are eligible to receive Employment Insurance qualify for these more substantial supports. Since many Canadians with disabilities have not had long-term jobs — indeed many find themselves locked out of the workforce because they cannot find a first job or a new job after a lay-off — they are not eligible for EI bi-weekly benefits or for the HRIIF employment measures.

For Canadians with disabilities who *are* eligible for employment measures under the HRIIF, it is a matter of fairness for them to be included as priorities for access to active measures. Research has shown that the employment measures available under the HRIIF can meet the needs of persons with disabilities; some were designed to do exactly that. The first challenge is not to redesign the HRIIF, it is to make it work for those Canadians with disabilities who are eligible under the Employment Insurance Act.

We recommend...

25. The Government of Canada should ensure priority access for EI-insured participants with disabilities to active employment measures. This means among other things:
 - a) At all local points of service (and eventually, all provincial/territorial points of service, should they choose to accept delivery responsibility), EI-eligible persons with disabilities should be included as **priorities for access** to self-employment assistance,

"If you don't include us in the work force, you will continue to pay through income support to keep us out of the work force. The \$3,000 I took out of my own pocket to purchase the adaptive technology to make my computer accessible has now made me employable. You quickly realize the lost value that you are paying out in your income assistance."

— Participant in
Vancouver consultation

job creation partnerships, skills loans and grants, targeted wage subsidies, targeted earnings supplements and any other similar programming which meets HRRIF objectives as outlined in the *EI Act*;

- b) This inclusion of EI-eligible persons with disabilities as priorities for access to active measures must be stated clearly in **policy and in implementation guidelines** and procedures, and the HRRIF accountability framework must measure its success.

Employment services available to all

The second challenge is to make the HRRIF work for the millions of other Canadians with disabilities who are not EI-eligible. Under the *Employment Insurance Act* all Canadians — those who are eligible for EI benefits and those who are not — can get access to employment services. Anyone can walk into a Human Resource Centre of Canada (HRC) or another office that provides this service on behalf of the federal government, and search the job postings. Anyone can join a job-finding club or attend workshops on preparing a job-search strategy, interview techniques, or résumé writing.

These services are administered at the local level across the country. This means that, in HRCs and other offices, the amount of funding allocated to these services is decided locally, the range of services offered is decided as part of the process of preparing a business plan, and the local manager and regional office make decisions about the overall priority these services merit. These decisions are critical to Canadians with disabilities. Because few of them can have

“The federal government must recognize the existence of systemic discrimination and recognize that 44 percent of working age people with disabilities are excluded from the workforce.”

— Participant in

Montreal consultation

access to employment measures, they have a particularly acute need for the kinds of services that help them to find a job. Job counselling, for example, can help an individual identify his strengths and channel his interests towards a field that offers employment opportunities in the community.

The federal government can advise HRCCs and other agencies offering these services that access to employment services for persons with disabilities must be a priority. This does *not* mean that offices need to set quotas. It means providing equitable access so that there can be equitable participation in the use of these services and, ultimately, equitable results. By emphasizing the importance of providing equitable access to employment services for persons with disabilities, the federal government can ensure that services are available all across the country. This is essential, because the population of people with disabilities is spread across the country. In many areas, the population may not be big enough for the local HRCC to consider including them in the office's resource plan. People with disabilities must not be left out of the employment picture because their numbers would not substantially increase the performance results in a given area.

These employment services need to be widely promoted so that individuals with disabilities will know about the opportunities available. The federal government must also ensure that any province or local agency that delivers the services makes it a priority to offer these services to Canadians with disabilities.

Community partnerships

HRDC also provides funding for partnerships and activities such as research and pilot projects. These must also be made available to the disability community.

We recommend...

26. The Government of Canada should **fully implement Part II of the Employment Insurance legislation** to ensure that people with disabilities are served through its employment assistance services (both insured and uninsured participants with disabilities).

Section 60 (4) of the *EI Act* offers a full range of employment services to all Canadians, be they insured or uninsured. It permits these services to be delivered through third parties when those parties can best meet the needs of clients. It also permits EI funds to be invested in research and innovative projects to better identify ways of helping persons prepare for, return to or keep employment and be productive participants in the labour force.

Negotiations with the provinces and territories

The Government of Canada has begun negotiations with the provinces and territories to offer them the responsibility and resources to deliver the Human Resources Investment Fund active measures under Part II of the *Employment Insurance Act*. The federal government's negotiating

Many employers need assistance in learning how to go about employing people with disabilities.

— *Burt Perrin*

Disability and Labour

Market Integration:

Clarifying Federal

Responsibilities in the

Evolving Social Union

position deals with the issue of equity but does not formally commit to ensuring access for working age people with disabilities who must have a fair opportunity to prepare for, find, get and keep jobs.

Part of the concern about equity must address the share of resources allocated to this community. It is important for Canadians with disabilities to receive a fair share, proportionate to their representation in the population of each province and territory, of the available funding, services and supports. Again, the concern is not about quotas. It is about two fundamental values:

- equity in participation and
- equity in outcomes and results.

It is, of course, also essential that any offices delivering employment measures to Canadians be fully accessible, along with any materials provided to assist people in their job search.

Negotiations on the labour market offer are at various stages as this Task Force reports. The Task Force is very confident that the provinces will embrace the need to ensure that the requirements of working age women and men with disabilities are included in the delivery of these measures. It also understands that, given the current federal accountability framework which is part of the negotiation process, provinces and territories are in effect encouraged to “cream” clients, choosing those who are most job ready. This will exclude the majority of

The shift from the typewriter to a word processor on a personal computer, combined with a voice synthesis application for the computer, meant that persons with visual impairments could “see” what was on the screen, along with what they would type.

The computer’s ability to convert text to Braille assists those with visual impairments. Voice-operated computers have meant that those with impairments to

persons with disabilities. We presume that in the negotiations now nearing completion, conditions with respect to ensuring access to measures are in the process of being formally reflected in the pending agreements.

We recommend...

27. For discussions still in preliminary stages, the Government of Canada should explicitly reflect in its opening position, a requirement that there be:

- a) A commitment to serving people with disabilities **proportional to their representation in the working age population** of the particular province or territory, and that the accountability framework be revised so that it does not systemically exclude people with disabilities.
 - b) A commitment to ensure that supports and measures delivered to people with disabilities through third parties are delivered by **organizations of and for people with disabilities** where such organizations exist.
- People with disabilities are best qualified to serve this population. The expertise of these organizations extends from their work in coaching governments on how programs and services should be delivered to their everyday work with individuals.
- c) A requirement to ensure that third parties or other service deliverers are held accountable for making **facilities, programs and services accessible** to people with disabilities.

manual dexterity can operate computers and their applications. And, more recently, these advances combined have opened the electronic world of the Internet to those with disabilities.

— *Havi Echenberg*

Labour Market Integration
for Persons with Disabilities:
Issues, Overlaps and Options

Provide access to active employment measures

Funding is available for two other groups of women and men struggling to find, get and keep jobs: young people and Aboriginal Canadians. Like most persons with disabilities, many of these Canadians are not eligible for the active measures offered under the HRIIF, so the Government of Canada provides a special funding allocation that offers other supports that are responsive to their needs. Additional, similar funding is needed for Canadians with disabilities. The funding should be used to offer a range of employment measures available to other Canadians, including:

- targeted income supplements
- job creation partnerships
- self-employment supports
- skills loans and grants
- targeted wage subsidies

If necessary, these employment measures should be further adapted to better meet the needs of people with disabilities.

We recommend...

28. The Government of Canada should ensure access to appropriate active employment measures for non-EI-eligible Canadians with disabilities.
- a) In the short term, for non-EI-eligible Canadians with disabilities, the active measures cannot be funded through the EI account. For these Canadians, a special allocation is necessary to give them access to the supports they need to prepare for, find, get and keep a job. To maintain the levels of service offered to persons with disabilities under the predecessor to the Human Resources Investment Fund, the Canadian Jobs Strategy, **a fund of \$45 million** is required to provide innovative approaches to integrating individuals with disabilities into the labour force.
- b) In the future, the Government of Canada should ensure that all **amendments to the *Employment Insurance Act*** provide for access by people with disabilities, so that activities funded by the EI account are more inclusive.

VRDP — VOCATIONAL REHABILITATION OF DISABLED PERSONS PROGRAM

The VRDP Program has supported a variety of supports and employment-related measures for persons with disabilities. It has provided funding, for example: for students to help them participate in vocational training; for professional support to people who are experiencing a job crisis because of the onset of a disability; and for mentors for individuals with an intellectual disability. The cost of the program is shared between the federal and provincial

The trouble with targeted programs is that they are usually limited in funding and scope, and thus become restrictive to choice and opportunity in themselves. The far better and less discriminatory route entails opening up the full range of training, education and employment opportunities to people with disabilities.

— *Jane Atkey*

The Future of VRDP

governments. After 1996-97, the federal government is planning to discuss with the provinces and territories an option to refocus the VRDP so that it better responds to the employment barriers faced by people with disabilities.

The program should focus on individuals not covered under other programs supporting vocational rehabilitation and employment. The goal should be to assist people in gaining access to mainstream programs and employment; any accountability measures should reflect this. It is important for those who deliver services under the new program to have specialized training in working with people with various types of disabilities.

An additional component of the new program should be funding for partnerships and innovations. This component should deal with the complex issues that keep people with disabilities from participating in the workforce. A fund should be available to support projects that have national importance, so that the federal government can learn the best ways to enable people with disabilities to find long-term employment.

VRDP clients have earnings potential but need vocational supports to allow them to move into, return to, or stay in jobs. For many individuals with disabilities, for whom the active measures described in recommendation 26 are not appropriate or for those who are not EI-eligible, VRDP is the first investment in an effective, long-term attachment to the labour market.

If one were to consider the totality of funds that go into training, education, employment placement, retention and advancement of the general population ... the amount of \$168 million under VRDP is minuscule in proportion to the percentage of people with disabilities in the population.

—Jane Atkey

The Future of VRDP

We recommend...

29. The Government of Canada should work with the provinces and people with disabilities to renew VRDP. This program should be funded at the current level of \$168 million. In view of current realities VRDP should focus on the broader needs of people with disabilities. The overall objective of this refocused and renamed **Employability Program Access Fund** would be to prepare people who have longer term earnings potential for participation in the labour market or mainstream programming. This program would have two components:
- a) Support for **individual vocational rehabilitation** — the opportunity to support provinces or other service deliverers to provide a flexible range of vocational supports and services to individuals with disabilities, including the option for individualized funding. This component should be funded at **\$140 million**;
 - b) A **Partnerships and innovations** component that would support, among other things: research, innovation, demonstration projects, best practices, public awareness and education through partnerships within and between sectors. The scope of this fund should be broad enough to allow it to support activities that, while not directly connected to labour market participation, indirectly affect the ability of people with disabilities to participate in the labour market. This component should be funded at **\$28 million**.

GETTING INTO THE WORKFORCE

In the United States, the federal government has, since 1990, offered the Targeted Job Tax Credit to employers. This tax credit represents 40 percent of the first \$6,000 of the annual salary of a new employee who has disabilities and who is referred through a network of local, state and federal agencies. Recent data from the U.S. Census Bureau suggest that the tax credit and other measures are having an impact on the number of people with disabilities finding employment. While 23 percent of Americans with disabilities were employed in 1991, 26 percent were employed in 1996, an increase of 800,000 people. The Government of Canada can apply the lesson of the United States to create a hiring incentive that follows Canadian principles for consistency in the tax treatment of various income sources, as reflected in recommendation 28(b). Any tax credit for employers should extend over more than one year, to ensure that new employment is sustainable.

While the federal government does not offer a tax credit to employers, a wage subsidy is available under the Human Resources Investment Fund. An additional measure is needed to compensate new entrants to the workforce for employment costs — for transportation, for example — that relate to their disabilities. A work-income supplement could provide an incentive for persons with disabilities to move into the workforce.

"Employers need education. They need to be educated to the needs of the disabled person, and they need incentives to hire disabled people."

— *Participant in
Parry Sound consultation*

We recommend...

30. a) The tax system should be used to provide incentives that encourage the employment of persons with disabilities.
- b) To reduce the tax rate for low-income employees with disabilities, the Government of Canada should introduce in the 1997 Budget, for those eligible for the Disability Tax Credit, a **refundable Work Income Supplement of up to \$1,000** modelled on the supplement in place for the Child Tax Benefit.

ADJUSTING EXISTING LABOUR MARKET PROGRAMS

The federal government should make an explicit commitment to adjust its existing labour market programs and services so that they are fully accessible to Canadians with disabilities. While the ultimate goal should be to design programs that are fully accessible at the outset, in the interim it is important to act to fill in the gaps in existing programming.

With respect to programs designed to help Canadians get into the workforce or get back to work, a portion of funding can simply be allocated to people with disabilities, as is done for Aboriginal Canadians and young people. For services provided to employers, other governments, and non-governmental organizations, it is a matter of using expertise and technology to improve accessibility generally.

The approach of the Americans with Disabilities Act (ADA) is an example of the choice and opportunities approach. And it is working. On the sixth anniversary of the ADA on July 26, 1996, Mr. Bob Dole stated that "because of the ADA, the percentage of severely disabled Americans with jobs has increased from 23.3 percent in 1991 to 26.1 percent in 1994, a jump of about 800,000 jobs."

— *Jane Atkey*
The Future of VRDP

In its collaborative work with the provinces and territories and other partners, the federal government must show leadership by explicitly including the needs of Canadians with disabilities in the planning for, and design of, strategies and specific initiatives.

We recommend...

31. The Government of Canada should ensure the participation of people with disabilities in **mainstream programming** by:

- a) **dedicating a portion of youth programming** to ensuring the participation of young people with disabilities in regular youth programs;
- b) **dedicating a portion of Aboriginal funding** or transfers in support of Aboriginal people to ensuring the participation of Aboriginal people with disabilities in labour market programming;
- c) ensuring that young people with disabilities and Aboriginal people with disabilities are also provided with the **disability-related supports** they require to participate in mainstream programming;
- d) ensuring that **pan-Canadian labour market matters** such as labour market information, responsibilities with respect to interprovincial mobility, as well as national sectoral partnerships, explicitly include the needs of working age Canadians with disabilities;

- e) ensuring that **all programs** the department develops in the future to address labour market issues include provisions for the participation of people with disabilities.

POLICY AND PROGRAM EXPERTISE

As Canada's labour market needs change, so will the need for new programs and services for Canadians. This means that the Department of Human Resources Development Canada (HRDC) will require a continuing ability to plan and design programs that are inclusive and accessible to people with disabilities. The Department must, therefore, build its policy and program expertise in disability issues. An important facet of the process of developing and maintaining this expertise is to develop ongoing consultative relationships with organizations of and for people with disabilities. These organizations can undertake the innovative research and analysis that are critical to building successful integration strategies.

An expertise in disability issues will enable HRDC to include these issues in all negotiations with the provinces and territories and, ultimately, to achieve the goal of designing inclusive programs, not "mainstream" programs and "parallel" programs for Canadians with disabilities.

We recommend...

- 32. Given the critical role that labour market integration plays in the equality of persons with disabilities, Human Resources Development Canada should ensure that it maintains policy and program expertise in the area of disability. This policy and program expertise

will help ensure that HRDC negotiations with the provinces on the transition and devolution of responsibilities, and implementation of the future federal role, are inclusive of people with disabilities. This expertise can be sustained by:

- a) Maintaining **policy and research expertise** attached to the Minister of Human Resources Development Canada to help inform and provide support to policy development and program design;
- b) Ensuring that **people with disabilities and their organizations are consulted** on program design and policy issues that are likely to affect their participation in government-supported activities aimed at improving labour market activity;
- c) Working in partnership with organizations of people with disabilities that undertake research, innovation, advocacy or service delivery to study, develop and test new and innovative ways of meeting the **employability and integration needs** of people with disabilities.

SERVICE DELIVERY

The full and equal inclusion of people with disabilities in Canada's labour market will not be achieved simply by correcting defects in program design. The way programs and services are delivered in the community is a critical indicator of the federal government's commitment to its vision of the inclusive society.

"If we are citizens like everybody else, then we have the right to be socially involved and to achieve full social participation on whatever ground and level we decide — education, employment, volunteerism, recreation, whatever. These are activities that everybody can participate in. Why can we not expect the same?"

— *Participant in*

Whitehorse consultation

All sites offering employment services and programs to unemployed Canadians and those who are out of the workforce must be fully accessible. This includes architectural and safety considerations, accessibility of technology, information and services, and the attitudes of staff and contract service providers. Human Resource Development Canada's corporate culture must support openness to the needs of this population. Staff, particularly in Human Resource Centres of Canada (HRCs), but also in headquarters and regional offices, must be able to create strategies to reach out to the community, serve individuals with disabilities effectively, and make resources accessible to all.

All HRCCs must make accessibility an operational norm. Similarly, all organizations under contract with the federal government to provide programs and services must be required to operate as fully accessible operations.

Any improvements in program design and standards for service delivery must be communicated effectively to HRCC managers and agencies under contract to serve Canadians. Service manuals must reflect the fact that all labour market programming is required to conform to the federal government's designated group policy and the principles of employment equity.

Where programs and services in a community are delivered by third parties, the federal government should ensure that local organizations of and for people with disabilities are among the service providers.

"If you use a wheelchair and you hop on a plane, your wheelchair might not get on the same plane. If you are deaf and if you are in a building, you might be the last to know that there is an emergency."

— Participant in

Fredericton consultation

A focus on results

The test of HRDC's ability to create truly inclusive programming is in the measurement of its results. The Employment Insurance program is focussed on results — results in the numbers of people employed and in the amount of savings to the EI account achieved for government. The accountability framework for the EI program must take account of meaningful measures that reflect the extent to which people with disabilities are assisted in finding work. The measures of:

- equity of participation and
- equity of outcomes and results

for people with disabilities must be part of the framework. The framework should include success indicators that are relevant to people with disabilities. This might include, for example, providing an individual with sufficient information and supports so that she undertakes her first job search in eight years. It might mean counting the savings in CPP/QPP benefits for individuals who are able, after an improvement in their condition, to re-enter the workforce and find paid employment. It might also mean considering it a success to help an individual identify and become involved in volunteer activity that will be an appropriate preparation for paid employment in the future.

With information on the results achieved for people with disabilities, HRDC and its partners can identify any problem areas and work to improve them.

Disability is only one
characteristic of people.
People who have this
characteristic are the same
as everyone else.

— *Jane Atkey*,

The Future of VRDP

We recommend...

33. The Government of Canada should put in place operational, administrative and evaluative mechanisms to ensure that the labour market needs of people with disabilities are served by programs and services for which it retains or shares responsibility. It should:
- a) Ensure that the EI accountability framework uses **success indicators** and measures that are appropriate to the needs of Canadians with disabilities, especially those who may need longer term support to prepare them for labour market participation.
 - b) Provide appropriate **supports to local managers** to help them include people with disabilities among their clients and ensure that local managers are aware that they will be measured or evaluated on their ability to serve people with disabilities.
 - c) Articulate the designated group policy and the principles of equity in **manuals and training** provided to staff, and measure performance accordingly.
 - d) Introduce contract clauses to ensure that **third parties** and other potential deliverers of HRIE programs and services will be held accountable for making services and programs accessible for people with disabilities.
 - e) Commit to ensure that supports and services funded by the government of Canada and delivered to Canadians with disabilities through third parties are **delivered by organizations of and for persons with disabilities** where such organizations exist.

CHAPTER SIX

Disability income

A secure income is fundamental to the ability to enjoy the rights of citizenship. Without a secure income, an individual cannot satisfy the most basic living needs. This is especially true for some people who cannot work because of severe disabilities, and those who face significant barriers to workforce participation. Canadian citizenship implies that the federal government will be involved in ensuring and protecting the right of people with disabilities to a secure income.

The federal government was the first Canadian government to make a disability income available; it remains the only government that has the potential capacity to offer a disability income that is available to all Canadians with disabilities, wherever they live and wherever they may move to in this country.

Governments and other institutions have introduced a number of disability-income programs such as social assistance and Worker's Compensation, so that there is now a fragmented, uneven mix of programs scattered among providers. Today, although the federal government can have some influence in how the disability-income programs that it supports are managed, it has no control over the complex national picture of disability income.

"Right now you have a hodgepodge of systems — you have provincial, municipal and the federal system. We would like to see a centralized system with some local administration."

— *Participant in
Parry Sound consultation*

CANADA'S DISABILITY-INCOME "SYSTEM"

Three out of the six income programs available to persons with disabilities are not disability-specific. They are programs that were designed for the general population and that created an add-on component for people with disabilities. There is nothing that could be called a "disability-income system" in Canada. The patchwork of programs and services is complex, unwieldy and, for many, inadequate. Because of the different levels of government and private-sector organizations involved, it will be difficult to change.

The responsibility for our current patchwork system is in many hands, as the following partial list illustrates:

Federal government programs

- The Canada Pension Plan Disability Benefit is managed in partnership with all provinces except Quebec, which manages its own Quebec Pension plan.
- Some people with disabilities who were in the labour force have access to Employment Insurance (EI) benefits.

Federal-provincial initiative

- The provinces are responsible for social assistance, which is partially financed through the Canada Health and Social Transfer (CHST).

"In many ways, recreational involvement is a precursor to people feeling organized enough and interested enough and able enough and comfortable enough to consider work or voluntarism or other things they may want to do, because recreation is usually rather painless to get involved with. There are very highly competitive levels of recreation for people with disabilities. It is a learning and a chance to grow, and not to have the eight bucks you need to buy a pair of sneakers seems a little ridiculous."

— *Participant in*

Whitehorse consultation

Provincial government programs

- Provincial auto insurance is mandatory in some provinces.
- The provinces are responsible for the Worker's Compensation system.

Private-sector programs

- Private insurance companies offer a variety of long-term disability (LTD) benefits.

In this patchwork system, the cause of the disability, the people's ages, and their labour force status determine whether they are eligible for income programs, as well as the amounts they are eligible to receive. For example, adults of working age are eligible for several types of coverage — workers who become disabled could receive either the CPP disability benefit, Worker's Compensation benefits, or both. As with all contributing workers, people with disabilities who work are covered by EI if they lose their jobs.

Other causes may entitle a person to benefits. In some provinces, car insurance plans cover any individual whose disability was caused by a car accident. Also, individuals who contribute to a private, long-term disability plan are covered in case of disability. Eligible causes, however, vary from one plan to another.

Apart from this, the situation is much different for people born with a disability, or for people whose disability was not caused by work, a car accident, or any other cause covered by a private,

"I have a client who received assistance under VRDP, CPP, and the old unemployment insurance regulations. They gave them training and equipment... He is now a successful entrepreneur in a different part of the province, making a living and willing to hire someone after being in business for three months. So this is proof that the old system could work if managed properly."

— *Participant in
Fredericton consultation*

long-term disability insurance. If these individuals are not in the labour force, their last resort is provincial social assistance. In this case, they may be faced with a difficult trade-off. If they identify themselves as unemployable because of their disability, many provinces will offer them an income top-up and access to disability-related supports and services — an attractive option to someone at the bottom of the income scale. However, such recipients are automatically disqualified from taking advantage of active measures like training and employment services. This situation is commonly called the “welfare-trap”.

THE LONG-TERM VISION

The Task Force’s consultations with Canadians with disabilities lead us to assert that any re-thinking of disability income must include consideration of a comprehensive income plan administered by the federal government. Canada has sought change in the past. In the mid-1980s, the federal, provincial and territorial governments developed a proposal for a universal disability insurance system. Program design, implementation and costs were studied. There was, however, no follow up. In the following years, various non-governmental organizations have also proposed new approaches or improvements to the existing programs. More recently, support for such reform has again been growing across Canada.

“We must have these programs because the human costs of not doing so is something that we feel, as a nation, we cannot afford. We need opportunities for all Canadians to participate in both the social and economic development of their communities.”
— *Participant in Toronto consultation*

The 1996 Annual Premiers Conference indicated that the provinces would support the federal government taking a lead role in reforming income support for persons with disabilities. The Premiers suggested that the governments consider creating a single, national program to address gaps and overlaps, to streamline administration, and to improve client service.

A comprehensive universal program, such as a disability insurance plan, could provide all Canadians with decent coverage regardless of the cause of the disability, the person's age, or his or her labour market status. Indeed, such a program could provide a simpler system to replace the many complicated programs and levels of coverage that keep some people living under the poverty line while others receive a comfortable, non-taxable income and access to a full range of disability-related supports and services.

Although this kind of proposal could simplify the current mix of programs and bring fairness to disability-income, it requires high levels of good will and cooperation. It would force the federal government, the provincial governments and the private sector to work together to create a sustainable and comprehensive disability insurance program. The rationalization of the disability-income system should also lead to appropriate compensation for disability-related costs, independent from any income support.

The many problems in the current “system” make change imperative. For many reasons, including fiscal constraints, the implementation of a universal, comprehensive program may not be appropriate at this point in time. Nevertheless, we will, no doubt, have to consider this option seriously sooner or later. In the meantime, the short- and medium-term options we are putting forward should work towards the long-term option, and should aim at improving the federal portion of the income support system.

While discussions on the subject of creating a new income support system continue, no person receiving disability income under current programs should be affected by this process. No one should lose their disability income or their eligibility for this income because of these ongoing negotiations.

A COMPREHENSIVE APPROACH IS NEEDED, BASED ON COLLABORATION

The immediate need is for dialogue. The federal government must take the lead in placing Canada’s disability-income system on the table for discussion with the provinces and territories. The ultimate goals must be to simplify the patchwork and make sure that any new system is comprehensive, financially sustainable, and comparable in different provinces and territories. The Government of Canada should approach changes to the disability-income system that reflect the following principles:

- Where applicable, disability-income programs should **provide incentives** for people with disabilities to move into the labour market.

“I have lived in many parts of this country and always sincerely believed that I was a Canadian and very damn proud to be part of it. I was born in one province, educated in another, lived in two others. I am trying to find a spot that I can call home. But I think my country has abandoned me, and I am not sure who I am or who my country is.”

— *Participant in
Edmonton consultation*

- Changes to disability-income programs should **remove disincentives** to employment.
- Income programs should not impede individuals' **mobility** between Canadian jurisdictions.
- The additional **costs that disability imposes** on an individual should be treated and compensated **separately**.

We recommend...

34. The Government of Canada should, in conjunction with the provinces, **initiate a process** to work towards putting in place a coherent, comprehensive and sustainable approach to providing income to people with disabilities. The process should include serious consideration of ways to move towards a disability insurance program that covers all Canadians.
35. The Government of Canada should recognize its responsibility to ensure that an adequate disability-income-support system is in place for people with disabilities by:
 - a) including this recognition of its responsibility in the terms of reference of any **negotiations** with the provinces that involve issues related to income support; and by
 - b) using a transparent process that **involves people with disabilities**.

MOVING IN THE RIGHT DIRECTION

While governments, people with disabilities and others are working to reform the overall system of disability income, the federal government can take action to improve the operation of the programs it now administers. It should add enough flexibility to its programs so that they can adapt to various stages of disability and personal circumstances. The federal government should initiate the discussion and encourage the provinces and territories to remove outdated practices in the programs funded jointly by the two levels of government. It should propose concrete ways to improve linkages across the various programs.

All partners involved in income security for persons with disabilities should recognize that, besides their income needs, which are comparable to those of other Canadians living on low income, persons with disabilities face the burden of the additional costs associated with their disabilities. In the longer term, this fact should lead to action to separate compensation for disability-related costs from other income-support needs. This would allow people with disabilities who are outside income support programs to maintain coverage for their disability-related needs.

Any new system must be flexible enough to accommodate those people with disabilities who want to work and have abilities and knowledge that they can use on the job. They should not be penalized for trying to find work and, if they do, they should not lose access to the essential support services they may be receiving.

For persons with disabilities, the reductions in public spending that accompanied the shift or threatened shift from supported training or education to the high risk of reliance on the vagaries of an exclusionary labour market could be devastating: an end to regular baths, or transit to get to medical appointment, or social and economic isolation.

— *Havi Echenberg*

Labour Market Integration
for Persons with Disabilities:
Issues, Overlaps and Options

We recommend...

36. The Government of Canada should:

- a) In the longer term, work with the relevant partners in the public and the private sectors, and with people with disabilities, to **reconfigure the existing set of disability-income programs**, combining earnings replacement and income-support functions, and taking into account the tax system and the need to find ways to compensate individuals for the additional cost of disability.
- b) In its discussions with the provinces regarding the Canada Health and Social Transfer, establish the importance of removing the link between income and access to supports and services for persons with disabilities, and introduce the idea of a comprehensive disability-supports program with pan-Canadian objectives, principles and values, to **provide disability-related supports and services, independent from income programs**. (See recommendation 41.)
- c) Work with the provinces to determine how to rationalize and maximize the effectiveness of income-support and earnings-replacement systems such as the Canada Pension Plan, Employment Insurance, Worker's Compensation, social assistance and other disability-income programs, so that they **enable participation in the labour force** and ensure basic safety and security.

"Why do you have to be productive to be considered a full citizen? The only people that seem to be viewed as valuable are those with jobs."

— Participant in

Edmonton consultation

SHORT-TERM ACTIONS TO PROMOTE WORKFORCE PARTICIPATION

It has been said that the best form of income support is a job. While a secure income gives us access to the basic necessities of life, a job gives us a sense of purpose and a sense of belonging. Income-support programs for people with disabilities have often had the effect of raising barriers and obstacles to entering the labour force.

Support during transition periods

For many people, disability income is needed as a bridge to support them during transition periods in their lives. There are models available of ways for disability-income programs to support people's entry or reintegration into the workforce and into the social and economic system. Early intervention, with rehabilitation strategies and a focus on a return to work, is known to be effective. There are also different ways to establish links among systems for income support and training, so that there is less long-term reliance on disability-income programs.

We recommend...

37. In the short term, the Government of Canada should undertake **pilot projects** that test support measures for early interventions, and that link active measures such as education, training and vocational rehabilitation with passive measures such as income support, to reduce long-term dependency on income programs and facilitate the transition to participation in the labour market.

"This week, we were in contact with a person that works 31 hours a week, and the person is on income assistance and his wage is deducted from the total of his income assistance. Which leaves him with only \$150 more a month, yet his transportation costs are approximately \$100 a month. That truly is a disincentive for his working."

— Participant in
Fredericton consultation

Pilot projects should look for ways to **establish smooth linkages between programs** so that those receiving income support from more than one source can access a single, high quality, return-to-work support system that includes a single assessment and rehabilitation strategy, supports for a job search, and training tailored to the individual.

Eliminate disincentives to working

The current disability-income system penalizes people who enter or return to the workforce. First of all, they lose support for assistive devices, medications, transportation and home care, which are linked to disability-income programs. Secondly, women and men with disabilities in Canada tend to be employed in low-wage jobs, even with the same levels of education and training as others. For people in low-wage jobs, the potential of having the State cover the costs of a disability may make them better off on social assistance than in the paid workforce.

When people with disabilities who are not in the workforce were asked in 1991 what obstacles were keeping them from working, 21 percent said that they would lose income if they worked; 13 percent pointed to the essential supports that they would lose.

To overcome the built-in disadvantages that our system imposes on people with disabilities who want to enter the workforce, the federal government should introduce some type of financial incentive through the tax system. With the encouragement of financial support to offset some of their losses, more people with disabilities might be able to seek employment and greater independence.

We recommend...

38. The Government of Canada should build into the tax system an incentive measure to support people making the transition to the labour market. A **low-income tax credit** should be introduced for those leaving income-support programs to participate in the labour force. For example, in the first year, only earnings above the poverty line — about \$17,000 — would be taxable. Second-year earnings could be taxable at a lower level.

The Government of Canada should stage pilot projects to demonstrate how such an incentive could be implemented.

Link disability-income programs

Studies have shown that early intervention is often the key to success in reintegrating people with disabilities into the workforce. It is important to move as quickly as possible to involve people in a disability-management approach. Too often, there is no link between programs that offer income support and programs that help reintegrate individuals into the workforce.

"I want to know that, wherever I live in this country, my rights and opportunities are protected by my federal government."

— Participant in
Winnipeg consultation

Establishing effective linkages between programs like Canada Pension Plan-Disability (CPP-D) and EI can help establish the fact that disabilities do not preclude access to the workforce. Linkages would also reinforce the idea that society supports individuals in maintaining their attachment to Canada's social and economic life.

In addition to establishing linkages between federal programs, the Government of Canada should share information with other disability-income programs administered by the provinces and territories and others. Such linkages can save public and private insurers money and make all of these systems more convenient for people with disabilities. This would be another step closer to the concept of a "single-window" approach to income-disability in Canada.

We recommend...

39. In the short term, Human Resources Development Canada should implement measures to ensure that the assessment and application procedures of the Canada Pension Plan make it possible to identify and quickly **refer clients who would be better served by active measures** offered under Employment Insurance.
40. In the medium term, the Canada Pension Plan should be integrated more closely with other earnings-replacement programs to increase **information sharing and reduce administrative duplication and costs**. This would involve exploring the links to Employment Insurance, Worker's Compensation and private insurers.

The current disability infrastructure is particularly inadequate in encouraging people with cyclical disabilities, such as people living with HIV or AIDS, to participate fully in Canadian society. Restrictive benefit eligibility requirements, penalties for part-time or volunteer work, and a narrow focus on reducing costs by reducing benefits provide effective disincentives for them to contribute as citizens and ignore the many ways in which those who are cyclically disabled can participate in the work and social life of Canada.

— *Canadian AIDS Society*



Dealing fairly with the costs of disability

Living with a disability almost always entails additional costs. These costs, which vary significantly from one individual to another, are currently paid for by the public system, by a private insurer, or by the person who has a disability. A person with a disability may need to cover the cost of a special diet or nutritional supplements. There are extra costs to make one's home accessible, or for personal supports and services, technical aids and devices, and the intangible costs associated with daily living that are greater because of disability. We are calling all of these the costs of disability.

Participants in our consultations made us aware of these in several ways. Some people pointed out the problems they experience in gaining access to disability-related supports and services that respond to their individual needs. Others described costs that varied significantly from one part of a province to another, or from one province to another. In turn, the discrepancies between ways of compensating for the additional cost of disadvantage meant that many people with disabilities could not move to another province without jeopardizing their access to supports and services or assuming additional costs that had been paid for by their province of origin.

"We had a person in the group living with AIDS, we had a person from a group that deals with people with learning disabilities.

Those do not appear to be disabilities at all, under the definition that is out there.

Yet they obviously entail some rather significant costs that not all people bear."

— *Participant in*

Fredericton consultation

One of the major reasons for these difficulties is that disability-related supports are not provided or subsidized on the basis of an individual's requirements but are tied to eligibility for a specific earnings-replacement or income-support program. This means that individuals in very similar circumstances may be treated very differently. While the basic need does not change, the availability of the services and supports does.

It became obvious to us that one of the main reasons that Canadians with disabilities face barriers to participation and mobility is because of the fragmented systems that address the costs of disability.

We recommend...

41. The Government of Canada should recognize that measures that deal with the **costs of disability** need to be separated from measures that provide income to persons with disabilities.

TAXATION AND THE COSTS OF DISABILITY

The federal government should take action to address the issue of the costs of disability in areas where it has jurisdiction. This includes the tax system. The federal government, therefore, should follow specific principles for the tax treatment of disability that will help to avoid the anomalies that are presently reflected in the federal tax system.

Persons with disabilities have extraordinary costs vis-à-vis other Canadians... Some are easy to imagine; special devices or modifications to clothing, and additional costs for personal care and transportation. Other costs are harder to imagine unless experienced first hand. For example ... the extraordinary cost of installing a lift in a vehicle is obvious. Less obvious is the additional cost of having to purchase a van rather than a less expensive compact car or the additional costs of maintenance and repair for a larger vehicle.

— *Richard Shillington*

Taxation and Disability

We recommend...

42. The Government of Canada should base all future revisions to income tax legislation as it affects persons with disabilities to reflect **principles** that deal with the additional costs of disability. These principles are:

- For persons with disabilities normal activities bring extraordinary costs which are involuntary.
- Some of these costs are general and intangible and others can be supported by receipts for expenditures.
- Tax recognition of these costs is not a subsidy based on sympathy or charity but fair tax treatment.
- Tax recognition of disability-related costs should encourage, not discourage, the employment of persons with disabilities.
- The costs associated with disability are more onerous when borne by individuals with limited income.
- The costs associated with disability are not limited to those with taxable income.

YOU CAN'T DO IT ALONE

We are aware that any comprehensive reform to deal with disability-related costs requires the collaboration of provincial governments. Collaboration can ensure that a move towards fairness by one level of government would not be cancelled out by a move to save money by

The courts eventually ruled that the air conditioning costs for those with multiple sclerosis were eligible for tax recognition... The cost of air conditioning a business office is deductible without question regardless if it is truly necessary for earning income.

— *Richard Shillington*
Taxation and Disability

another. We want to create a situation where an increase in federal expenditures leads to a net gain for people with disabilities. We want to minimize the risk, for example, that if the federal government moves to make refundable any tax credit dealing with the costs of disability, the provinces reduce the amount they spend on disability-related supports. We want to avoid the possibility that they might also reduce provincial income support for those who receive social assistance — most of whom would, for the first time, benefit from the tax credit if it were refundable.

Canadian governments should attempt to devise a pan-Canadian program that would address the concerns of mobility and equality of outcomes across the country. The aim of such a program would be to ensure that individuals in similar circumstances are treated fairly and equitably.

We recommend...

43. Taking into account the principles in recommendation 42, the Government of Canada should work with the provinces to deal with the direct costs of disability in order to identify key elements that could be funded through a **pan-Canadian program**. The federal government should engage two or three provinces to:
- devise new approaches to ensuring that disability-related supports are in place consistent with economic participation and citizenship; and

- b) identify the transitional financing issues that need to be addressed through federal–provincial collaboration.

SHORT-TERM CHANGES IN TAX MEASURES

The Government of Canada does not need to wait for any further consideration before it takes action to demonstrate its commitment to the principles outlined in recommendation 42. It can act quickly and put in place some measures that have been the subject of representations by organizations of people with disabilities for some years.

The Disability Tax Credit

The Disability Tax Credit (DTC) is a non-refundable credit that applies to people who, over a prolonged period of time, are “markedly restricted” in their ability to perform an essential function of daily living, even with the use of aids. The tax system is working from an important clinical tool, the Activities of Daily Living, which is not wholly appropriate to define eligibility for the DTC. The list of essential functions includes seeing and walking, for example, but does not include breathing.

The DTC reduces an individual’s federal taxes owing by about \$720. Combined with the value of the provincial taxes that the individual also saves, the credit rises to about \$1,120. The DTC may be transferred to a supporting relative, but it is of value only to those who pay taxes.

Individuals with disabilities and their families have to fight for support to remain independent in work and in living arrangements. The tax system discourages, rather than encourages, these efforts.

— *David Baker and*

Harry Beatty

Consultation Report on
Taxation and Disability

Of Canadians identified in the 1991 Health and Activity Limitations Survey as having severe disabilities, only 23 percent claimed the DTC in that year. Of people with moderate disabilities, 16 percent claimed the credit. About half of the people in these groups surveyed said that they did not claim the credit because they did not know about it until they were asked. The remainder had been refused the credit or thought they would not qualify for it.

We make recommendations for a more comprehensive overhaul of the DTC below, but without waiting for these, the Government of Canada can rectify some of the inequities in the current credit.

We recommend...

44. In its 1997 Budget, the Government of Canada should:

- a) Increase the value of the **Disability Tax Credit** to offset its erosion due to inflation and **fully index** the credit to inflation.
- b) Allow the Disability Tax Credit to be **transferred to any** supporting person.
- c) Expand the list of **para-medical professionals**, such as audiologists, who are able to certify an individual as eligible for the Disability Tax Credit.

"Sometimes what the doctor writes you don't see. They seal it in an envelope and they send it away, and then it comes back and you are not approved. Then you have to try to defend what the doctor may or may not have sent, without seeing it."

— *Participant,*

Charlottetown consultation

The Medical Expenses Tax Credit

The Medical Expenses Tax Credit (the METC) gives individuals a credit against taxes owed for some medical expenses. The expenses must *exceed* 3 percent of net income or \$1,614, whichever is lower. The list of eligible expenses includes such things as:

- costs for hospital and nursing home care,
- personal transportation for medical care, for trips over 40 kilometres,
- medical devices such as prostheses and wheelchairs,
- home renovations,
- attendant care, and
- prescribed drugs.

Expenses that give individuals some personal benefit are not eligible for the credit. This includes, for example, the cost of installing air conditioning in the home for individuals with multiple sclerosis, a condition that is made worse by heat. Similarly, the costs of necessary nutritional supplements for persons living with HIV or AIDS are considered personal expenses.

“Your wheelchair costs more than mine. However, I can get around with mine, you need yours to get around.

We are just talking about an equal playing field here.

If we each had to save up for our own wheelchair, I would have one a long time before you would and it seems sort of ridiculous, particularly when most people with disabilities are trying to get into the workforce or stay in the workforce.”

— Participant in
Whitehorse consultation

The combined federal and provincial Medical Expense Tax Credit covers about 26 percent of the expenses that an individual claims. Since the credit is based on actual expenses, it is of greater value to those with higher incomes. It provides a proportionately larger benefit to people who have extraordinary one-time expenses than to those who have ongoing costs for disability-related supports and services.

Only about 10 percent of people who claim the Disability Tax Credit also make a claim for medical expenses.

Again, we make a recommendation for an overhaul of the treatment of itemized expenses to replace the current METC. But until these are put in place, some changes could be made in line with the principles we have set out above.

We recommend...

45. In its 1997 Budget the Government of Canada should:

- a) Add to the list of eligible items for the **Medical Expense Tax Credit** all **necessary medical expenses**, including items such as nutritional supplements for persons living with HIV. Where the cost has a component of personal consumption, a predefined amount should be allowed for the credit based on typical costs. To illustrate, \$1,000

There is also concern that the reliance on MDs to determine eligibility perpetrates a medical model in the understanding of disability which may not accommodate the needs of all persons with disabilities. Some feel that the medical model implies an emphasis on illness and "Things which are broken," and is less sensitive to disabilities which are more sensory, emotional or cognitive.

— *Richard Shillington*

Taxation and Disability

might be allowed for medically necessary air conditioning or \$5,000 to reflect the additional cost of installing a lift in a van and to take account of the fact that a person who requires a lifting device *cannot* purchase a smaller, less expensive vehicle.

b) Make eligible for the Medical Expense Tax Credit the reasonable cost of medically necessary **attendant care** provided by family members.

c) **Remove** the \$5,000 **limit** on claims for attendant care expenses.

d) Remove the \$1,614 limit on the **net income exemption** for the METC and use the funds for other recommendations made in this report.

Also in the Right Direction

Apart from immediate changes to the Disability Tax Credit and the Medical Expenses Tax Credit, there are a number of tax measures that must be changed to increase equity and fairness for people with disabilities. Changes in these measures would be low-cost, but would also demonstrate a commitment to the principles we recommend as the basis for all reforms from now on.

For example, while the tax system allows individuals to deduct moving expenses if the move is required to go to a new job or to attend a post-secondary institution, these expenses are not deductible for people who move from inaccessible housing to accessible housing.

“The Income Tax Act does not define employment, domestic chores, education and leisure activities or the preparation and cooking of food as usual daily living activities for individuals with disabilities.”

— *Participant in*

Yellowknife consultation

In addition, the tax treatment of premiums for, and benefits from, disability insurance plans is uneven and leads to significant disadvantages for people with disabilities. While incorporated businesses can deduct the cost of premiums paid on behalf of employees for disability insurance, self-employed individuals cannot deduct this as a business expense. If the premiums are deducted as expenses, any benefits subsequently paid from the plan are taxable in the hands of the person who receives them. If the premiums are not deducted as expenses, any benefits subsequently paid out are not taxable. Self-employed Canadians should have the choice to deduct the premiums as business expenses or not.

Today, if the employer pays any portion of the premiums for disability insurance on behalf of an employee, any benefits that the employee subsequently receives under the plan are taxable. This should be changed so that benefits are taxable only if the employer has paid more than 50 percent of the cost of the premiums.

We recommend...

46. In its 1997 Budget, the Government of Canada should:

- a) Expand the conditions for tax recognition of **moving expenses** to include those necessitated by a move to accessible housing.
- b) Allow self-employed Canadians to deduct the cost of **disability insurance premiums**, if they choose, recognizing that the benefits would be taxable.

- c) Treat benefits from disability-income plans as taxable only if the employer pays more than half of the premiums.

Applying the Income Tax Act

People with disabilities have experienced problems with the way the *Income Tax Act* is applied. Many of these problems can be addressed through simple actions such as revisions to interpretation bulletins used by Revenue Canada. For example, people with disabilities told us that even though the law has not been changed, they believe the interpretation used by Revenue Canada on the T2201 form, used for claims for the Disability Tax Credit, has become more restrictive recently. Many people who had submitted claims for the credit now appear to be ineligible. The law must be respected, of course, but the interpretation of the law must be fair and *must be seen to be fair*.

Revenue Canada has retroactively assessed people who claimed the Disability Tax Credit, even though they were previously allowed the credit and had provided a certificate from a medical professional to substantiate their claim.

“The federal government is focussing more and more on cost effectiveness and less and less on value to society.”

— *Participant in*

Vancouver consultation

In line with the principles that we outlined in recommendation 42, we also feel that the disability-related expenses covered by the Special Opportunity Grants for students with disabilities who receive Canada Student Loans should not be treated as taxable income.

We recommend...

47. For the 1996 taxation year, the Government of Canada should **review the T2201 form**, in consultation with the disability community, to make it consistent with the statutory definition.
48. The Government of Canada should immediately **limit “retroactive” assessment of the Disability Tax Credit** to cases where no bona fide Disability Tax Credit valid on its face was submitted. The government should not reassess those who were certified eligible by a physician or optometrist.
49. The Government of Canada should allow for a broad interpretation of **expenses related to vocational rehabilitation**. If possible, this should be accomplished by Revenue Canada through a bulletin rather than by legislation.
50. The Government of Canada should **not treat Special Opportunity Grants** for students with disabilities under the Canada Student Loans Program as **taxable income**.

A NEW DISABILITY EXPENSE TAX CREDIT

The independent experts who studied the tax system as well as the participants in our consultations called for two things:

- refundability of a tax credit that recognizes the costs of disability, and
- a tax credit that more accurately reflects the actual costs to an individual.

The Government of Canada should create a more flexible tax measure to help individuals meet the additional costs of disability. Moving in this direction could be a statement by the federal government that all residents have a right to be a full member of society and that the personal supports, aids and devices that an individual needs to realize this objective would be at least partly paid for by Canada. Such a tax measure would constitute a move in the direction of a pan-Canadian program for disability-related supports and services. It would also be consistent with the broadly based citizenship objectives that ought to underline the federal role in disability.

The proposed Disability Expense Tax Credit can combine the best features of the Disability Tax Credit (DTC) and the Medical Expense Tax Credit (METC). Like the DTC, the new credit should be available to persons whose disabilities prevent them from performing basic functions of daily life, even with the assistance of a technical device or aid. Unlike the DTC,

the credit should be refundable, so that it benefits people who earn very low incomes. For people who are receiving social assistance, the provincial and territorial governments should not consider amounts received under the Disability Expense Tax Credit (DETC) as income and use them to lower benefits paid to these individuals.

This basic portion of the DETC may be set at a lower level than the current Disability Tax Credit, because the full DETC will also take into account receipted disability-related expenses by means of a tax credit more closely related to actual disability-related expenditures.

We recommend...

51. In its 1997 Budget, the Government of Canada should announce its intention to introduce, for the 1998 tax year, a new Disability Expense Tax Credit to replace the Disability Tax Credit and the Medical Expense Tax Credit for persons with disabilities. The eligibility criteria for the Disability Expense Tax Credit should reflect the current review of the Disability Tax Credit.

The exact design of the **Disability Expense Tax Credit** should depend on consultation with the disability community but it should have the following features:

- a) The federal value of the credit should be **refundable** (with the provincial share where arrangements have been made with a province).

- b) The credit should have two components; a **base amount** available to all those who meet the overall eligibility criteria; and a second amount which would be based on disability-related **“out-of-pocket” expenditures**.
- c) The tax treatment of eligible “out-of-pocket” expenses should be modified as indicated above. Eligible expenses should include medically-necessary expenses and increases in employment-related expenses due to disability.
- d) The base amount of the credit reflects an “across-the-board” estimate of undocumented costs. This base level should be set recognizing the change in the treatment of the recognized, “receipted” expenses.
- e) The base amount of the credit should be **refundable in advance on a quarterly basis** much like the practice with the GST credit.
- f) The **tax rate** used to calculate the credit, normally 17 percent, should be increased to 29 percent for low-income beneficiaries.

INVOLVE THE COMMUNITY

We know that we have not resolved all the tax questions related to disability in this report. Some issues require further study prior to instituting reforms. At the same time, we feel that it is important to recognize that a new approach is needed. The disability community should be involved in plans to change and improve the tax system so that problems can be avoided and so that people feel well served by a government that treats them fairly.

“Persons with disabilities cut across every segment of society. They are youth. They are Aborigines. They are our aged populations. They are all of us.”

— *Participant in
Toronto consultation*

Because people are not federal or provincial beings, nor are they isolated from business, labour and other groups that help determine how our society functions, true consultation should involve all of these groups as well. There are a number of issues on which reforms have been recommended, and these form the basis of the Task Force's final recommendation.

We recommend...

52. The Government of Canada should establish an **advisory panel** made up of persons with disabilities, representatives of the federal government, provincial governments, the insurance industry, employers and organized labour, to provide within **one year**, recommendations for, among other things, tax measures that deal with:
- a) a **review of the criteria** and definitions used for determining eligibility for the Disability Expense Tax Credit;
 - b) consistent tax treatment of **disability-related income sources**;
 - c) the tax treatment of **trusts**;
 - d) determining whether the three claims for **dependents with disabilities** can be replaced by one claim;
 - e) effective measures to promote **barrier removal by businesses**;
 - f) allowing non-incorporated businesses the same tax treatment of **supplementary health and dental benefits** as incorporated businesses;
 - g) **other issues** relevant to the tax treatment of disability.

THANKS



The Task Force on Disability Issues thanks the Reference Group of organizations whose representatives helped shape the themes that are reflected in this report. Their willingness to participate in the work of the Task Force, and their collective commitment to the needs of women and men with disabilities in Canada, were invaluable. We hope we have listened carefully to your wise voices.

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