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Persons with Disabilities in the Canadian Labour Market: An Overlooked Talent Pool

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***Persons with Disabilities in the Canadian Labour Market:
An Overlooked Talent Pool
(Background Paper)***

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CONTENTS

1	INTRODUCTION.....	1
2	DEFINING AND UNDERSTANDING “DISABILITY”: A COMPLEX ISSUE INVOLVING MANY VARIABLES	1
3	STATISTICS CANADA’S PARTICIPATION AND ACTIVITY LIMITATION SURVEY: 2001 AND 2006	2
4	BARRIERS TO EMPLOYMENT.....	3
5	FEDERAL SKILLS DEVELOPMENT AND EMPLOYMENT PROGRAMS FOR PEOPLE WITH DISABILITIES.....	4
5.1	Fiscal Measures	4
5.2	Federal Transfers and Cost-Sharing Programs	4
5.3	Opportunities Fund for Persons with Disabilities	5
5.4	Literacy and Essential Skills	6
5.5	Enabling Accessibility Fund	6
5.6	Canada Student Grants Program and Canada Student Loans Program	6
5.7	Canada Pension Plan Disability Benefits Program.....	7
5.8	Social Development Partnerships Program – Disability	7
5.9	Entrepreneurs with Disabilities Program.....	7
6	LEGISLATIVE FRAMEWORK	7
6.1	United Nations’ <i>Convention on the Rights of Persons with Disabilities</i>	7
6.2	Overview of Canadian Federal Legislation	8
7	CONCLUSION	9
	APPENDIX – THE INDEPENDENT LIVING PARADIGM/SOCIAL MODEL: A NEW WAY OF LOOKING AT DISABILITY	

PERSONS WITH DISABILITIES IN THE CANADIAN LABOUR MARKET: AN OVERLOOKED TALENT POOL

1 INTRODUCTION

In the present context of labour shortages and skills gaps in Canada, it has been acknowledged that the country cannot afford to keep going without the talents of entire groups of populations that are currently under-represented in the labour market. Among those groups are people with disabilities. This group is far from homogenous, and therefore not easy to define. Data in this paper helps to show a picture of the employment situation of people with disabilities. This paper also addresses some of the barriers that people with disabilities face, and provides an overview of certain federal programs that can help them. Finally, this paper discusses the Canadian legislative framework, with a focus on measures that prevent discrimination against people with disabilities, allowing them to join the workforce and engage fully in their communities.

2 DEFINING AND UNDERSTANDING “DISABILITY”

These days, most people agree that disability should not be understood solely as comprising physical and mental impairments. Disability should also be understood as the interaction between these impairments and other external barriers that restrict the participation of people with disabilities in society. But this has not always been the perception.

In the past, disability was seen through an “impairment” lens that used the medical model to explain disability. According to this model, the disability was a problem or abnormality situated in an individual’s body or mind. Therefore, while attempts to “fix” the individual would be made, the role of social and physical environments in the disabling process was largely ignored. Consequently, persons with impairments were labelled as “defective” and seen as inferior to people without disabilities.¹

Attempts were later made by researchers to include non-medical criteria for disability, such as social and physical environments, but the notion that impairments are the direct cause of disability remained central until at least the 1990s.

That’s when the “ecological” perspective emerged in response to criticism of previous approaches. According to this generally accepted viewpoint, disability is a social construct created by “ability-oriented” and “ability-dominated” environments.² As noted by the World Health Organization (WHO), “[e]ven though impairment has an objective reality that is attached to the body or mind, disability has more to do with society’s failure to account for the needs of persons with disabilities.”³

The human rights model is primarily concerned with the individual's inherent dignity as a human being.⁴ An example of that model is the United Nations' *Convention on the Rights of Persons with Disabilities* (CRPD), ratified by Canada on 11 March 2010. The preamble to the CRPD stresses that "disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others."⁵

The WHO explains that how we define disability allows us to intervene differently to solve disability issues and barriers.

Defining disability as an interaction [between persons with impairments and attitudinal and environmental barriers] means that ... progress on improving social participation can be made by addressing the barriers which hinder persons with disabilities in their day to day lives.⁶

Accordingly, in 2001, the WHO adopted the *International Classification of Functioning, Disability and Health* (or ICF, as it is commonly known) as a conceptual framework for its *World Report on Disability*. The ICF, according to the WHO, "was developed through a long process involving academics, clinicians, and – importantly – persons with disabilities."⁷ The ICF's lens appears to be one of the most relevant to understanding the issue at hand here – engaging people with disabilities to maximize human capital.

The ICF understands functioning and disability as a "dynamic interaction between health conditions and contextual factors, both personal and environmental."⁸ It categorizes problems with human functioning into three interconnected areas: impairments, activity limitations and participation restrictions.⁹

The ICF model considers that disability "refers to difficulties encountered in any or all three areas of functioning."¹⁰ The ICF's neutral language does not distinguish between the type and cause of disability – for instance, between physical and mental health. The WHO believes that the "ICF is universal because it covers all human functioning and treats disability as a continuum rather than categorizing people with disabilities as a separate group: disability is a matter of more or less, not yes or no."¹¹

3 STATISTICS CANADA'S PARTICIPATION AND ACTIVITY LIMITATION SURVEY: 2001 AND 2006

According to data taken from the latest Participation and Activity Limitation Survey (PALS) conducted in 2006, about 2.5 million working-age Canadians (aged 15 to 64) reported some form of activity limitation, representing a disability rate of 11.5% for that population.¹²

On a positive note, employment rates increased among this group of Canadians. While the 2001 PALS found that 46% of people with disabilities (aged 15 to 64) were employed compared to 74% of those without disabilities, the 2006 PALS reported that 51% of people with disabilities (aged 15 to 64) were employed compared to 75% of people without disabilities.

While approximately one-half of working-age individuals with disabilities are not in the labour force, it has been well documented that a significant number of these individuals could work if they did not face so many barriers to employment.

The employment rate of people with disabilities improves with their level of education. However, many people with disabilities who have completed post-secondary education still find it difficult to enter the workforce.

The federally appointed Panel on Labour Market Opportunities for People with Disabilities reported in early 2013 that there are 795,000 people with disabilities in Canada of working age; 340,000 of those individuals have post-secondary education and disabilities that do not prevent them from working, yet they are without employment.¹³ These figures show that many employers who have job vacancies to fill are currently not tapping into a significant talent pool.¹⁴

4 BARRIERS TO EMPLOYMENT

Many barriers contribute to the employment gap for people with disabilities. Those barriers include the following.

- Many people with disabilities lack access to education and training, and are not job-ready.
- The social isolation of numerous people with disabilities limits their encounters with key contacts and their knowledge of opportunities to enter the workforce or access training.
- Some employers have negative attitudes and misconceptions with regard to people with disabilities, which can lead to discriminatory practices.
- Many such employers are unaware of the capacity and abilities of people with disabilities in the workforce.
- Workplaces can be inaccessible, not only due to their physical location but also, for example, when it comes to a lack of workplace tools, “enabling” computer hardware and software, websites, etc.
- Employers lack knowledge about disability issues, including the duty to accommodate, how to accommodate and the cost of accommodations.
- There are not enough recruitment and outreach strategies to make contact with people with disabilities.¹⁵
- There is not enough support of the type required for individuals with disabilities to find and maintain a job, and to remain competitive in the labour market. What’s more, for those who receive social assistance, entering the labour market may result in losing access to various kinds of support, such as paid medications, mobility and assistive devices, child care, homecare, and home and work accommodation.¹⁶

Barriers to employment can arise in both the private and public sectors. However, the two work environments are very different from one another. The public sector has the financial resources necessary to provide accommodations for people with disabilities,

as well as policies to encourage their increased representation, such as the federal *Employment Equity Act*. Small and medium-sized businesses in the private sector face greater challenges when it comes to ensuring accessibility or accommodations, often due to limited resources.

However, some of these challenges and barriers can be as much about misconceptions as about the feasibility of addressing them. Building a business case for hiring people with disabilities could help remove or diminish the perception that the cost of accommodations is excessively high. Also, as has been suggested by the Public Service Commission of Canada, employers could be made aware of the direct and indirect benefits of welcoming a person with a disability within their workplace: “Success comes from understanding the value an organization gains from creating an inclusive environment.”¹⁷

Another distinction to keep in mind is the gender factor. Women and men with disabilities do not experience labour market difficulties in the same way. Women with disabilities are three times more likely than men with disabilities to be a lone parent, and even slightly more likely to be in that situation than women without disabilities.¹⁸ This precarious financial situation can limit their ability to accept a job opportunity that involves uncertainty, part-time work and so on. Other differences include lower average income levels in comparison to men with disabilities, as well as unstable work patterns.¹⁹

5 FEDERAL SKILLS DEVELOPMENT AND EMPLOYMENT PROGRAMS FOR PEOPLE WITH DISABILITIES²⁰

5.1 FISCAL MEASURES

The tax system is the most important federal program for helping persons with disabilities to cover the additional costs associated with their disability. Tax measures compensate for a portion of those additional costs through credits such as the tax credit for medical expenses, the refundable medical expense supplement, the tax credit for informal caregivers, the disability supports deduction, the disability tax credit, the child disability benefit, the infirm dependent credit, the working income tax credit, the home buyers’ amount and other personal tax credits.²¹

5.2 FEDERAL TRANSFERS AND COST-SHARING PROGRAMS

The federal government transfers substantial sums of money to the provincial and territorial governments through the Canada Social Transfer. The Canada Social Transfer is the federal block transfer to provinces and territories in support of post-secondary education (\$3.75 billion) and social assistance and social services (\$7.19 billion). It also includes an amount of \$1.28 billion in support of children. The Canada Social Transfer is calculated on an equal per capita cash basis and will cost \$12.2 billion in 2013–2014. The yearly amount to be transferred is set in legislation with an annual growth of 3%.²²

The Government of Canada has also entered into three bilateral cost-sharing agreements with the provinces and territories to support the development of programs that provide unemployed Canadians with the skills and experience required to join the workforce.²³

- Through Labour Market Development Agreements, the federal government provides independent funding to all provinces and territories to “help unemployed Canadians quickly find and return to work, and to develop a skilled labour force that meets current and emerging needs of employers.”²⁴

Employment benefits and support measures are delivered under Part II of the *Employment Insurance Act*. These programs assist individuals to prepare for, obtain and maintain employment.²⁵

The federal government transfers \$1.95 billion annually under the Labour Market Development Agreement program, specifically targeting unemployed individuals who are eligible for Employment Insurance.²⁶

- Through Labour Market Agreements, the federal government provides funding to all provinces and territories to support unemployed persons who are not eligible for Employment Insurance and to support employed persons who do not have a high school diploma or a recognized certification, or who have low levels of literacy and essential skills.²⁷

The focus of the Labour Market Agreements is to develop skills for unemployed individuals, including – but not limited to – persons with disabilities. The federal government has committed \$3 billion over six years to the Labour Market Agreements (\$500 million per year from fiscal year 2008–2009 to 2013–2014).²⁸

- Through the Labour Market Agreements for Persons with Disabilities, the federal government provides dedicated funding to some provinces for programs and services that aim to increase the employment rate of persons with disabilities.

In 2013–2014, the federal government’s contribution to participating provinces under the agreements was planned at \$222 million.²⁹

In Budget 2013, the Government of Canada announced that it would be renegotiating the Labour Market Agreements and the Labour Market Development Agreements as they expire so that a portion of the transfers would be used to create the new Canada Jobs Grant.³⁰ Under this new program, the Government of Canada would provide qualified educational institutions with up to \$5,000 per trainee per year to support the trainee’s training and skills development. The employer and the provincial/territorial government would each have to match the \$5,000 provided by the federal government for a total of \$15,000.³¹

5.3 OPPORTUNITIES FUND FOR PERSONS WITH DISABILITIES

The Opportunities Fund was created in 1997 with an annual budget of \$30 million. The largest portion of that figure (\$26.8 million) is allocated to contribution agreements whose goal is to help people with disabilities overcome barriers to employment, prepare for the labour market, find and maintain employment or become self-employed. One of the strengths of this program is that there is no attachment to Employment Insurance. Anyone in need of assistance can receive

help from those who deliver the program. The Opportunities Fund is an important program that has had considerable success over the years.

In Budget 2012, the government announced it was investing an additional \$30 million over three years to enable persons with disabilities to obtain work experience with small and medium-sized businesses. The government hoped that this would not only help people with disabilities find work, but would also make employers aware of the employment-related abilities of people with disabilities.³²

In Budget 2013, the government announced it was “[r]eforming and extending the Opportunities Fund with ongoing funding of \$40 million per year starting in 2015–16 to provide more demand-driven training solutions for persons with disabilities.”³³

5.4 LITERACY AND ESSENTIAL SKILLS

This program works with partners to create opportunities for Canadians to acquire learning, literacy and essential skills. Its annual budget is \$21.5 million.

Literacy and essential skills are a crucial component of employment of persons with disabilities, since one of the main barriers to employment is the fact that candidates are not job-ready and, in some cases, disconnected from labour market expectations.

5.5 ENABLING ACCESSIBILITY FUND

The Enabling Accessibility Fund was created to support projects that remove obstacles, improve accessibility, and enable persons with disabilities to work and participate fully in the activities of their communities across Canada.³⁴

As of 2010, the fund’s financial commitment was \$45 million over three years. The program was to terminate in March 2013. However, Budget 2013 announced ongoing funding for the fund at \$15 million per year. Funding should support “capital costs of construction and renovations to improve physical accessibility for persons with disabilities, including workplace accommodation.”³⁵

5.6 CANADA STUDENT GRANTS PROGRAM AND CANADA STUDENT LOANS PROGRAM

The Canada Student Grants Program offers grants to students from low- and middle-income families, students with dependants, part-time students and students with permanent disabilities. The latter may receive a grant of \$2,000 per academic year to help them cover the costs of housing, tuition fees and books. Another grant covers the cost of purchasing equipment and services for students with a permanent disability, with a maximum value of \$8,000 per academic year.

In 2010–2011, the most recent year for which data are available, 20,613 grants were awarded to students with permanent disabilities at a cost of \$38.6 million.³⁶

The Canada Student Loans Program also offers measures to facilitate repayment of student debt for people with permanent disabilities.

5.7 CANADA PENSION PLAN DISABILITY BENEFITS PROGRAM

The Government of Canada assists persons with disabilities by administering the Canada Pension Plan (CPP) Disability Benefits Program.³⁷ CPP disability benefits offer income protection for CPP contributors who are unable to work because of a severe and prolonged disability. One of the objectives of the program is to facilitate their return to work if they are able to work, by providing the services of a rehabilitation program. In 2013, the maximum monthly benefit was \$1,212.90 per recipient and \$228.66 per eligible child.³⁸

5.8 SOCIAL DEVELOPMENT PARTNERSHIPS PROGRAM – DISABILITY

The Social Development Partnerships Program – Disability offers funding to support the activities of not-for-profit social organizations that help people with disabilities merge socially into Canadian society and integrate those who want to work.³⁹

Planned spending for the program for 2012–2013 is \$20.2 million, with estimated expenditures for 2013–2014 and 2014–2015 being the same.

5.9 ENTREPRENEURS WITH DISABILITIES PROGRAM

The Entrepreneurs with Disabilities Program is for persons with disabilities who live in urban and rural communities in western Canada. The program offers services such as help with developing business plans, mentoring and counselling, business management training and business loans.⁴⁰

6 LEGISLATIVE FRAMEWORK

6.1 UNITED NATIONS' CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Canada has an international reputation for being a leader on disability rights issues. Canada participated in the drafting of the CRPD with Canadians with disabilities and their representative organizations. The CRPD was adopted by the United Nations General Assembly in December 2006. Canada signed the CRPD on the day it was opened for signature on 30 March 2007. The CRPD aims to enable the inclusion of people with disabilities.⁴¹ The focus now is on how to best implement the rights enshrined in the CRPD in the Canadian legislative framework.

It should be noted that Article 27 of the CRPD affirms the right of persons with disabilities to work and make a living on an equal basis with others. It prohibits discrimination in employment, promotes self-employment, encourages the private sector to hire persons with disabilities, promotes workplaces and work-related services that are accessible and inclusive, and calls for accommodation at work for individuals with disabilities.

Human rights legislation protecting employees from workplace discrimination have been enacted at both the federal and provincial / territorial levels. A number of

strategies, policies and programs that help integrate individuals with disabilities into the labour market have been enacted at the federal, provincial or territorial levels, or in a combination thereof. The following section provides more information about key pieces of federal legislation.

6.2 OVERVIEW OF CANADIAN FEDERAL LEGISLATION

The *Canadian Charter of Rights and Freedoms* (1982) is the first part of the *Constitution Act*⁴² Section 15 of the Charter came into effect in 1985. It guarantees “equal protection and equal benefit of the law without discrimination” to individuals in Canada with a mental or physical disability, among others.⁴³

The Charter is intended to protect Canadians from discrimination and provide them better access to equal opportunities to employment, pre-employment services and reasonable accommodation. In the case of people with disabilities, such opportunities cannot be denied to them on the basis of a disability, as that would constitute discrimination.

The *Canadian Human Rights Act* (CHRA) of 1985 prohibits discrimination on the grounds of 11 factors, including race, national or ethnic origin, colour, religion, age, sex and disability.⁴⁴ The CHRA applies only to the federal public service and to employers in federally regulated industries, such as banking, communications and transportation. The Canadian Human Rights Commission and the Canadian Human Rights Tribunal were created under the CHRA to investigate and arbitrate any discrimination claims.

There is no Canadian legislation dealing with disability issues in an all-encompassing manner, as does the United States’ *Americans with Disabilities Act*. The merits of an omnibus federal statute have been the subject of debate for over 30 years, with varying levels of support.⁴⁵ Some provinces have specific legislation to promote human dignity and social cohesion, such as Ontario’s *Accessibility for Ontarians Disabilities Act, 2005*.

Similarly, there is no unique strategy that deals comprehensively with employment issues related to individuals with disabilities. Rather, a number of legislative and policy tools affirm employers’ and employees’ rights and obligations with regard to the role each should play to advance the employment of people with disabilities.

The *Employment Equity Act* (EEA) aims to achieve fair representation and equality in the workplace.⁴⁶ The EEA targets four designated groups: women, Aboriginal peoples, persons with disabilities and members of visible minorities. Under the EEA, the Public Service Commission is responsible for identifying and removing employment barriers that may discourage individuals with disabilities from participating in the workforce. The Act covers:

- federally regulated private sector employers, Crown corporations and other federal organizations with 100 or more employees;
- core public administration organizations;

- separate employer organizations in the federal public sector with 100 or more employees;
- other public sector employer organizations with 100 or more employees; and
- federal contractor organizations that are provincially regulated suppliers of goods and services, that have at least 100 employees in Canada and that receive contracts of \$200,000 or more from the federal government.⁴⁷

Both the CHRA and the EEA impose on employers (and, where applicable, unions) the duty to accommodate a job applicant or an employee with a disability, but only to the extent that such a measure would not cause undue hardship to the employer.

While there is no statutory definition of the term “undue hardship,” section 15(2) of the CHRA requires consideration of three factors – health, safety and cost – to determine if an accommodation creates an undue hardship.⁴⁸

In addition, the Supreme Court of Canada has considered a number of cases that have outlined other factors to be considered, such as the type of work performed, the size of the workforce, the interchangeability of job duties, the financial ability to accommodate, the impact on a collective agreement and the impact on employee morale.⁴⁹

In situations where undue hardship has not been inflicted upon an employer, failure to accommodate persons with disabilities may be viewed as discrimination under the CHRA.⁵⁰ Employers are also responsible for ensuring that their work environment is a safe workplace free of harassment. They must take any disciplinary action deemed reasonably appropriate for a situation involving discrimination or failure to remove obstacles to the employment of people with disabilities.

The Treasury Board of Canada Secretariat’s *Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service* has been in effect since 3 June 2002. According to the Secretariat, “This policy outlines the principal steps necessary to attain the goal of a representative Public Service that includes persons with disabilities.”⁵¹ Progress in that respect is monitored yearly in the government’s report, *Employment Equity in the Federal Public Service*. The report is the responsibility of the Public Service Human Resources Management Agency of Canada.

7 CONCLUSION

In order to maximize its human resources potential, Canada will likely need to look toward groups that are currently under-represented in the labour force. Persons with disabilities represent a potentially significant domestic source of labour that could offset some of the demographic pressures of Canada’s aging labour market, and fill projected skills and labour shortages.

Canada needs all hands on deck if it is to fully recover from the 2008 recession. This is an opportunity for people with disabilities to show their work-related abilities, abolish misconceptions, ask for training or other forms of education, and find and maintain employment.

Engaging people with disabilities can be a win-win solution. Many of these individuals want to, and need to, work. Employers, meanwhile, need human resources to support the growth of their businesses as well as that of the Canadian economy.

NOTES

1. Office for Disability Issues, [Defining Disability: A Complex Issue](#), Human Resources Development Canada, Gatineau, Quebec, 2003, p. 5.
2. See the appendix for a table prepared by the [Council of Canadians with Disabilities](#) that presents the main differences between the two paradigms.
3. Office for Disability Issues (2003), p. 7.
4. Ibid.
5. United Nations, "Preamble," (e), [Convention on the Rights of Persons with Disabilities](#), December 2006.
6. World Health Organization, [World Report on Disability](#), 2011, p. 4.
7. Ibid., p. 5.
8. Ibid., p. 4.
9. "Impairments" are problems in body function or alterations in body structure (for example, paralysis or blindness), "activity limitations" are difficulties in executing activities (for example, walking or eating) and "participation restrictions" are problems with involvement in any area of life (for example, facing discrimination in employment or transportation).
10. World Health Organization (2011), p. 4.
11. Ibid.
12. Statistics Canada, [Participation and Activity Limitation Survey 2006: Labour Force Experience of People with Disabilities in Canada, Analytical Paper](#), Catalogue no. 89-628-X – No. 007, 2008.
13. To learn more about how to overcome barriers to employment and to identify success stories and best practices, the Government of Canada appointed a Panel on Labour Market Opportunities for People with Disabilities in July 2012.
14. Panel on Labour Market Opportunities for Persons with Disabilities, [Rethinking DisAbility in the Private Sector](#), 2013.
15. Public Service Commission of Canada, "Recruitment Barriers," in [Recruitment of Persons with Disabilities: A Literature Review](#), Ottawa, 2011, p. 17.
16. Disability supports are mainly the responsibility of provinces and territories.
17. Panel on Labour Market Opportunities for Persons with Disabilities (2013), p. 7.
18. Canadian Council on Social Development, "[Barriers specific to women with disabilities in the labour market](#)," in *Bringing Down the Barriers: The Labour Market and Women with Disabilities in Ontario*, Ottawa, 2000.
19. Ibid.
20. A portion of these program descriptions is taken from Human Resources and Skills Development Canada's annual *Report on Plans and Priorities*. For example: Human Resources and Skills Development Canada, "[Section 3 – Supplementary Information](#)," in *2012–13 Report on Plans and Priorities, Human Resources and Skills Development Canada*.

21. Canada Revenue Agency, [Working income tax benefit \(WITB\)](#). This benefit also provides a supplement for eligible persons with disabilities. See National Council of Welfare, [Profile of a federal fiscal measure – A descriptive study of the Working Income Tax Benefit \(WITB\)](#), 2012.
22. Department of Finance Canada, [“What is the Canada Social Transfer \(CST\)?,”](#) *Canada Social Transfer*.
23. Human Resources and Skills Development Canada, [Employment Insurance \(EI\)](#). An unemployed person (“insured participant,” as defined by s. 58 of the [Employment Insurance Act](#)) may be entitled to temporary financial assistance because he or she is between jobs, or cannot work due to sickness, childbirth or parenting, or is providing care to a family member who is gravely ill.
24. Human Resources and Skills Development Canada, [Labour Market Development Agreements](#).
25. Canada Employment Insurance Commission, [Employment Insurance: 2011 Monitoring and Assessment Report](#), Gatineau, Quebec, March 2012, pp. 13–14.
26. Human Resources and Skills Development Canada, [Labour Market Development Agreements](#).
27. Human Resources and Skills Development Canada, [Labour Market Agreements](#).
28. Ibid.
29. Government of Canada, [“Chapter 3.1, Connecting Canadians with Available Jobs,”](#) *Budget 2013*, 2013. The budget states that the federal government will introduce “a new generation of Labour Market Agreements for Persons with Disabilities by 2014 to better meet the employment needs of businesses and the employment prospects of persons with disabilities.”
30. Higher Education Strategy Associates, [The 2013 Federal Budget: A Higher Education Strategy Associates Commentary](#), Toronto, March 2013, p. 1.
31. Government of Canada, [“Canada Job Grant: Economic Action Plan 2013,”](#) *Canada’s Economic Action Plan*, 2013.
32. Government of Canada, [“The Opportunities Fund for Persons with Disabilities,”](#) *Canada’s Economic Action Plan*, 2012.
33. Government of Canada (2013), [“Chapter 3.1, Connecting Canadians with Available Jobs.”](#)
34. Human Resources and Skills Development Canada, [Funding: Enabling Accessibility](#). The Enabling Accessibility Fund provides more information.
35. Government of Canada (2013), [“Chapter 3.1, Connecting Canadians with Available Jobs.”](#)
36. Human Resources and Skills Development Canada, [Canada Student Loans Program Annual Report: 2010–2011](#), Gatineau, Quebec, 2012.
37. Quebec administers its own disability benefits program under the [Régie des rentes du Québec](#). For more information about disability benefits, see Service Canada, [Canada Pension Plan Disability Benefits](#), Catalogue no. ISPB-153-03-12E, March 2012.
38. Service Canada, [Canada Pension Plan – Payment Amounts, January–December 2013](#).
39. Human Resources and Skills Development Canada, [Funding: Social Development for Disability Programs](#). More information can be found here about the disability component of the Social Development Partnerships Program.

40. Western Economic Diversification Canada, [Entrepreneurs with Disabilities Program: Helping entrepreneurs with disabilities build their business future](#).
41. Chantal Collin, [Canada and the Convention on the Rights of Persons with Disabilities](#), Publication no. 2012-89-E, Parliamentary Information and Research Services, Library of Parliament, Ottawa, 5 December 2012.
42. [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.
43. *Ibid.*, s. 15.
44. [Canadian Human Rights Act](#), R.S.C. 1985, c. H-6, s. 2.
45. Michael Prince, "[Does Canada need a national disability act? Should BC enact a disability law?](#)," Public lecture, University of Victoria, 2 April 2007.
46. [Employment Equity Act](#), S.C. 1995, c. 44.
47. Human Resources and Skills Development Canada, [Employment Equity Act: Annual Report 2011 – Labour Program](#), 2013, p. 60.
48. *Canadian Human Rights Act*, s. 15(2):

For any practice mentioned in paragraph (1)(a) to be considered to be based on a *bona fide* occupational requirement and for any practice mentioned in paragraph (1)(g) to be considered to have a *bona fide* justification, it must be established that accommodation of the needs of an individual or a class of individuals affected would impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost.
49. In [Council of Canadians with Disabilities v. VIA Rail Canada Inc., 2007 SCC 15 \(CanLII\), \[2007\] 1 SCR 650](#), at para. 130, the Supreme Court of Canada summarized previous jurisprudence that has considered the meaning of undue hardship:

The jurisprudence of this Court reveals that undue hardship can be established where a standard or barrier is "reasonably necessary" insofar as there is a "sufficient risk" that a legitimate objective like safety would be threatened enough to warrant the maintenance of the discriminatory standard (*Ontario Human Rights Commission v. Borough of Etobicoke*, [1982 CanLII 15 \(SCC\)](#), [1982] 1 S.C.R. 202); where "such steps as may be reasonable to accommodate without undue interference in the operation of the employer's business and without undue expense to the employer" have been taken (*Ontario Human Rights Commission v. Simpsons-Sears Ltd.*, [1985 CanLII 18 \(SCC\)](#), [1985] 2 S.C.R. 536, at p. 555); where no reasonable alternatives are available (*Central Okanagan School District No. 23 v. Renaud*, [1992 CanLII 81 \(SCC\)](#), [1992] 2 S.C.R. 970); where only "reasonable limits" are imposed on the exercise of a right (*Eldridge*, at para. 79); and, more recently, where an employer or service provider shows "that it could not have done anything else reasonable or practical to avoid the negative impact on the individual" (*Meiorin*, at para. 38). The point of undue hardship is reached when reasonable means of accommodation are exhausted and only unreasonable or impracticable options for accommodation remain.
50. Canadian Human Rights Commission, "What is undue hardship?," [Duty to Accommodate](#).
51. Treasury Board of Canada Secretariat, [Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service](#).

APPENDIX – THE INDEPENDENT LIVING PARADIGM/SOCIAL MODEL: A NEW WAY OF LOOKING AT DISABILITY

	Old/Medical Model Paradigm	Social/Independent Living Model Paradigm
Disability definition	Limits imposed by medical condition	Accommodations required by an individual to participate in society
Strategy to address disability	Fix the individual	Remove barriers, and create access through accommodation and universal design
Method to address disability	Provide medical and rehabilitation services	Provide disability supports
Source of intervention	Professional, medical and rehabilitation service providers	Peers, generic service providers and consumer information services
Entitlements	Eligibility for benefits based on severity of impairments	Eligibility for accommodation defined as a human right / disability right
Role of person with a disability	Patient/client	Citizen, consumer, decision maker, empowered peer supporter / advocate
Domain of disability	Medical problem	A socio-environmental issue involving access, accommodations and equality

Source: Council of Canadians with Disabilities, [Canada Pension Plan Disability Benefits](#), Presented to the Sub-Committee on the Status of Persons with Disabilities, 12 February 2003, p. 4.