

***Level the playing field:***  
**A natural progression from**  
**playground to podium for**  
**Canadians with disabilities**

**Standing Senate Committee**  
**on Human Rights**

The Honourable Mobina S. B. Jaffer

*Chair*

The Honourable Patrick Brazeau

*Deputy Chair*

**June 2012**

*Ce document est disponible en français.*

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# MEMBERS OF THE COMMITTEE

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*Other Senators who have participated from time to time in the study:*

The Honourable Senators Vim Kochhar, Elizabeth (Beth) Marshall, Yonah Martin, Jim Munson, Nancy Ruth and Terry Stratton.

*Parliamentary Information and Research Service, Library of Parliament:*

Havi Echenberg, Allison Goody, Julia Nicols and Julian Walker, Analysts.

*Senate Committees Directorate:*

Daniel Charbonneau, Clerk of the Committee

Debbie Larocque, Administrative Assistant

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## ORDER OF REFERENCE

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Extract of the Journals of the Senate, Wednesday, June 22, 2011:

The Honourable Senator Jaffer moved, seconded by the Honourable Senator Munson:

That the Standing Senate Committee on Human Rights be authorized to examine and monitor issues relating to human rights and, inter alia, to review the machinery of government dealing with Canada's international and national human rights obligations;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the First session of the Thirty-seventh Parliament be referred to the committee; and

That the committee submit its final report to the Senate no later than June 30, 2012.

After debate,

The question being put on the motion, it was adopted.

Gary W. O'Brien  
*Clerk of the Senate*

## EXECUTIVE SUMMARY

In *Level the Playing Field: A natural progression from playground to podium for Canadians with disabilities*, the Standing Senate Human Rights Committee examines the current state of sport and recreation for persons with disabilities in the context of Canada's human rights obligations under the United Nations *Convention on the Rights of Persons with Disabilities*. As a signatory to the Convention, Canada recognizes the rights of persons with disabilities to participate in sport, recreational and leisure activities. And yet, over the course of its study, the Committee learned that it can be very difficult for persons with disabilities to "participate in these activities, indicating that we have not yet achieved the full recognition of this right.

There are 4.4 million Canadians with disabilities, and certain studies indicate that as low as 3 per cent of these individuals may be participating in regular organized physical activity. That too few persons with disabilities are able to participate is due in part to barriers such as:

- A lack of accessible facilities and available programs for persons with disabilities;
- A lack of information regarding the sport opportunities that do exist, and the health research that can assist and encourage persons with disabilities to become active;
- Increased costs for specialized equipment and for transportation; and
- A lack of coaches and other people who can help train athletes with disabilities.

The Convention creates obligations for Member States to eliminate barriers that prevent persons with disabilities from fully enjoying their rights. *Level the Playing Field* makes recommendations that will enable the Government of Canada to fulfill its obligations under the Convention and address these barriers, while also developing a more collaborative system that can ensure sport and recreational opportunities are available in all regions of the country, and for all Canadians at whatever level they are able.

In **Chapter II: Active Living for Persons with Disabilities and Human Rights**, the Committee examines Canada's obligations under the Convention within the context of equality rights in Canada. It recommends that all government policies and programs in sport and recreation undergo gender- and diversity-based analysis in order to find and address the negative consequences of any differential impacts they may have on both women and men, on members

of various cultures and ethnic groups, and on persons with disabilities. With respect to the Convention's implementation process, the Committee calls for open, transparent, and substantive engagement between the federal government and stakeholder organisations representing persons with disabilities. It further urges the Government of Canada to sign the Optional Protocol to the Convention in order to permit individuals to bring complaints regarding any alleged violations to the United Nations.

Physical activity is important for all Canadians for promoting physical and mental health and social inclusion. For many persons with disabilities, it can help reduce pain levels and the instance of secondary conditions. Healthy living can also reduce health care costs and minimize the strain on the limited resources of Canada's health care system. In **Chapter III: Health and Human Rights**, the Committee reviews Canada's human rights obligations in the area of health, such as the recognition in Article 25 of the Convention of "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." The Committee also emphasizes the importance of promoting the benefits of physical activity and healthy living for all Canadians. Lastly, the Committee recommends reviewing the federal government's ministerial structure, which currently assigns responsibility for physical activity to the Minister of Health and for sport to the Minister of Canadian Heritage and the Minister of State for Sport, in order to ensure effective policy and program development of the health-related aspects of sport.

**Chapter IV: Barriers to Participation** examines the most significant barriers that impede the participation of persons with disabilities in sport and recreation, including those noted above, and makes recommendations as to how these may be minimized or eliminated. In order to create equal opportunities for persons with disabilities to participate in physical activity, there needs to be more accessible facilities and more programs suited to their needs. There should be an emphasis on getting children and youth involved in physical activity, to develop good habits that will continue into adulthood. The federal government can further develop existing athletic training models, which can be used across the country by more coaches and trainers to create more opportunities for persons with disabilities. Also, the government should take steps to ensure that the cost of specialized equipment and transportation are not too restrictive for persons

with disabilities. Lastly, government should better promote sports for persons with disabilities; in particular, more people need to be made aware of the existing opportunities to get involved. Research that is finding ways to get more people with disabilities active should be supported and its results better disseminated.

The Committee heard concerns that there is insufficient investment in the development of Canada's future elite athletes who participate in sports for persons with disabilities and that not all athletic programs for persons with disabilities across Canada are equitably funded. **Chapter V: Athletic development in Canada** examines the system of athletic development in this country and makes recommendations aimed at promoting equality within it. The Committee notes that the *Canadian Sport Policy* is coming up for renewal and recommends that it include equitable funding guidelines and better coordination and collaboration across the country among all levels of government and all stakeholder organisations, including local sport and recreation organisations, researchers and experts, national and provincial sports organisations, multi-sport organisations, athletes, and organisations representing persons with disabilities. A primary goal of the policy should be to develop more accessible sporting opportunities in every region of Canada. By improving the accessibility and availability of sport programs for persons with disabilities, especially at the grassroots level, more Canadians will not only become physically healthy, but some will also be on track to become Canada's next athletic champions. Equitable support for athletes with disabilities, of all abilities, will help to level the playing field in Canada and ensure that there is a natural progression from the playground to the podium.



## LIST OF RECOMMENDATIONS

### Recommendation #1

The Committee recommends that the Government of Canada ensure that:

- All Canadians have equal opportunities to participate in sport and recreational activities, regardless of disability, gender, culture or ethnic origin; and,
- That gender- and diversity-based analysis is incorporated in research as well as in the development and implementation of all government programs and policies concerning participation in sport and recreational activities.

### Recommendation #2

The Committee recommends that the Government of Canada ensure that there is open, transparent, and substantive engagement with civil society, representatives from organisations advocating for persons with disabilities, and the Canadian public with respect to Canada's human rights obligations under the United Nations *Convention on the Rights of Persons with Disabilities* and its reports to the Committee on the Rights of Persons with Disabilities.

### Recommendation #3

The Committee recommends that the Government of Canada sign and ratify the United Nations Optional Protocol to the *Convention on the Rights of Persons with Disabilities* without further delay.

### Recommendation #4

The Committee recommends that the Government of Canada review its ministerial structure in relation to health, active living and sport in order to ensure effective policy and program development and the promotion of all health-related aspects of physical activity and sport.

### Recommendation #5

The Committee recommends that the Government of Canada work with the provincial and territorial governments and all relevant stakeholders to ensure the creation of more opportunities for Canadians with disabilities to participate in physical activities and sport programs.

### **Recommendation #6**

The Committee recommends that, when the Government of Canada funds building infrastructure projects, it prioritize the development of universally accessible sports and recreation facilities in all regions of Canada.

### **Recommendation #7**

The Committee recommends that the Government of Canada ensure that people with disabilities are not prevented from participating in sports and recreational activities and enjoying the social and health benefits of an active lifestyle due to economic barriers such as high transportation and equipment costs.

### **Recommendation #8**

The Committee recommends that the Government of Canada continue to develop and promote appropriate training and development models for persons with disabilities that can readily be implemented by athletes, coaches and volunteers across the country.

### **Recommendation #9**

The Committee recommends that the Government of Canada promote sport and healthy, active living for persons with disabilities and celebrate and publicize the achievements of athletes with disabilities in a manner that is equal to the way Canada's Olympic athletes are celebrated and promoted.

### **Recommendation #10**

The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada develop a pan-Canadian strategy that:

- Highlights the importance of making sport and recreational opportunities available to all Canadians, with specific reference to persons with disabilities and any other group with specific needs;
- Is designed to assess the needs of persons with disabilities for accessible sporting opportunities in every region of Canada in order to ensure that sport and recreational activities are properly funded and available to all Canadians;
- Ensures that athletes with disabilities are treated equally with athletes participating in traditional sports under all federal programs and that sport initiatives for persons with disabilities receive funding in proportion to their needs and their numbers;
- Ensures that all federal funding to provinces, national sport organisations, and other sport organisations includes conditions as appropriate to ensure that funds are

- distributed equitably to traditional sports and to sports for persons with disabilities; and,
- Is based on thorough consultations with all relevant stakeholders, including local sport and recreation organisations, researchers and experts, national and provincial sports organisations, multi-sport organisations, athletes, organisations representing persons with disabilities, and all levels of governments.

### **Recommendation #11**

The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada promote the values of integration within national and provincial sport organisations where appropriate, while ensuring that any support or funding for these organisations includes requirements and guidelines that ensure equitable funding and resources for persons with disabilities.

### **Recommendation #12**

The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada ensure that funding programs and guidelines are in place for all levels of government to ensure that local organisations serving persons with disabilities are properly supported.

### **Recommendation #13**

The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada create a forum for discussion and cooperation with all relevant stakeholders, including all levels of government as well as sports organisations and athletes, in order to establish a framework setting out clear roles and responsibilities for all levels of government and sports organisations for managing Canada's system of athletic development.



## CHAPTER I: Introduction

*I will give you a quick Paralympic moment. My last Paralympics was in Vancouver, and I am still on the national team. My Paralympic moment was coming into the stadium with 60,000 people cheering, and we were at the very end of the stadium. As a teacher, I saw all these children lined up, so I went to give them high-fives along the line. To my surprise, there were disabled children among them. A little girl with an amputated arm looked at me and I looked at her, and I was like, "Wow, this is so cool. We have included all ability levels along that line." There was a little guy in a chair. There were differing ability levels along the line, and another little girl gave me a quick hug. All those children were excited about being part of the Paralympic Games. That, to me, was my Paralympic moment because that is the legacy of 2010. We have enabled all children to feel they can compete at sports. Every single one of them has that opportunity.*

*Colette Bourgonje, Paralympian*

Being active is an important part of everyone's life. It leads to improved physical and mental health. Healthy individuals are more likely to participate fully in society and are less likely to develop medical problems that draw on our limited health care resources. We have a collective interest in helping to ensure that all Canadians are active, fit and healthy. And yet, Canada has a critical problem with low levels of physical activity, in particular among persons with disabilities. Though there are approximately 4.4 million Canadians with disabilities, the number who regularly participate in organized sport activities may be as low as 3 per cent.<sup>1</sup>

In the spring of 2011, the Standing Senate Human Rights Committee began to study the subject of sports and recreational activities for persons with disabilities in the context of Canada's international human rights obligations under the United Nations *Convention on the Rights of Persons with Disabilities*. The Convention recognizes, among many other things, the rights of all persons to participate equally in sport and recreational activities at all levels and to attain the highest standards of health.

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<sup>1</sup> See for example the testimonies of John Willson, David Legg and Brian MacPherson. All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

The Committee met with witnesses from across the country to discuss these rights and the Government of Canada's responsibilities to promote and protect them. We heard from federal, Alberta and British Columbia government representatives; leaders of sport movements, such as the Paralympics and the Special Olympics; researchers and experts in the field; local sport organizers; and athletes themselves.<sup>2</sup> Many of these witnesses stressed that persons with disabilities face significant barriers that prevent them from fully enjoying their rights and participating in sport and recreation, such as too few sport and recreational opportunities and a lack of support and promotion for those that do exist.

The Committee examined athletic development for persons with disabilities in Canada, from local, grassroots organisations to international competition. In addition to the physical and mental health benefits of sport, the athletic successes of athletes with disabilities can help reduce stigma and prejudicial attitudes as well as promote equality in our society. As Brian MacPherson, Director at Parasport Ontario, explained:

In the big picture, disability is a perceived state, and the vision of the Paralympic movement is to make the perception of disability disappear and replace it with inclusion and equity, using Paralympic sport to build better lives, better societies, to bring hope and inspire peace.

Canada's elite athletes are the spokespeople for sport; they show us what each person can achieve, and motivate us to try new things. And yet, due to insufficient support for athletes with disabilities, Canada may not produce the next generation of international champions. Canada has been a global leader in the field of sport for persons with disabilities, not only in terms of its ability to win medals at the Paralympics, but also in support for research and the development of training methods. Many witnesses described the overall system as either "broken" or lacking in collaboration, communication, cooperation and coordination.

That Canada may be losing its competitiveness in sports for persons with disabilities is also an indication of the need for more support for grassroots programs, where future athletes get

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<sup>2</sup> Of the provinces invited to appear, only representatives from Alberta were able to attend our hearings and British Columbia sent written submissions.

their first chances to compete. Witnesses told us how difficult it can be for a person with a disability to become involved in sport, let alone become a national title holder.

Several witnesses also emphasized the importance of getting children and youth with disabilities to become involved in sport and recreational activities, not simply for the sake of competitive sport, but also, as Ozzie Sawicki, Para-Athletics Head Coach at Athletics Canada, stated, “for the sake of being active for life.” Developing good habits during childhood is important for healthy living in later life.

This report sets out the Committee’s recommendations for ensuring that Canada retains its position as a global leader in the fields of sports and health for persons with disabilities. Most importantly, it urges the Government of Canada to take steps to strengthen our national sport and recreational infrastructure for Canadians with disabilities and to ensure that there are equal opportunities – from the playground to the podium – for everyone to become involved in sport and recreation and to achieve good health.



## CHAPTER II: Active Living for Persons with Disabilities and Human Rights

*The popularity of sporting activities and the physical, social and economic developmental benefits derived from them make sport an ideal platform and catalyst for fostering the inclusion and well-being of people with disabilities in society and development. Access to and participation by persons with disabilities in sporting activities can dispel negative stereotypes while promoting the rights of persons with disabilities in all aspects of life and development. However, the process of achieving accessibility to recreational, leisure and sporting activities itself requires many barriers including social prejudice to be removed.*

*Akiko Ito, Chief, Secretariat for the Convention on the Rights of Persons with Disabilities (United Nations)*

### Equality in Canada

Human Resources and Social Development Canada (HRSDC) states that people with disabilities represent approximately 14 per cent of the Canadian population (or 4.4 million people).<sup>3</sup> Definitions of “disability” may vary depending on the context, so there are differing estimates for this number.<sup>4</sup> As everyone experiences their own abilities and disabilities differently, the Committee recognizes that every person should be free to define their own relationship with them. This report, however, is focussed on those Canadians with a disability, whether physical or intellectual, that impedes their participation in, or full participation in, mainstream sports and recreational activities (such as those traditionally available for those who may be referred to as “able-bodied”).<sup>5</sup>

Canadian and international laws guarantee the right of persons with disabilities to participate in all aspects of society. For instance, the *Charter of Rights and Freedoms* and

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<sup>3</sup> Human Resources and Skills Development Canada, *Advancing the Inclusion of People with Disabilities 2009*, [http://www.hrsdc.gc.ca/eng/disability\\_issues/reports/fdr/2009/page05.shtml#\\_5.2](http://www.hrsdc.gc.ca/eng/disability_issues/reports/fdr/2009/page05.shtml#_5.2).

<sup>4</sup> As noted by Jill Le Clair, “Revenue Canada has one set of criteria, while CPP, Statistics Canada, insurance companies, occupational therapists, physiotherapists and disabled individuals themselves have others.”

<sup>5</sup> For more information about the appropriate use of terminology pertaining to persons with disabilities, see: Human Resources and Skills Development, *A Way with Words and Images – Suggestions for the portrayal of people with disabilities*, 2006, [http://www.hrsdc.gc.ca/eng/disability\\_issues/reports/way\\_with\\_words/way\\_with\\_wrds.pdf](http://www.hrsdc.gc.ca/eng/disability_issues/reports/way_with_words/way_with_wrds.pdf).

Canada's human rights laws, such as the federal *Canadian Human Rights Act*,<sup>6</sup> guarantee the equality rights of Canadians, including the right to be free from discrimination in the provision of government services.<sup>7</sup> Various UN human rights instruments recognise the rights of persons with disabilities not to be discriminated against;<sup>8</sup> in particular, the United Nations *Convention on the Rights of Persons with Disabilities*.

Despite these formal guarantees, there is a lack of substantive equality in our society for persons with disabilities, particularly in the sporting world. Paralympian Colette Bourgonje stressed that

we have a long way to go in improving equality throughout the sporting environment... I do not believe we are doing a good job from a human rights perspective. We are not treated the same. I would love to be treated like the able-bodied athletes because they have training camps and they have funding because they have reached a high level in their sport.

Akiko Ito, the Chief of the UN Secretariat for the Convention, also underscored the “critical importance” of the right to participate equally in sport and recreation “for the empowerment of persons with disabilities,” and concluded that

in spite of this commitment of the international community to the Convention ... in many cases the real changes on the ground, including this important right to participate in recreational, leisure and sporting activities, have yet to take place.

Retired Senator Vim Kochhar, who appeared as a witness before the Committee and has worked closely with the Paralympic movement, was equally concerned about the current situation in the sporting world: “Everything is not operating on an equal level, and that is when this becomes a human rights problem.”

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<sup>6</sup> *Canadian Human Rights Act*, R.S.C. 1985, c. H-6.

<sup>7</sup> Section 4 of the *Act to Promote Physical Activity and Sport*, S.C. 2003, c.2, also states: “The Government of Canada’s policy regarding sport is founded on the highest ethical standards and values, including doping-free sport, the treatment of all persons with fairness and respect, the full and fair participation of all persons in sport and the fair, equitable, transparent and timely resolution of disputes in sport.”

<sup>8</sup> See for example: the *Declaration on the Rights of Disabled Persons* (1995); the *World Programme of Action concerning Disabled Persons* (1981); the *Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care* (1991); or, the *Standard Rules on the Equalization of Opportunities for Persons with Disabilities* (1993). These instruments are available at: <http://www.un.org>.

Achieving substantive equality requires more than simply acknowledging rights and pledging to treat people the same way. It calls for taking people's differences and historical disadvantages into account, and then making real efforts to address the discriminatory effects of policies and programs. With regard to issues affecting persons with disabilities, substantive equality calls for proactive steps to make society more inclusive, to improve the accessibility of and services and programs, and to minimize the barriers that create social disadvantages.

The Committee also examined the issue of discrimination on the basis of gender, culture or ethnicity in the world of competitive sport. Ms. Bourgonje suggested that in her experience there are few Aboriginal Paralympians. On the other hand, Brian MacPherson said that at the Paralympic level, the participation of males and females is quite equitable. Dan Smith, Director of Policy and Planning at Sport Canada, Canadian Heritage, agreed, but noted that women are under-represented as coaches and as board members. He also mentioned that Sport Canada already has a sport policy for women and girls.<sup>9</sup> Paralympian Darda Sales (who is also Co-Chair of the Accessible Sport Council London and Area) stated that she has not experienced a "gender struggle." However, several witnesses noted that all girls tend to participate less than boys in physical sports.<sup>10</sup> Ms. Ito stressed that special attention should be given to the involvement of girls in the implementation of the Convention. Jill Le Clair, the Founder and Chair of the Global Disability Research in Sport and Health Network, also confirmed that it "is important that girls and women are included in any policies, programs and practices" pertaining to disabilities and sport.

These comments lead the Committee to conclude that federal programming and policy development in these areas could benefit from continued gender- and diversity-based analysis. Gender-based analysis is an analytical tool whose objective is to examine the differential impacts on both women and men of government policies, programs, and legislation. The same type of analysis can be applied to the differential impacts on such groups as Aboriginal peoples, visible

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<sup>9</sup> Sport Canada, *Actively Engaged: A Policy on Sport for Women and Girls*, 2009, <http://www.pch.gc.ca/pgm/sc/pol/fewom/101-eng.cfm>.

<sup>10</sup> See for example the testimonies of Mary Law, Jill Le Clair, and Monique Lefebvre.

minorities, and persons with disabilities. Such analyses can help in integrating social, economic, and other differences into public policy.

### **Recommendation #1**

**The Committee recommends that the Government of Canada ensure that:**

- **All Canadians have equal opportunities to participate in sport and recreational activities, regardless of disability, gender, culture or ethnic origin; and,**
- **That gender- and diversity-based analysis is incorporated in research as well as in the development and implementation of all government programs and policies concerning participation in sport and recreational activities.**

### **The United Nations *Convention on the Rights of Persons with Disabilities***

The adoption of the Convention on 13 December 2006 was welcomed as an important step forward by many states, civil society organisations, and representatives from groups advocating for persons with disabilities.<sup>11</sup> It was drafted, adopted and signed in less time than any preceding UN human rights treaty and was negotiated with the participation of many non-governmental and international organisations as well as national human rights institutions. 112 states have now ratified the Convention. Canadians were very much involved in its development, leading Karen Mosher, Secretary General of the Canadian Human Rights Commission, to tell the Committee that: “Canada is to be commended for the leadership role it played” in the negotiation and ratification process. Canada signed the UN Convention on 30 March 2007 and then ratified it on 11 March 2010. Canada has not signed the Optional Protocol.

The Convention is significant not only as a vehicle to advance the equality of persons with disabilities, but it also provides a new approach to human rights instruments. Where previous international treaties largely only state what rights are recognized by the United Nations, the Convention outlines key steps and actions for Member States to take in order to promote and protect the human rights of people with disabilities and to create a more inclusive society.

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<sup>11</sup> The *Convention on the Rights of Persons with Disabilities* is available at <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

According to the UN Secretariat for the Convention, the need for the Convention arose because the potential of existing UN human rights instruments was not being fully reached and “persons with disabilities continued being denied their human rights and were kept on the margins of society in all parts of the world.”<sup>12</sup> It was therefore designed to build on existing human rights instruments in order to better instruct state parties on their obligations, such as promoting the principles of equality of opportunity and accessibility. Ms. Ito illustrated the significance of the Convention with particular regard to the Committee’s study:

This Convention is the first legally binding instrument to address the rights of persons with disabilities.... The right to participate on an equal basis with others in recreational, leisure and sporting activities is of critical importance for the empowerment of persons with disabilities.

Ms. Le Clair explained that people with disabilities were once seen as being the responsibility of families, charities, social welfare or the medical support system. Indeed, in the past, these individuals were predominantly defined in terms of having medical defects or pathological limitations and treated as “objects” of the welfare state.<sup>13</sup> The disability rights movement has sought to promote the rights of persons with disabilities to self-determination and personal autonomy. The rights-based model now promoted in accordance with the Convention sees persons with disabilities as rights-holders whose social participation is limited primarily by the systemic barriers that society permits to exist and the discriminatory attitudes of others, rather than by the disability itself. Ms. Mosher further described how the Convention “rests on a new conception of the role of persons in society”, where instead of being seen as dependent on the goodwill of society, it “sees persons with disabilities as having the same rights as everyone else.”

State Parties to the Convention are required to make efforts to eliminate the barriers that prevent persons with disabilities from participating in society. As Ms. Mosher further explained:

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<sup>12</sup> United Nations Enable – Rights and Dignity of Persons with Disabilities, *Frequently Asked Questions regarding the Convention on the Rights of Persons with Disabilities*, <http://www.un.org/disabilities/default.asp?navid=23&pid=151>.

<sup>13</sup> United Nations, *From Exclusion to Equality, Realizing the rights of persons with disabilities, Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol*, Geneva 2007, <http://www.ohchr.org/Documents/Publications/training14en.pdf>. This joint-publication was prepared by the Department of Economic and Social Affairs (UN-DESA), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Inter-Parliamentary Union (IPU).

“The Convention does not focus on how to fix people with disabilities but, rather, on how to remove barriers, be they legal, social or cultural, which impair their ability to realize full citizenship.”

Article 30 of the Convention, which is set out in Appendix B of this Report, specifically affirms that persons with disabilities have the same rights as others to participate in and enjoy sports, the arts, and other cultural activities. On one level, it is intended to ensure that such sites as theatres, museums, libraries, sport venues, and children’s playgrounds, as well as such materials as books, films, and recordings, are accessible for everyone.<sup>14</sup> It also goes further and requires that states take active steps to enable persons with disabilities “to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society” as well as to “participate in disability-specific sporting and recreational activities.”

Article 30(5) of the Convention expressly pertains to recreation and sport. It requires member states to encourage the participation of and create opportunities for persons with disabilities in sporting activities at all levels, whether mainstream or disability-specific, with appropriate instruction, training and resources. It also requires them to “ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system.” Lastly, it requires that persons with disabilities have access to not only recreational and sporting activities, but also to venues. Kim McDonald, Executive Director at the Paralympic Sports Association, emphasized that the “true spirit of Article 30(5)” is the fact that it is concerned with providing “everyone” with “the opportunity to take part in sport at whatever level they are able.”

## **Implementation**

Some witnesses were optimistic about the potential the Convention holds. For instance, Robert White, Executive Director of the Canadian Paraplegic Association, believes “that if the goals of the articles in the UN Convention are achieved, a more level playing field in our society

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<sup>14</sup> United Nations Children’s Fund (UNICEF), *It’s About Ability: An explanation of the Convention on the Rights of Persons with Disabilities*, April 2008, [http://www.unicef.org/publications/files/Its\\_About\\_Ability\\_final\\_.pdf](http://www.unicef.org/publications/files/Its_About_Ability_final_.pdf).

will be created for citizens with disabilities.” The achievement of these goals in Canada will depend on the ability of various levels of government to implement the Convention.

The Government of Canada is obligated to submit its first report on its implementation progress in 2012 to the United Nations Committee on the Rights of Persons with Disabilities, which was created pursuant to the Convention to receive and review the periodic reports of member states and to make recommendations.<sup>15</sup> Human Resources and Social Development Canada’s Office for Disability Issues serves as the central organizer for this report. As Jacques Paquette the Senior Assistant Deputy Minister of the Income Security and Social Development Branch at Human Resources and Social Development Canada, explained:

To support this collaboration and the preparation of a pertinent, high-quality report, HRSDC is establishing a collaborative mechanism to engage other government departments, such as a core group committee with Foreign Affairs and International Trade, Justice, and Canadian Heritage, as well as an interdepartmental committee on disability issues.

He added that the 2012 report “will serve as a benchmark” that “will indicate the kind of progress that we are achieving over the years.”. Article 33 of the Convention sets out requirements for the implementation of the Convention, which include establishing a framework to promote this process and designating independent mechanisms to monitor it. Canada’s national human rights institution, the Canadian Human Rights Commission, has expressed its interest to the Government of Canada in being designated as the independent monitor under Article 33(2). Ms. Mosher explained that though the Commission does not have “specific expertise with respect to children or sports” it has the “capacity to do research and stakeholder consultation” in this field. This Committee recognizes that measures that would fulfill many of the international obligations resulting from Canada’s ratification of this and other international human rights treaties fall within the jurisdiction of the provinces. Therefore, cooperation and coordination among Canadian governments in these matters is required. The federal government should continue to provide leadership and work to ensure that an appropriate framework for the full implementation of the Convention is in place.

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<sup>15</sup> United Nations Human Rights – Office of the High Commissioner for Human Rights, *Committee on the Rights of Persons with Disabilities*, <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>.

As this Committee has emphasized in numerous reports, Canada needs to reform its approach to the adoption and implementation of international human rights treaties. Most recently, we stated in *Canada and the United Nation's Human Rights Council: Charting a New Course*, that:

The current treaty implementation system is not modern, transparent, or democratic and its processes are poorly understood by the public. This is affecting Canada's efforts to implement all human rights treaties, which became the subject of commentary by NGOs and other states during Canada's [Universal Periodic Review (UPR) at the United Nations Human Rights Council].<sup>16</sup>

The Committee urges the Government of Canada to take the steps recommended in that report in order to “turn Canada's international human rights obligations into meaningful law, policy, and practice.”

In the *Charting a New Course* report, the Committee also called upon the Government of Canada to improve its efforts in consulting with relevant human rights stakeholders regarding the implementation of treaties (in particular further to Canada's obligations for the UPR).<sup>17</sup> Article 33(3) requires member states to involve persons with disabilities and their representative organisations as participants in the monitoring process. As Canada prepares to report on its implementation of the Convention to the Committee on the Rights of Persons with Disabilities in 2012, it is imperative that meaningful and substantive consultations with relevant stakeholders take place.

## **Recommendation #2**

**The Committee recommends that the Government of Canada ensure that there is open, transparent, and substantive engagement with civil society, representatives from organisations advocating for persons with disabilities, and the Canadian public with respect to Canada's human rights obligations under the United Nations *Convention on the Rights of Persons with Disabilities* and its reports to the Committee on the Rights of Persons with Disabilities.**

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<sup>16</sup> Standing Senate Committee on Human Rights, *Canada and the United Nation's Human Rights Council: Charting a New Course*, June 2010, <http://www.parl.gc.ca/Content/SEN/Committee/403/huma/rep/rep04jun10-e.pdf>.

<sup>17</sup> *Ibid.* at Chapter 4(J).

## The Optional Protocol

An optional protocol accompanies the Convention: the Optional Protocol to the *Convention on the Rights of Persons with Disabilities*.<sup>18</sup> The Optional Protocol creates procedures for individuals or groups to make complaints concerning alleged violations of the provisions of the Convention by member states.<sup>19</sup> Individuals who have exhausted national remedies for alleged violations of their rights may seek redress from an independent international body, in this case, the Committee on the Rights of Persons with Disabilities.

James Turpin, Human Rights Officer at the Office of the High Commissioner for Human Rights, explained that the Office encourages all states to ratify the optional protocol as well as the Convention, “but it is not essential that they are done at the same time.” He explained that though some states may be ready to take on the principal obligations of the Convention, they may not be prepared to accept individual complaints. He added that the complaint process would allow the United Nations Committee on the Rights of Persons with Disabilities

to look at individual cases and give their expert opinion on whether a particular situation that has developed in an individual case is in compliance with the convention or not. Otherwise, the state reporting process is much more general in nature and cannot delve into the particulars of a specific case.

In order to take its place as an international leader in promoting the rights of persons with disabilities, this Committee is of the view that Canada must sign the Optional Protocol. This would demonstrate confidence in the Convention and Canada’s ability to implement it, as well as ensure that the rights recognized for persons with disabilities are given their full protection and support.

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<sup>18</sup> The *Optional Protocol to the Convention on the Rights of Persons with Disabilities* is available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx>.

<sup>19</sup> United Nations Department of Public Information, *The Convention on the Rights of Persons with Disabilities – Why a Convention?*, 2006, <http://www.un.org/disabilities/convention/questions.shtml>.

**Recommendation #3**

**The Committee recommends that the Government of Canada sign and ratify the United Nations Optional Protocol to the *Convention on the Rights of Persons with Disabilities* without further delay.**

## CHAPTER III: Health and Human Rights

*Statistically speaking, there is about a 20 per cent chance that you will acquire a physical disability, temporarily or permanently, during your lifetime. Investing in sport for disabilities today may help you or someone you love tomorrow.*

*Brian MacPherson, Director at Parasport Ontario*

### **The Benefits of Active Living**

The Committee agrees that the state of participation in sport and recreational activities is in need of critical attention. As Jane Arkell, Executive Director at Active Living Alliance for Canadians with a Disability, explained to the Committee, low levels of health and fitness for persons with disabilities have resulted in a “huge crisis” due to increased demands on the health care system, adding that “Canadians with disabilities go to doctors more and have [more] secondary disabling conditions.”

Physical activity has many beneficial impacts for improving physical as well as mental health. For persons with disabilities, it can reduce pain levels and instances of secondary health complications. Ms. Arkell added that “research tells us that physical activity is a key to health and wellness for those with a disability.” Being healthy and active can also increase the potential for a person with a disability to be employed.<sup>20</sup> David Legg, the President of the Canadian Paralympic Committee, also discussed how persons with a disability “participating in sport and physical activity also overcome social isolation and become more self-reliant.” Jill Le Clair also asserted that “encouraging physical skills and movement gives enjoyment and maximizes independence” and that “the inclusion of children and youth in sport and physical activity are first steps to lifelong inclusion and productive working lives.”<sup>21</sup> Also, Neil Glasberg, Interim President and Chief Executive Officer at Special Olympics Canada’s, promoted the Special Olympics as “a gateway to empowerment, competence, acceptance and self-esteem.”

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<sup>20</sup> See for example the testimonies of Robert Steadward and Jill Le Clair.

<sup>21</sup> Jill Le Clair also provided written submissions.

## **The Right to Health**

Article 25 of the *Convention on the Rights of Persons with Disabilities* includes a recognition of “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,”<sup>22</sup> adding that it should be supported without discrimination on the basis of disability. The Convention sets out a number of obligations on States Parties to ensure that people with disabilities have access to health services, both equally with non-disabled persons, and also as is specifically required to meet any needs related to their disabilities.

Such rights are further entrenched in the *Convention on the Rights of the Child*.<sup>23</sup> In addition to recognizing rights to health for all children, Article 24 specifically recognizes the right to “special care” for children with disabilities as well as to “access to information concerning methods of rehabilitation, education and vocational services.” These provisions are all set out in Appendix B of this Report. Their effect is that Canada has human rights obligations to promote the health of all persons with disabilities. For the Committee, this reinforces Canada’s obligations to ensure that sport and recreational activities are sufficiently available to all; in particular, so that persons with disabilities have an equal opportunity to achieve their own optimal standards of health.

## **Investing in Healthy Living**

Given the importance of establishing a healthy lifestyle during childhood and adolescence, our international human rights obligations regarding health are key in relation to the rights of children with disabilities. As explained by Mr. Glasberg, “Receiving early instruction in basic motor skills like walking, running, jumping and balancing and having the opportunity to experience play will improve the child’s physical, social and cognitive abilities in everyday activities and in the long term.” Mary Law, a Professor at the School of Rehabilitation Science/CanChild Centre for Childhood Disability Research, McMaster University, also echoed this view:

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<sup>22</sup> This right can also be found in Article 12 of the United Nations *Convention on Economic and Social Rights*, which is available at: <http://www2.ohchr.org/english/law/cescr.htm>.

<sup>23</sup> The *Convention on the Rights of the Child* is available at: <http://www2.ohchr.org/english/law/crc.htm>.

Participation plays a key role in the development of children and youth, particularly participation in recreation and leisure activities outside of school. Through participation in these activities, children acquire skills and competencies, achieve physical and mental health, and develop a sense of meaning and purpose in life.<sup>24</sup>

Healthy living can also minimize additional health care costs. For instance, John Willson, Chief Executive Officer at Variety Village, stated that: “A lifelong involvement in sports and recreational activity has many benefits, not the least of which is a well-documented reduction in health care costs.” In Senator Kochhar’s view: “Looking after our kids and adults with disabilities and providing them with the opportunity to stay fit physically is the best way to save millions of dollars in health care budgets.” Also, Ms. Le Clair explained how policies to help persons with disabilities stay fit will benefit a growing number of people in our society:

Disability policy is also particularly important in the context of current concerns about rising health care costs, a rapidly aging population, injured veterans, and especially the need for special attention to the increasing inactivity and obesity amongst children and youth.<sup>25</sup>

The Government of Canada already has some programs and policies in place to promote the health of persons with disabilities. In particular, federal, provincial and territorial ministers of health endorsed the Integrated Pan-Canadian Healthy Living Strategy in 2005 to encourage healthier living for Canadians.<sup>26</sup> The strategy states that its goals are “to improve overall health outcomes and to reduce health disparities.” It recognizes that people with disabilities are at “high risk of poor health” and recommends, among other things, that provincial-level authorities, as a means of meeting goals related to promoting physical activity, “facilitate access to facilities in rural and remote communities (e.g. community centres and church halls)” including for those with disabilities. Similarly, the policy calls on the federal government to “develop physical activity guides for people with disabilities.” The federal government’s implementation of this initiative is coordinated through the Public Health Agency of Canada. Monique Lefebvre, Executive Director at Alter Go, an organisation that facilitates access to recreational activities in

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<sup>24</sup> Mary Law also provided written submissions.

<sup>25</sup> Jill Le Clair, *supra* note 22.

<sup>26</sup> The Secretariat for the Intersectoral Healthy Living Network in partnership with the F/P/T Healthy Living Task Group and the F/P/T Advisory Committee on Population Health and Health Security (ACPHHS), *The Integrated Pan-Canadian Healthy Living Strategy*, 2005, <http://www.phac-aspc.gc.ca/hp-ps/hl-mvs/ipchls-spimmvs/pdf/ipchls-spimmvs-eng.pdf>

Montreal, Jane Arkell and Robert White all expressed great disappointment that the Healthy Living Strategy had “dwindled to a fraction of its previous size” despite the demonstrated importance of physical activity. They also regretted the severe impact this has had on the disability community.<sup>27</sup>

In order to improve the state of health for many Canadians, Ms. Arkell recommended that “that the Government of Canada invest comparable leadership and funding into the area of physical activity and recreation as is now being invested into sport, because only a very small fraction of Canadians with disability reach the Paralympic podium.” She did however praise the “success story” of Human Resources and Social Development Canada’s Office for Disability Issues: “They recognize and support the importance of healthy active living and how it contributes to success, self-esteem, employment, education, health and independence for citizens with disabilities.”

Witnesses argued that healthy lifestyles for all Canadians should be promoted, and that the Government of Canada should establish national standards and policies accordingly. While the debate over how to best promote the health of all Canadians is beyond the scope of this study, the Committee urges the federal government to continue to play a leadership role within Canada and work towards ensuring that health promotion initiatives, such as the Healthy Living Strategy, are adequately supported to advance the right of all Canadians to enjoy the highest attainable standard of physical and mental health. In particular, such initiatives should address the various needs of persons with disabilities.

## **Federal Responsibility for Health, Active Living and Sport**

Within the Government of Canada, responsibilities for physical activity are currently separated from those for sport. The former is with the Minister of Health, and the latter is with the Minister of Canadian Heritage and the Minister of State for Sport. These areas were not always divided in this way. Although responsibility for both physical activity and sport has shifted over the years, prior to the Minister of Canadian Heritage being assigned responsibility

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<sup>27</sup> Steven Patrick did note that PHAC had provided funding that went towards Alberta’s Active Living strategy and projects, such as an active lifestyle program at the Steadward Centre.

for amateur sport in 1996, they were most often handled by the Minister of National Health and Welfare with the assistance of the Minister of State for Fitness and Amateur Sport.<sup>28</sup>

Mary Law, Jane Arkell, Robert White, and Robert Steadward, the founder and Honorary President of the Steadward Centre for Personal and Physical Achievement, all called for an integrated ministry in order to “ensure a natural progression from the playground to the podium.” Ms. Le Clair explained that a federal ministry should “include sport in the widest sense, which includes physical activity.” Ms. Law also discussed how an integrated model has helped some European countries develop “national central resources of information” and “programs for children and youth with disabilities who just want to participate every day within their community to those who want to develop and become high-performance athletes.”

The Committee agrees that there needs to be a greater emphasis in federal initiatives on all aspects of healthy living for persons with disabilities, of which sport is but one part – albeit a significant part. We urge the Government of Canada to undertake a review of its current organisational infrastructure pertaining to both health and sport, in particular with regard to persons with disabilities.

#### **Recommendation #4**

**The Committee recommends that the Government of Canada review its ministerial structure in relation to health, active living and sport in order to ensure effective policy and program development and the promotion of all health-related aspects of physical activity and sport.**

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<sup>28</sup> Parliament of Canada, *Orders In Council naming Ministers and Ministries responsible for Amateur Sport*, 18 May 2011, <http://www.parl.gc.ca/parlinfo/pages/sportministershist.aspx>.



## CHAPTER IV: Barriers to Participation

*I see the power of sport every day in my volunteer capacity with the Canadian Paralympic Committee. Champions such as Chantal Petitclerc emulate the drive and determination of high-performance athletes who surpass all barriers society expects to hold them back, while also serving as powerful role models for children both with and without a disability across the country. These athletes prove how sport empowers those with a physical disability to reach their full potential.*

*David Legg, President of the Canadian Paralympic Committee*

The low numbers of children with disabilities that participate in regular sporting activities, which in some cases may be as low as 3 per cent,<sup>29</sup> not only contributes to broader health concerns, but is also an indicator that these children are not enjoying the rights recognized by the Convention. By contrast, as noted by Brian MacPherson, about 36 per cent of able-bodied kids in Canada participate in organized sport. Mary Law presented statistics that demonstrate that “children and youth with disabilities, regardless of diagnosis, are more limited in their participation in recreation and sport activities”:

37 per cent of children and youth with disabilities never take part in organized physical activities compared to 10 per cent amongst those without disabilities; 24 per cent never take part in unstructured physical activities in the community in comparison to 2 per cent of their peers; and 73 per cent of children and youth with disabilities never take part in organization, group and club activities in the community compared to 57 per cent of those without disabilities.

Several witnesses noted that participation rates in sport and recreation drop significantly after the age of 25 and emphasized the importance of developing healthy habits during youth that will continue into adulthood.<sup>30</sup>

These low activity rates exist due to the underlying reality that people with disabilities throughout the world face barriers, including stigma and discrimination, that can affect their ability to participate fully in their community. There is a misplaced emphasis on the things that

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<sup>29</sup> *Supra* note 1.

<sup>30</sup> See for example the testimony of Mary Law.

persons with disabilities “can’t” do, rather than those they “can”. But there are factors other than attitudes: people with disabilities often have difficulty in finding and keeping steady employment, in finding suitable means of transportation, and in accessing facilities or programs. Increased costs of living for persons with disabilities and the difficulties in finding suitable employment mean that many live below the poverty line. The United Nations has described persons with disabilities as the most disadvantaged and marginalized minority group.<sup>31</sup> The Canadian Human Rights Commission has observed that “People with disabilities continue to encounter barriers that prevent their full participation in Canadian society.”<sup>32</sup>

The challenge for persons with disabilities in getting active is a symptom of much broader concerns. As Akiko Ito explained:

The majority of persons with disabilities live in poverty and continue to be excluded from mainstream society and development. They still continue to face many barriers, as we know, including physical, environmental, attitudinal and institutional barriers, and these barriers keep people with disabilities from participating meaningfully in society as full and equal members.

For persons with disabilities seeking to become physically active and participate in sport, the specific barriers they can face include:

1. Too few opportunities to participate in physical activities due to a lack of accessible facilities and available programs for persons with disabilities;
2. A lack of generally available information regarding the sport opportunities that do exist and the health research that can assist persons with disabilities in finding ways to become active;
3. Increased costs for specialized equipment and for transportation; and
4. A lack of coaches and other people who can help train athletes with disabilities.

Ms. Law emphasized that as each child or youth is an individual, his or her experience of barriers will be unique, and “it is not always the physical environment that provides the most barriers; it is often attitudes or lack of support.” David Legg made similar statements:

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<sup>31</sup> *Supra* note 14.

<sup>32</sup> Canadian Human Rights Commission, *2010 Annual Report*, March 2011, [http://www.chrc-ccdp.ca/publications/ar\\_2010\\_ra/page4-eng.aspx?print=1](http://www.chrc-ccdp.ca/publications/ar_2010_ra/page4-eng.aspx?print=1) at p. 4.

The barriers are multiple, convoluted and complicated.... Some of them are attitudinal. People may be able to access a facility and have the socio-economic wherewithal to purchase a sport wheelchair; however, the first time they go to a gym, the recreation manager or physical education teacher in the classroom, may not be welcoming, well-trained or interested in working with a person with a disability.

Kim McDonald also described what she saw as the main reasons sport and recreational activities remain inaccessible:

Children with disabilities often require specialized programming, which involves the use of specialized equipment, unique coaching and teaching knowledge to identify strengths and provide modification for individual needs and a climate of acceptance and challenge.... [and also] because of cost, transportation, lack of facilities and lack of understanding and awareness across the community about the value of sport and physical activity for their children with disabilities and the opportunities available for them.

Jacques Paquette was able to provide information from a 2006 survey that sought to gauge the types of barriers that were preventing children from participating in leisure activities (a broader category that includes sport). While many attributed their non-participation to their particular disability, close to a third stated that the costs of getting involved were a major barrier. Other barriers included requiring assistance to be able to participate, transportation services, or specialized equipment. 10 per cent stated that there were no facilities or programs available in the community, while 5.8 per cent said that the available facilities, equipment or programs were not accessible.

The Committee was informed about a diverse range of programs, whether publicly funded or privately run, that are available to enable persons with disabilities to overcome these barriers, though individual Canadians can contribute to removing them too. In the remainder of this chapter, the Committee explores the key barriers that Canada's federal, provincial and territorial governments can do their part to diminish.

### **Too Few Opportunities: Accessibility and Availability**

A common barrier encountered by persons with disabilities is the shortage of opportunities for persons with disabilities to participate in sport and recreation across Canada. In some cases,

this may simply be that there is either no program available in their community or, it could be that local facilities are not accessible or welcoming for those with their particular disability. As Darda Sales explained, for many persons with disabilities, “It is not quite as simple as grabbing a ball and away you go.”

Jill Le Clair, Mark Hahto, the Chief Operating Officer of Swimming Canada, and Ms. Sales all described various challenges people with disabilities can face in getting time in swimming pools, such as finding accessible swimming pools with affordable opportunities and then being able to schedule enough pool times. Colette Bourgonje illustrated the challenges of getting more people with disabilities involved in sport programs with the following anecdote:

Women from Prince Albert are driving an hour and a half to Saskatoon to try sledge hockey. They will not get in shape by trying it once a year. They need things in their own backyard so that they can go out by themselves, with their friend or dog to be physically active.

Ms. Law echoed these concerns, adding information from her research that a “recent study shows that 36 per cent of families reported a lack of availability of programs.” Robert White described another survey which found that only 54 per cent of persons with a spinal cord injury who were seeking to participate found that their preferred form of physical activity was available. He quoted another study that assessed forty-four fitness and recreation facilities in Ontario and found that none were completely accessible.

## **Recommendation #5**

**The Committee recommends that the Government of Canada work with the provincial and territorial governments and all relevant stakeholders to ensure the creation of more opportunities for Canadians with disabilities to participate in physical activities and sport programs.**

There are federal government programs that help make sports and recreation venues more accessible. For example, Mr. Paquette explained that Human Resources and Skills Development Canada’s Enabling Accessibility Fund provides up to \$75,000 to make buildings that are open to the public more accessible. Calgary’s North East Centre of Community Society was provided as an example: when completed, it will be “a 225,000-square-foot complex designed to meet the sport, health, educational and cultural needs of all individuals in Calgary’s growing northeast

communities, including those with disabilities.” Another of the department’s programs is the Social Development Partnerships Program, which has an annual budget of \$11 million to support an array of community-based initiatives, including some that address barriers to social inclusion for persons with disabilities. Through this program, according to Mr. Paquette, the department “contributed to a project by the Active Living Alliance for Canadians with a Disability to provide people with disabilities access to sport, leisure and recreation programs in their community.”<sup>33</sup> In addition, former Senator Kochhar noted that the Government of Canada has funded building projects for sport and community centres across Canada. It has invested millions for projects that include construction work for fitness, recreation, and community centres.<sup>34</sup>

To complement the federal government’s contributions to developing community infrastructure through these programs, the Committee would like to see it promote a culture of universal accessibility. The Committee urges the Government of Canada to determine where accessible facilities are needed across the country and take the necessary action to ensure that all Canadians have reasonable access to sport and recreation programs.

## **Recommendation #6**

**The Committee recommends that, when the Government of Canada funds building infrastructure projects, it prioritize the development of universally accessible sports and recreation facilities in all regions of Canada.**

## **Supporting Research and Disseminating Information**

The lack of information available regarding recreation and sport programs for people with disabilities, as well as the dearth of research that could enhance the development of these

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<sup>33</sup> For further information about the Sport Support Program, see <http://www.pch.gc.ca/eng/1267385942671/1268413679631>; for the Enabling Accessibility Fund, see [http://www.rhdcc-hrsdc.gc.ca/eng/disability\\_issues/eaf/cfp/index.shtml](http://www.rhdcc-hrsdc.gc.ca/eng/disability_issues/eaf/cfp/index.shtml); for Social Development Projects, see [http://www.rhdcc-hrsdc.gc.ca/eng/community\\_partnerships/sdpp/sdp\\_page.shtml](http://www.rhdcc-hrsdc.gc.ca/eng/community_partnerships/sdpp/sdp_page.shtml); and for the Community Inclusion Initiative, see <http://www.communityinclusion.ca/>.

<sup>34</sup> Examples of projects funded by the Plan are available at the website for the Next Phase of Canada’s Economic Action Plan: *Inauguration of Saint-Hyacinthe Aquatic Centre*, 3 November 2011, <http://www.actionplan.gc.ca/eng/media.asp?id=4547>; *Stephen Leacock Community Centre bigger and better thanks to Government partnership*, 19 November 2011, <http://www.actionplan.gc.ca/eng/media.asp?id=4581>; *Soccer teams playing on new turf in Conception Bay South thanks to stimulus funding from the Government of Canada*, 15 September 2011, <http://www.actionplan.gc.ca/eng/media.asp?id=4418>; or *Kennebecasis Valley celebrates completion of local sports fields*, 21 October 2011, <http://www.actionplan.gc.ca/eng/media.asp?id=4528>.

programs represents another significant barrier. Witnesses such as Mary Law and Jill Le Clair also shared their knowledge of the state of research in the field of active living and athletics for persons with disabilities. This research is helping find ways to engage people who may have thought that their disability was too much of an impediment, and get them exercising and participating in sports. They both emphasized that there is helpful information that could be useful for persons with disabilities if only they knew where to obtain it. The Minister of Community, Sport and Cultural Development for British Columbia, the Honourable Ida Chong, also emphasized that to improve the current system and build the base of sport participation, the first step is “getting better data.” She observed that “Disability Sport Groups have identified challenges to finding where potential athletes with disability are.”

Darda Sales, John Willson and Robert Steadward all called attention to the fact that there are specialists in the country that are developing the research necessary to create helpful programs for people with disabilities across the country, some of which has been used to create programs abroad. As Mr. White explained, however:

The problem is we do not have the money to do the data collection, the research, that part. That capability will allow us to tell our stakeholders where the issues are, where the good things are and how we need to move forward. There is a lack funding of about \$5 million over five years to be able to do that.

Though the Committee recognizes that there are limited public funds for research, it agrees that research in the field of sport and recreation for persons with disabilities should be supported. This research not only helps Canadians lead healthier lives, but it offers an opportunity for Canada to help persons with disabilities in other countries as well.

Publicizing the research in this field is only part of the challenge of increasing awareness about how people with disabilities can become physically active: existing athletic opportunities also need to be better promoted. As Ms. Le Clair emphasized, “A problem I found in my research was that many families do not know where to go.” Ms. Sales agreed that it can be “quite difficult” to find out how to participate, and posed the question: “If people do not know what is available to them, how are they ever going to get involved?” Monique Lefebvre recognized that this is part of a broader challenge that many persons with disabilities can face:

The person living with the disability must always call to find out. They must always do the research to find out whether the activity is accessible. Even when they do call, they may not always obtain all the information. Thus, we have to raise the level of awareness among service providers to make their premises accessible, and then we must inform the public.

Senator Kochhar further underscored that sport for persons with disabilities in general remains an obscure subject for most and urged all levels of government to publicize their programs and any funds that are available so that people and institutions can access them:

I said in the beginning that some of the good work we are doing is the best-kept secret because no one knows about it. When people from the sports department federally came and told us right in this room what funding and facilities and things were available, that was news to me, too, personally, and I tried to dig out everything that is available.<sup>35</sup>

Dan Smith explained that he was mindful of this problem of lack of awareness, though he clarified that the department does “make people aware of the programs that are available and also move[s] out to the mainstream population, involving as coaches and leaders as well and making them more aware so they can pass that information on to persons with a disability.” While the Committee notes that throughout the hearings the good work done by Sport Canada was applauded, we are very concerned that the federal government could do more to ensure that their information and research findings are better disseminated. The federal government should promote the programs and opportunities available across the country. Furthermore, it should facilitate collaboration where possible among the various professionals, volunteers, athletes, organisations, government departments, and all others who work in the fields of health, recreation and sport for persons with disabilities in order to better share information and best practices across the country.

## **Costs**

Insufficient financial security is already a significant problem for many persons with disabilities, often leaving them with little extra money for participation in sport. The additional costs for specialized equipment, access to facilities, and participation fees represent an

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<sup>35</sup> Robert Steadward, who is recognized as a leading expert in this field, also expressed his surprise at the various government funding initiatives he learned about just through the Committee’s hearings.

“important factor” and a “difficult problem” for increasing participation.<sup>36</sup> Ms. Arkell explained that: “Having a disability is very expensive and on top of that, club fees and equipment are very expensive.... We know that a huge number of families who have a family member with a disability live in poverty because of the costs involved with the disability.” Robert Steadward described how the costs for getting people with disabilities involved in sports can be “quite prohibitive,” adding that: “when you start looking at programs for people with disability in the sport, recreation and leisure area, the start-up costs are much greater than for the non-disabled world.”

The issue of costs affects not only those Canadians with disabilities simply wishing to become involved in sports and recreation, but particularly those aspiring to become competitive athletes. Ms. Sales lamented that “many athletes have got lost along the way and never made it to the international level because they did not have the finances to get there. It really is sad to see how many individuals with a disability are not active simply due to finances.” Some organisations have already taken the matter into their own hands. Martin Boileau, the Director General at Sport Canada, Canadian Heritage, said that Hockey Canada has made some sledges available across the country and Ms. Arkell noted that the “Canadian Paralympic Committee has an equipment program available for some athletes.”

Just getting to facilities and venues can be a challenge. Mr. White reminded the Committee that “transportation is a huge factor for helping people to participate, not only in sports and recreation, but also in education or being able to get to the hospital or see the doctor.” He emphasized that for people in rural Canada, the transportation issues and access to facilities problems are even greater.

Collette Bourgonje gave personal insight into how hard it can be for athletes to make ends meet. While she is one of the few who received government funding, she explained how little money she would have to live on otherwise: “if you look at what I would have to pay to go to the World Cup, it would be \$10,000. That means that for living and training expenses, I would have \$8,000 to live off of for a year.”

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<sup>36</sup> See for example the testimonies of Dan Smith and John Willson.

In discussing solutions to this problem, federal government representatives spoke about a fitness tax credit “that is to allow parents to claim up to \$500 for expenditures associated with physical activities in sports” and is available to youth with disabilities up to 18 years of age.<sup>37</sup> Some witnesses questioned the effectiveness of a tax credit as a means of defraying this type of costs. Robert Steadward did not agree that tax breaks necessarily will help a family to enrol their children in sports given the full costs of specialized equipment for people with disabilities, however: “Parents do not need a tax break 11 or 12 months from now. Rather, they need the money now to pay for the program they want to put their child into.”

Cost should not be such a significant barrier preventing so many Canadians from becoming involved in sport and recreation activities. Neither should the cost deter our would-be athletes with disabilities from striving to reach international competition. Of course, costs are an issue for athletes whether they have disabilities or not, but the impact on the two groups should be of equal significance. The Committee sees that more needs to be done to create affordable options and urges the Government of Canada to find means to make the costs of participating in sport reasonably affordable for people with disabilities.

### **Recommendation #7**

**The Committee recommends that the Government of Canada ensure that people with disabilities are not prevented from participating in sports and recreational activities and enjoying the social and health benefits of an active lifestyle due to economic barriers such as high transportation and equipment costs.**

### **Coaches and Helpers**

Another impediment to increased participation is the lack of trained people willing and able to provide the type of assistance needed to maintain sport, recreation and leisure activities for persons with disabilities. Ms. Le Clair remarked that having people with the right “training and education” is a consistent concern, but where you have these people they can open up

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<sup>37</sup> A full review of all programs supported by the Government of Canada is beyond the scope of this report. Summaries of federal government initiatives, programs and funding with regard to persons with disabilities are highlighted in HRSDC’s annual reports, for instance see Appendix A of the *2010 Federal Disability Report – The Government of Canada’s Annual Report on Disability Issues*, [http://www.hrsdc.gc.ca/eng/disability\\_issues/reports/fdr/2010/page14.shtml](http://www.hrsdc.gc.ca/eng/disability_issues/reports/fdr/2010/page14.shtml). Information regarding the tax credit is available at: Government of Canada – Healthy Canadians, “Fitness Tax Credit”, 19 January 2011, <http://www.healthycanadians.gc.ca/init/kids-enfants/phys-activit/tax-credit-impot/index-eng.php>.

possibilities. Collette Bourgonje asked for “more access to people who understand how to use the bikes, the sit-skis, the racing chairs and the tennis equipment to help these people become more active and hopefully get into better shape than they are in right now.” Mr. Smith emphasized the need specifically for coaches who “are aware of any specific needs of athletes with a disability in comparison to mainstream athletes,” adding that these can also be “abled-bodied persons who can be coaches and include athletes with a disability as part of a training group, as an example, in a community sport association or a sport club.”

Mr. Hahto told the Committee that coaching a person with a disability “is only a challenge because the people who are teaching and coaching perhaps have not been trained appropriately to understand the nuances of some of the disabilities.” Ms. Law made a similar comment about how such training is absent in schools, where children could get their first introduction to athletics. Ms. Lefebvre further explained that this can be “a vicious circle because these children have very little access to physical education classes. Unless they are given access, teachers will continue to lack training.”

Like many other witnesses, Ms. Sales emphasized that creating more opportunities to instruct potential trainers and coaches for athletes with a disability will have numerous benefits:

If we were able to open the minds of more grassroots organisations and coaches to the fact that it is not such a great big challenge and that it is something you can tackle and if we had the support for the coaches in the way of training or funds to send them on courses, it would open more doors. Perhaps more organisations would be able to open their doors. We would not need special funding and special programs if we were able to educate more of the general population on the ease with which you can bring children with disabilities into the programs. People would see what an asset they can be and organisations would grow as they added a new level to their programming.

There are existing tools that coaches can use to train athletes with a disability. For instance, Special Olympics Canada’s Interim President and Chief Executive Officer, Neil Glasberg, and its Vice-President for Sport, Sharon Bollenbach, mentioned that the organisation also has developed a long-term athlete development model for persons with intellectual disabilities and has “developed a unique coaching program” that “aims to sensitize our volunteer coaches to working with children, youth and adults with an intellectual disability who have their own unique set of

needs.” Mr. Boileau mentioned that Sport Canada has supported the development of a resource document with Canadian Sport for Life<sup>38</sup> entitled *No Accidental Champions* that sets out a long-term athlete development model for persons with disabilities.<sup>39</sup> Mr. Smith further noted that this document intends to create a better system “from the grassroots to high performance,” from developing young athletes to keeping them in the system as coaches, and seeks to “enable more of our top athletes to achieve excellence at the international level.” Ms. Arkell<sup>40</sup> and Ms. Le Clair made similar statements supporting this developmental model as an “effective framework for Paralympic athletes and excellence” that “administrative sport officials, educators and athletes can invoke.”

There is a need for appropriate athletic development models for persons with disabilities that can facilitate their training with coaches and other helpers as well as their instruction in the use of specialized equipment. Federal government support can ensure that national standards are in place for the implementation of these models.

### **Recommendation #8**

**The Committee recommends that the Government of Canada continue to develop and promote appropriate training and development models for persons with disabilities that can readily be implemented by athletes, coaches and volunteers across the country.**

### **Missed Opportunities – A Failure to Promote our Successes**

Canada’s Paralympic, Deaflympic, and Special Olympic medal winners are not well-promoted. Minimal public awareness about sports for persons with disabilities ensures that helpful information about all programs remains hard to obtain and perpetuates the key barriers identified above. Whereas traditional able-bodied sports are readily promoted by well-organized

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<sup>38</sup> Canadian Sport for Life (CS4L) is a movement to improve the quality of sport and physical activity in Canada that links sport, education, recreation and health and aligns community, provincial and national programming. For more information, please see: <http://www.canadiansportforlife.ca/>.

<sup>39</sup> Canadian Sport For Life, *No Accidental Champions*, <http://www.canadiansportforlife.ca/resources/no-accidental-champions>.

<sup>40</sup> Ms. Arkell also noted that the Active Living Alliance for Canadians was “formed out of an expressed need because teachers, leaders, coaches, organisations and communities were faced with the challenge of including people with a disability but they were ill prepared to do so.”

institutions that in turn attract corporate sponsors, sports for persons with disabilities remain marginalized and struggle for attention.

At the recent 2008 Summer Paralympics in Beijing and at the 2010 Winter Paralympics in Vancouver, Canada placed seventh and third respectively in the overall country medal standings.<sup>41</sup> Despite this success, Canada's Paralympic victories have gone virtually unnoticed, in part due to the lack of media coverage for sports for persons with disabilities.<sup>42</sup> Mr. MacPherson explained that

although we have come a little way with respect to broadcasting Paralympic Games on Canadian TV, in between games it is virtually non-existent in terms of televising world and national championships, unlike able-bodied sports where those things are put on TV.... If you increase visibility through mass media, you increase the awareness of the public at large.

Ms. Lefebvre added that:

We have to maintain this interest all the time and I believe that because we have a recurring event, one that takes place year after year, and because we speak to the media, we are visible and we are present. We try to make that investment, but our means are truly small compared to what it would take to have a long-term impact and achieve change.

Mr. White explained that one of the consequences of this lack of promotion is that there is not sufficient exposure of sports for persons with disabilities to attract corporate sponsors.

The federal government can assist with promoting sports and recreation for people with disabilities, not only in terms of the information about the programs and opportunities that are available, but also in raising awareness about the successes of Canada's athletes with disabilities. Ms. Law and Ms. Sales both urged the federal government to help in providing information about training, supports, and resources and initiatives to increase awareness about the Paralympic movement. Ms. Sales added that: "If we were to consistently promote Paralympic sports to the same level as Olympic sports, and to demonstrate the success that our athletes are having around the world, we would be able to build our Parasport enrolment, in the same manner, in multiple

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<sup>41</sup> Results are available at [www.paralympic.org](http://www.paralympic.org), the "Official Website for the Paralympic Movement".

<sup>42</sup> See for example the testimonies of Senator Kochhar and Darda Sales.

sports.” Ms. Chong, in her written submissions to the Committee, expressed some support for a recommendation that the federal government develop and implement recruitment campaigns.

In order to encourage active living and equal opportunities for all Canadians in sport, it is imperative that athletes with disabilities are equally represented in the promotion of Canada’s sport programs and elite athletes.

**Recommendation #9**

**The Committee recommends that the Government of Canada promote sport and healthy, active living for persons with disabilities and celebrate and publicize the achievements of athletes with disabilities in a manner that is equal to the way Canada’s Olympic athletes are celebrated and promoted.**



## CHAPTER V: Athletic Development in Canada

*I do not know very many athletes with a disability that want to be known as an athlete with a disability. They want to be known as athletes. That is what we are. We participate in sports that maybe are different than other, but it is still sports.... We need to get rid of the mentality that it is a disabled activity. It is an activity for a certain part of the population, just like any other sport. Just like some people play basketball and some play baseball, some people play sledge hockey and some do not.*

*Darda Sales, Paralympian and Co-Chair  
(Accessible Sport Council London and Area)*

Many of the witnesses who appeared during the Committee's hearings, though not all, believe that there is insufficient investment in Canada in the development of future elite athletes who participate in sports for persons with disabilities, particularly the Paralympics. One result of this could be fewer champions winning medals, which in turn would mean less promotion for their sport and less inspiration for children who might be thinking about making their first attempts to participate. The Committee agrees that elite athletes are important, not only because they motivate others, but also, because some of them will become the coaches of tomorrow. They are the spokespeople for sport, and they demonstrate what is possible when people pursue their goals. Athletes with a disability show us all how barriers can be overcome – they are role models for us all. While the Committee learned that many talented Canadians are working hard to promote participation in sports for all and to build an infrastructure that will create equal opportunities for all people to get involved in the activities most suited for them, we also learned that these individuals need better support for what they do.

The Committee believes that a fully supported infrastructure for athletic development at all levels is a crucial part of ensuring that sport in Canada is based on equal opportunity. This study has been aptly timed, since the *Canadian Sport Policy (2002–2012)*<sup>43</sup> is due for renewal. As discussed in this chapter, the policy sets out the Canadian intergovernmental approach to sport

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<sup>43</sup> The Policy was endorsed by Ministers on April 6, 2002. It is available at: Canadian Heritage, *The Canadian Sport Policy, Federal-Provincial/Territorial Priorities for Collaborative Action, 2002–2005*, <http://canadianheritage.gc.ca/pgm/sc/pol/actn/action-eng.pdf>; and, *The Canadian Sport Policy, Federal-provincial/Territorial Priorities For Collaborative Action 2007–2012*, <http://canadianheritage.gc.ca/pgm/sc/pol/actn07-12/booklet-eng.pdf>.

and athletic development and determines how governments and other relevant stakeholders collaborate together. This chapter also explores various aspects of athletic development in Canada and the solutions discussed during the Committee's hearings to ensure that public support truly extends from the playground to the podium and creates opportunities for all Canadians to become physically active.

## **Federal Funding of Athletic Development**

Competitive sports in Canada are largely run along jurisdictional lines. Municipalities largely focus their efforts at the community level, provincial governments on province-wide concerns, and the Government of Canada on national and international competition. Within these jurisdictions, National Sport Organisations (NSOs, such as Hockey Canada or Swimming Canada), Multisport Service Organisations (MSOs, such as the Canadian Deaf Sports Association or the Canadian Paralympic Committee) and a number of other sport and recreation institutions provide further coordination of athletic development programs, many of which receive or are at least eligible for government funding. In coordinating the federal government's responsibilities for competitive sport, the Department of Canadian Heritage's Sport Canada works collaboratively through bilateral agreements, funding arrangements and action plans with the provincial and territorial governments, NSOs and MSOs.

Representatives from the Government of Canada informed the Committee about a number of policies, laws and programs that it has in place to support and develop athletes with disabilities and the sports they play.<sup>44</sup> Martin Boileau told the Committee that over \$17 million dollars was spent towards sport and persons with disabilities in 2009-2010, out of a total budget of \$118 million for sports. The Committee also learned that \$5 million has recently been allocated for each of the next five years to the Canadian Paralympic Committee, an increase from the 1.1 million given in 2009-10.<sup>45</sup> He also noted funding for Special Olympics Canada and to

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<sup>44</sup> Further examples may be found in the annual reports by Human Resources and Skills Development Canada, *supra* note 43. For more on HRSDC's annual reports, see also: [http://www.hrsdc.gc.ca/eng/disability\\_issues/reports/index.shtml](http://www.hrsdc.gc.ca/eng/disability_issues/reports/index.shtml).

<sup>45</sup> Martin Boileau also stated that: "We are in the first year, so I give you a few examples of what the new money will be used for. There is a changing mind, changing life program for schools. There is an international hosting strategy, the LTAD [long term athlete development] system development. There is money for coaching, para-sport equipment, a national public awareness campaign and a sustainable business model."

the Canadian Deaf Sport Association.<sup>46</sup> In addition to the funding Sport Canada contributed to NSOs, which in 2009-2010 was over \$3 million, it gave them over \$1 million to fund projects for developing sport opportunities for persons with a disability.

Sport Canada also gives grants to Canada's elite athletes through the Athlete Assistance Program. In 2009-2010 it gave \$3.9 million dollars to athletes with disabilities, from a total budget of \$35 million. Also in 2009-2010, the Own the Podium initiative, which funds and prepares selected Canadian athletes to reach medal finishes, contributed \$5 million to athletes with a disability, from a total budget of \$34 million.<sup>47</sup>

Jason Dunkerley, Paralympian and Program Coordinator at the Active Living Alliance for Canadians with a Disability, commended the impact of the federal government's funding of high-performance athletes in Canada: "All of the athletes, including me, applaud the government for the huge commitment of federal funding to sport and high-performance athletes. That is starting to have a direct impact." Brian MacPherson expressed his view that the "federal government has come a long way in the last 15 years" and now he feels the portion of the Sport Canada budget spent on sports for persons with disabilities is equitable when compared to funding for traditional sports and the percentage of the population that have disabilities. He added, however, "I applaud them, but do not rest on your laurels because more is needed."

The Government of Canada also contributes funds for attending or hosting various national or international sporting events, such as the Canada Games or the Paralympics. For instance, the federal government is providing \$500 million for Toronto's hosting of the Pan/Parapan American Games in 2015. Mr. Boileau emphasized that the federal government's programs and investments in Canada's sport system, such as hosting events, creates "infrastructure and legacy" and "creates opportunities for our athletes, including our young athletes — the feeders, as we call them — to participate and use those facilities."

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<sup>46</sup> Although it was not entirely clear from Martin Boileau's testimony what these full totals were, information on these amounts can be found in HRSDC's annual reports, *supra* note 43 and at: Next Phase of Canada's Economic Action Plan, *Special Olympics Canada (Budget 2009 and Budget 2010)*, <http://www.plandaction.gc.ca/initiatives/eng/index.asp?initiativeId=134>.

<sup>47</sup> Own the Podium, <http://ownthepodium.org/>.

A concern that was brought to the attention of the Committee, however, by Senator Kochhar was that inequalities exist between the rewards given to athletes who win an Olympic gold medal compared to a Paralympic gold medal: “In Canada, as you know, the Olympic Committee gives the gold Olympian \$20,000, but there is not a nickel given by the Paralympic Committee to the disabled athlete or Paralympian.”<sup>48</sup> As discussed further below, many witnesses were concerned that not enough federal sport funding given to the provinces or national sport organisations ends up in programs that assist persons with disabilities – rather funds are primarily given to traditional sports. The Committee strongly recommends that the Government of Canada ensure that all direct federal funding for sport is distributed equitably among all athletes, whether with a disability or not.

### ***Canadian Sport Policy and Intergovernmental Cooperation***

The *Canadian Sport Policy (2002–2012)*<sup>49</sup> has been endorsed by the federal, provincial and territorial governments. Though focussed on sport in general, it recognises that accessibility barriers exist for persons with disabilities and calls for their identification and elimination; however, it does not spell out how this will be accomplished. According to Mr. Boileau, “this policy has equity and access as one of its principles. The policy stresses that sport be welcoming and inclusive to all under-represented groups, including persons with a disability.” As explained by Dan Smith, however, this policy does not contain many references to sport for persons with disabilities since it was “developed at a system-wide level and looked at issues that apply across the board within the values and principles” of the policy. He added, however, that “sport for persons with a disability will be an important component of the consultation” for the next updated policy in 2012.

A follow-up policy, the *Policy on Sport for Persons with a Disability*, was developed in 2006.<sup>50</sup> This policy outlines a “framework for engaging partners and stakeholders in initiating changes that aim to reduce and ultimately eliminate sport-specific barriers that prevent persons

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<sup>48</sup> Information regarding bonuses for medallists can be found at: Canadian Olympic Committee, *Athletic Excellence Fund*, <http://www.olympic.ca/en/programs/athlete-excellence-fund/>.

<sup>49</sup> *Canadian Sport Policy*, *supra* note 49.

<sup>50</sup> Canadian Heritage, *Policy for Persons with a Disability*, June 2006, <http://www.pch.gc.ca/pgm/sc/pol/spt/tm-eng.cfm>.

with a disability from participating in sport.” The document outlines the means by which the federal government intends to raise awareness and increase access with regards to the involvement of persons with disabilities in sport. It also reviews Sport Canada’s range of initiatives and programs for people with disabilities, including funding programs for Special Olympics Canada, the Canadian Paralympic Committee, the Canadian Deaf Sports Association, NSOs, as well as other projects related to sports programs for people with disabilities involving collaboration with the provinces and territories. The Policy recognises the additional barriers experienced by young children with disabilities in the development of their motor skills and physical abilities and recommends greater attention be given to “childhood sport and physical literacy.” As discussed further below, there is an emphasis in Canada on integrating sports organisations for traditional sports with those for sports for persons with disabilities. Given this trend, and given that there is a need to bring more coaches, trainers and helpers to the field of athletics for persons with disabilities (as discussed in Chapter Two), the Committee believes that there should be one overall policy for sport for all Canadians that promotes equality and accommodates all identifiable groups with particular needs (such as Aboriginal Peoples, women, visible minorities, and persons with disabilities).

Representatives from the federal, Alberta and British Columbia governments described the collaborative mechanisms that exist between the federal government and the provinces and territories. In addition to bilateral agreements, all fourteen governments participate in a joint committee focussed on the development of sport in Canada. The mandate of the Federal-Provincial/Territorial Sport Committee, according to Mr. Boileau, “is to examine issues, challenges and opportunities to increase participation of persons with disabilities in sport, and to recommend a course of action to federal-provincial-territorial governments to address those opportunities.” The Committee’s Action Plans for 2002–2005 and 2007–2012 include as priorities: “to increase the opportunities in coaching, officiating, and volunteer leadership for women, persons with a disability, Aboriginal peoples, and visible minorities” and to “encourage National Sport Organisations and Provincial/Territorial Sport Organisations to increase

participation in their sports with a specific focus on women, children and youth, people with a disability, and visible minorities.”<sup>51</sup>

Mr. Boileau also described the bilateral agreements Sport Canada has with every province and territory to provide “federal funding on a matching basis for the efforts of these governments to increase the participation of their citizens in sport. A number of these agreements include initiatives for persons with a disability.” Roger Kramers and Steven Patrick, from the Sport Development Branch or Alberta’s Tourism, Parks and Recreation, discussed these agreements from that province’s perspective, noting that they value the success achieved as the agreements allow each province to determine what will work best within their region.

The Committee was informed about a number of projects currently in place in Alberta and British Columbia that impact on sport and recreation for persons with disabilities. These projects included direct financial assistance to sport organisations such as Hockey Alberta, the Alberta Curling Federation, BC Wheelchair Sports Association and the Special Olympics BC. These organisations in turn develop sport programs for persons with disabilities. Witnesses from both provinces also described a number of funding initiatives available for provincial sport organisations, and those from Alberta described funding for a number of high-performance para-athletes as well as for sport development centres.<sup>52</sup>

Mr. Boileau appeared optimistic that through the involvement of provinces and territories, any gaps between the community and the federal government’s strategies can be filled. However, several witnesses expressed concerns about the manner in which funding and resources were being allocated at the provincial level. Some expressed concerns that funding is not necessarily making it to sports for persons with disabilities. For instance, Kim McDonald said: “Hockey Alberta receives a lot of money for sledge hockey but that money does not filter down to us.” Brian Macpherson added that:

Where the system breaks down is below the federal level, at the provincial governments and local governments. They just do not put enough funding

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<sup>51</sup> *Canadian Sport Policy*, *supra* note 49.

<sup>52</sup> Steven Patrick also mentioned that funding was given to the Steadward Centre for Personal and Physical Achievement.

resources towards recreational and sport activities for people with disabilities. It is not only not enough, but what they do put in is inequitable if you take it with the perspective of the overall population of taxpayers that live with a disability. On the provincial level, about 4 per cent of their annual budget directed to sport gets earmarked for sport for people with disabilities. I profess that should be in the neighbourhood of 20 per cent. Without any more additional funding at the provincial level toward sport, or new funding, you could take the existing money and redistribute it in a more equitable way.

Other witnesses agreed that more investment should be made at the provincial level. “The resources have to be placed in the provinces,” said Monique Lefebvre. Senator Kochhar considered the low participation rates of persons with disabilities to be a consequence of the provinces only spending 4 per cent of their annual sports budget on sports for the disabled, adding that: “we must get after them to come to the plate.”

Prompted by these concerns, the Committee explored with our witnesses the issue of how government funding is allocated. Mr. Kramers explained that when Alberta funds such programs as interprovincial games, it does “not allocate separate bodies of funding for the disabled component and the able-bodied component”, though he acknowledged that this factor is considered when determining who should receive funds. He added that: “Where we can, we are trying to encourage the groups to work together.” Dan Smith also explained that Sport Canada deals primarily with national sport organisations and does not get “involved directly” with their relationships with provincial counterparts. The Committee would like to see Sport Canada becoming more involved in the dialogue that is taking place at all levels, not just at the national level, since this will help it to ensure that sport opportunities are being properly developed for people with disabilities through its various funding programs.

As noted above, the Committee is concerned that sports for persons with disabilities must be equitably funded across Canada. In order for this to be achieved, the Government of Canada must assess the full range of funding across the country – in particular federal funding, whether given directly or that is further distributed by the provinces or other sport organisations. The *Canadian Sport Policy* should set out strategies for ensuring that funding is properly coordinated and accounted for from the top down in order to serve the needs of all Canadians. Furthermore, it should ensure that, where appropriate, conditions be placed on the dispersal of any federal funds

requiring that these are given equitably to traditional sports and to sports for persons with disabilities.

### **Recommendation #10**

**The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada develop a pan-Canadian strategy that:**

- **Highlights the importance of making sport and recreational opportunities available to all Canadians, with specific reference to persons with disabilities and any other group with specific needs;**
- **Is designed to assess the needs of persons with disabilities for accessible sporting opportunities in every region of Canada in order to ensure that sport and recreational activities are properly funded and available to all Canadians;**
- **Ensures that athletes with disabilities are treated equally with athletes participating in traditional sports under all federal programs and that sport initiatives for persons with disabilities receive funding in proportion to their needs and their numbers;**
- **Ensures that all federal funding to provinces, national sport organisations, and other sport organisations includes conditions as appropriate to ensure that funds are distributed equitably to traditional sports and to sports for persons with disabilities; and,**
- **Is based on thorough consultations with all relevant stakeholders, including local sport and recreation organisations, researchers and experts, national and provincial sports organisations, multi-sport organisations, athletes, organisations representing persons with disabilities, and all levels of governments.**

### **Integration**

The Committee learned that in recent years mainstream sport organisations and those for persons with disabilities have largely been integrated. For example, both traditional and sledge hockey are now both run by Hockey Canada, and all forms of swimming by Swimming Canada. Exceptions include sports where there is no obvious equivalent, such as Goalball.<sup>53</sup> Overall, our witnesses are supportive of these integration efforts. Mary Law emphasized how integration can be beneficial for increasing the availability and quality of sport programs for persons with

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<sup>53</sup> Goalball is a Paralympic Sport played exclusively by athletes who are blind or visually impaired. For more information, see: The Canadian Blind Sports Association, *Goalball*, <http://www.canadianblindsports.ca/eng/goalball/index.htm>.

disabilities, thereby increasing participation. She felt that policies narrowly focused on persons with disabilities, on the other hand, may have good intentions, but may segregate them from their peers or stigmatize them by overemphasizing their special needs. Several witnesses talked about how well integration has worked in some sports, with Mark Hahto noting that this has created great opportunities for para-swimmers.

Robert Steadward cautioned that integration can fail to benefit people with disabilities if organisations are not accountable for how they spend their funding:

In the past, some national organizations took the money but did not use it for programs for athletes with a disability, they used for other events. As a result, our athletes never received the same kind of opportunities.

He also recommended “a certain amount of segregation in order for the grassroots to develop.”

Witnesses noted that integration has not yet been consistently adopted throughout the provinces. Mr. Patrick observed that within Alberta, there is confusion about who has the lead role between organisations for able-bodied athletes and the ones for those with disabilities: “is it Basketball Alberta or is it Wheelchair Sports Alberta?” He suggested that his department could “provide a culture to facilitate” beneficial progress in this area. David Legg also noted that integration has not necessarily taken place at the provincial or local community levels, resulting in “a disconnect” that is impeding the full benefits of integration.

Another area of integration discussed during the hearings was the idea of combining all the various Olympic and Paralympic events into one set of games. Witnesses discussed the benefits and potential downsides of this. Jason Dunkerley explained that at the 2011 Canada Winter Games in Halifax, events for athletes with a disability were included as part of those games, rather than separate:

So many great things come about from that inclusion. It is great in terms of the athletes with the disability, it is social inclusion, it is the chance to be involved in those games and it is also fantastic for the other young able-bodied people competing in those games, youth and young adult. It does so much to promote disability awareness and social inclusion.

John Willson pointed out that integrating the games would also have a financial benefit, since duplicating the ceremonies of two sets of games “consumes financial assets that could be spent on the long-term development of disabled athletes by investing in grassroots programs.”

Not everyone fully embraced the idea of integrating the games, however: Colette Bourgonje feared that this might lead to athletes with disabilities losing out on the number of events that currently exist for their sports in the Paralympics.

The Committee is of the view that integration efforts merit further consideration in the development of future sport policies, so long as they continue to be of benefit to athletes with disabilities and to the growth of their sports.

### **Recommendation #11**

**The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada promote the values of integration within national and provincial sport organisations where appropriate, while ensuring that any support or funding for these organisations includes requirements and guidelines that ensure equitable funding and resources for persons with disabilities.**

### **Local Organisations and the “Feeder System”**

As discussed in Chapter IV, there are too few sport and recreation opportunities available for persons with disabilities across Canada. However, the Committee heard many good things about organisations that are delivering the much-needed local programs in areas where they are fortunate enough to find support, including the Active Living Alliance and its program All Abilities Welcome, the Accessible Sport Council London and Area, AlterGo, Variety Village and the Steadward Centre. These programs and centres help to engage people with disabilities in sport, and have helped produce internationally competitive athletes as well.

Despite their achievements, these organisations are facing many challenges, including insufficient funding. For example, as Jill LeClair explained, Variety Village is “now struggling for money” and is targeting nondisabled people in order to get the revenue stream up. Kim McDonald lamented the fact that while money goes to high-end athletes in Canada, recreational

athletes “are forgotten”. She explained further that: “Locally, we get no funding.... We are in need of equipment, facilities and staff payment, too.”

The Committee recognizes that the lack of support for grassroots organisations is also a concern for Canada’s national level sports. Several witnesses shared a common view that, in Mr. Willson’s words, “the development of elite athletes is closely linked to the development of a broad pool of younger grassroots athletes.” Witnesses called this the “feeder system”: the training of new athletes at the grassroots level to one day compete at the international level. Colette Bourgonje, Jason Dunkerley and Ozzie Sawicki feared that a new generation of elite athletes is not being prepared to take their place. Mr. Willson described the current grassroots development system as “broken”, with Mr. Dunkerley describing it as “hurting”. These witnesses and others emphasized that investment is needed in local organisations to create this feeder system for our elite athletes. Mr. Kochhar summarized this issue as follows:

To become a top Paralympic nation, our biggest hurdle is to fix our feeder system by recognizing, encouraging and training kids with disabilities to bring out the very best in them.... If we do not have institutions like Variety Village, we have no way of training anyone to participate in the Paralympics.

David Legg explained that the Canadian Paralympic Committee is well-aware of the need for better domestic development of athletes: “We are very aware of the need for a more efficient and more effective system. It is definitely on our radar to become one of our primary pillars for the next five years.” He did, however, add that he thought Canada will do very well at its next Paralympic games. Mr. Kramers thought that there are signs that the feeder system is working in Alberta, and athletes are rising to the next level to participate in elite competitions. Steven Patrick agreed that the feeder system is at least “working to some extent”, though added that “like anything else in the sport system, there is room for improvement.” The Honourable Ida Chong informed the Committee about the large successes her province has seen in developing Paralympic athletes, indicating how her province is able to produce at the elite level.

The link between the playground and the podium was well-presented by witnesses. Investment at the local level is important, not just for the development of competitive athletes

who can win gold medals, but also for ensuring that all Canadians can participate in active, healthy lifestyles.

## **Recommendation #12**

**The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada ensure that funding programs and guidelines are in place for all levels of government to ensure that local organisations serving persons with disabilities are properly supported.**

## **National Collaboration**

There was significant consensus among witnesses that more can be done to enhance the collaboration of all those working in the sport and recreational field for persons with disabilities in order to create a more efficient and supportive system of athletic development. Mr. Hahto described the current situation as “somewhat fragmented” with “many layers that often duplicate one another”. He added, “By reducing some of the multi-layered approach, we will address some of the inefficiencies and gaps and we will maximize awareness and education.” Robert White agreed that there was duplication and not enough communication, and suggested what is needed is “a mechanism whereby we could all come to the same table and determine how we can move forward.” Robert Steadward mentioned the lack of leadership, which could come from “national or international experts who can lend considerable credence to what we are trying to achieve.”

The Committee heard some examples of Canadian efforts to achieve better communication, cooperation and collaboration. Mr. Kramers and Mr. Patrick both discussed how the Alberta government has made efforts to bring groups together to establish greater cooperation, noting that an idea that resulted from this was to have a web portal for people with disabilities to learn about how to get involved in sport. Jane Arkell explained how the Active Living Alliance was created in 1989 to be a “national network” in order to

share what is happening across the country, such as through grassroots programs, with different disability groups learning from each other, different sport groups learning from each other, helping coaches in the community to include someone with a disability.

However, she implied that though these elements exist, her organisation cannot achieve the much needed results due to inadequate funding. Mr. Legg also discussed the Canadian Paralympic Committee's potential role in developing better relationships within the community. He explained how its membership only includes national sport organisations, and it does not therefore work directly with local organisations. However, with its increased funding, he indicated that they need to develop a strategic plan "with the goal and thinking that we work with all of the disparate entities to create a better system overall."

The Committee sees enhanced collaboration, communication and cooperation as a key element that the federal government can support, in particular as it develops future sport policies. There are many ways that this can be done, such as helping organisations like the Active Living Alliance and the Canadian Paralympic Committee to better coordinate their existing efforts. Ms. Law stressed the importance of promoting "strategic alliances between organisations such as municipalities and the YMCA." Mr. Willson expressed his desire to see "a national alliance of organizations that works with providing adapted physical education and recreational opportunities for people with disabilities. Such an alliance would provide some assurance that we are delivering the very best that we, as Canadians as a whole, could create and deliver." Also, Mr. Steadward felt that an idea proposed during the hearings about holding a summit with the Minister of State for Fitness and Amateur Sport and other organisations in this field would be helpful: "Maybe it is time to take stock to see where we were and where we want to go in the future."<sup>54</sup> The Committee notes that, in addition to periodic inter-governmental round tables, a national sport summit was held in 2001 during the preparations of the first *Canadian Sport Policy*, which may serve as a model for the type of forum that could be used for engaging all stakeholders.

When Ms. Chong was asked about what was needed in Canada to improve the situation for athletes with disabilities, she supported our other witnesses, replying that Canada needs

a coordinated, collaborative effort to recruit athletes into the system and a long-term athlete development pathway that is coordinated with local,

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<sup>54</sup> Jill Le Clair also agreed that such a conference or forum is necessary to bring resources and people together.

regional, provincial and national sport organisation as well as federal and provincial governments.

Her responses included a recommendation that Canada's Policy on Sport for Persons with a Disability should "enable a more efficient and effective alignment of roles and responsibilities among sport and disability sport organisations at the national and P/T level."

These comments confirm that there is a desire within the sport community to establish a pan-Canadian, collaborative vision of what athletics can be for persons with disabilities. The Committee urges the Government of Canada to take advantage of this energy and create the mechanisms for further cooperation and for clarification of the roles played by all relevant stakeholders and government institutions. These mechanisms can be integrated into the renewal of the *Canadian Sport Policy (2002–2012)*.

### **Recommendation #13**

**The Committee recommends that in renewing the *Canadian Sport Policy*, the Government of Canada create a forum for discussion and cooperation with all relevant stakeholders, including all levels of government as well as sports organisations and athletes, in order to establish a framework setting out clear roles and responsibilities for all levels of government and sports organisations for managing Canada's system of athletic development.**

## CHAPTER VI: Conclusion

*For many years I really struggled. Outside my brothers and sisters, I did not really have any friends, and I had not found anything I liked or was good at. However, my life changed when I joined Special Olympics rhythmic gymnastics... My successes in rhythmic gymnastics showed me that if I worked hard, I could become very good at something. I became more confident and proud of myself. I now lead a very busy and full life. I train for rhythmic gymnastics almost every day. I have a part-time job at Staples, which is a few blocks from here. Monday to Friday mornings, I am at Algonquin College in a special program. About once a month, I give a speech or demonstration about Special Olympics. I have many friends that I see regularly, and I also take riding lessons and take care of my three horses.*

*Christina Judd-Campbell, Athlete, Special Olympics Canada*

During this study, one of our invited witnesses was unable to attend a Committee hearing because as he was boarding the plane to Ottawa, it was determined that there was no room for his wheelchair. His absence was our loss. For the Committee, this was yet another indication that people with disabilities continue to face far too many barriers that prevent them from full participation in our society: and this broader issue disadvantages all Canadians. Removing the barriers that impede a person's ability to participate in sport and recreation is just one of the ways we can work towards creating an inclusive Canada.

The Committee hopes that all levels of government in Canada will recognize the importance of these issues and will work together to make our communities more healthy, active and open. With an ageing population and a society that is struggling with issues of obesity due to inactivity, the promotion of universally accessible sporting opportunities for all Canadians is timely and necessary. Furthermore, as explained by Monique Lefebvre, "People living with disabilities reveal the needs of society. If we are able to respond to their needs, we are helping the public at large."

Akiko Ito aptly summarized the task that will be before us, collectively, following the publication of this report:

As a final word, I would like to reiterate that the real challenge now and the challenge that I understand the Human Rights Committee of the Senate is

now addressing is to ensure that the goals and objectives of the Convention on the Rights of Persons with Disabilities are translated into practical action so that we can make a direct impact on the lives of persons with disabilities in their communities at the local, national, regional and international levels.

The Committee urges the Government of Canada to work with the provincial and territorial governments and implement the practical measures recommended in this report so that we can truly develop a society that creates equal opportunities for all Canadians of all ages and levels of ability to have an active and healthy future.

## **APPENDIX A – Witnesses**

The following witnesses appeared before the Committee during the course of its hearings in preparation of this report.<sup>55</sup>

### **Monday, February 14, 2011**

#### *Human Resources and Skills Development Canada*

Jacques Paquette, Senior Assistant Deputy Minister, Income Security and Social Development Branch

Carmelita Olivotto, Director, Intergovernmental Relations and Special Projects

#### *Canadian Heritage*

Martin Boileau, Director General, Sport Canada

Dan Smith, Director Policy and Planning, Sport Canada

### **Monday, February 28, 2011**

#### *The Steadward Centre for Personal and Physical Achievement*

Robert Steadward, Founder and Honorary President

#### *As an individual*

Mary Law, Professor, School of Rehabilitation Science/CanChild Centre for Childhood Disability Research, McMaster University

#### *Global Disability Research in Sport and Health Network*

Jill Le Clair, Founder and Chair

#### *Active Living Alliance for Canadians with a Disability*

Jane Arkell, Executive Director

Jason Dunkerley, Program Coordinator

#### *Variety Village*

John Willson, Chief Executive Officer

Archie Allison, Director, Outreach and Education

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<sup>55</sup> More information regarding the Standing Senate Committee on Human Rights, including transcripts from these meetings, is available at: [http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeHome.aspx?parl=41&ses=1&Language=E&comm\\_id=77](http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeHome.aspx?parl=41&ses=1&Language=E&comm_id=77).

**Monday, March 7, 2011**

*Canadian Paralympic Committee*

David Legg, President

*Canadian Paraplegic Association*

Robert White, Executive Director

*Special Olympics Canada*

Neil Glasberg, Interim President and Chief Executive Officer

Sharon Bollenbach, Vice-President, Sport

Christina Judd-Campbell, Athlete

*As an individual*

Colette Bourgonje

**Monday, March 21, 2011**

*Swimming Canada*

Mark Hahto, Chief Operating Officer

*Athletics Canada*

Ozzie Sawicki, Para-Athletics Head Coach

*Canadian Blind Sports Association*

Jane Blaine, Executive Director

**Monday, October 3, 2011**

*Accessible Sport Council London and Area*

Darda Sales, Co-Chair

*Paralympic Sports Association*

Kim McDonald, Executive Director

*Parasport Ontario*

Brian MacPherson, Director

*Alter Go*

Monique Lefebvre, Executive Director

**Monday, October 24, 2011**

*United Nations*

Akiko Ito, Chief, Secretariat for the Convention on the Rights of Persons with Disabilities

*Office of the High Commissioner for Human Rights*

James Turpin, Human Rights Officer

*Canadian Human Rights Commission*

Karen Mosher, Secretary General

Harvey Goldberg, Team Leader, Strategic Initiatives

Philippe Dufresne, General Counsel, Litigation Services Division

*As an individual*

The Honourable Vim Kochhar, Retired Senator

*Government of Alberta*

Roger Kramers, Director, Sport Development Branch, Tourism, Parks and Recreation

Steven Patrick, Consultant, Sport Development Branch, Alberta Tourism, Parks and Recreation

**By written submissions only**

The Hon. Ida Chong, Minister of Community, Sport and Cultural Development for British Columbia



## APPENDIX B – Excerpted Articles from UN Instruments

### Articles 25, 30 and 33 of the United Nations Convention on the Rights of Persons with Disabilities<sup>56</sup>

#### Article 25 - Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- (a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- (b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- (c) Provide these health services as close as possible to people's own communities, including in rural areas;
- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

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<sup>56</sup> The *Convention on the Rights of Persons with Disabilities* is available at: <http://www2.ohchr.org/english/law/disabilities-convention.htm>.

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

### **Article 30 - Participation in cultural life, recreation, leisure and sport**

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

(a) Enjoy access to cultural materials in accessible formats;

(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

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

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

5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

- (a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
- (b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
- (c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
- (d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
- (e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

### **Article 33 - National implementation and monitoring**

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.
3. Civil society, in particular persons with disabilities and their representative organisations, shall be involved and participate fully in the monitoring process.

## **Optional Protocol to the Convention on the Rights of Persons with Disabilities<sup>57</sup>**

*The States Parties to the present Protocol have agreed as follows :*

### **Article 1**

1. A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.
2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

### **Article 2**

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (e) It is manifestly ill-founded or not sufficiently substantiated; or when

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<sup>57</sup> The Optional Protocol to the *Convention on the Rights of Persons with Disabilities* is available at: <http://www2.ohchr.org/english/law/disabilities-op.htm>.

(f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

### **Article 3**

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

### **Article 4**

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

### **Article 5**

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

### **Article 6**

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate

one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

#### **Article 7**

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 6.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

#### **Article 8**

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

#### **Article 9**

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

## **Article 10**

The present Protocol shall be open for signature by signatory States and regional integration organisations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

## **Article 11**

The present Protocol shall be subject to ratification by signatory States of this Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organisations of this Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

## **Article 12**

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and this Protocol. Such organisations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and this Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to "States Parties" in the present Protocol shall apply to such organisations within the limits of their competence.
3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organisations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

### **Article 13**

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

### **Article 14**

- Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.
- Reservations may be withdrawn at any time.

### **Article 15**

- Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.
- An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

## **Article 16**

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

## **Article 17**

The text of the present Protocol shall be made available in accessible formats.

## **Article 18**

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

*In witness thereof* the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

## **Article 24 of the United Nations Convention on the Rights of the Child<sup>58</sup>**

### **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

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<sup>58</sup> The *Convention on the Rights of the Child* is available at: <http://www2.ohchr.org/english/law/crc.htm>.

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.