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## ACCESS TO JUSTICE FOR PEOPLE WITH DISABILITIES IN CANADA

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*In this article, the author claims an access to justice for people with disabilities, especially in Canada. The specific measures that have been taken in this country to improve access to the justice system and the legislation that regulates issues related to people with disabilities are set out here.*

Along with the principle of independence of the judiciary, the principle of free access to justice forms the basis of the modern concept of just or proper justice. The idea of unhindered access to court was recognized by the international community as one of the fundamental. The right of everyone to free access to justice is enshrined in Article 8 of the Universal Declaration of Human Rights, in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 14 of the International Covenant on Civil and Political Rights and other international legal instruments. Access to justice can be manifested in different aspects, and I will consider one of the most important aspects, which is access to justice for people with disabilities. The object of my research is Canada.

Canada seeks to reduce barriers and expand opportunities for people with disabilities, ensure their full participation in society. It has a strong legislative base that guarantees the equal rights for people with disabilities. In addition, a range of federal programs support the lives of Canadians with disabilities. The main federal laws that protect people with disabilities from discrimination are the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act.

Canadian Charter of Rights and Freedoms is a part of the Canadian Constitution, which is a set of laws containing the basic rules about how our country operates. The Canadian Charter of Rights and Freedoms is part of the Constitution of Canada, which is a collection of laws containing basic rules about how the country operates. Section 15 of the Charter makes it clear that every person in Canada - regardless of race, religion, national or ethnic origin, colour, sex, age or physical or mental disability - is treated as equal. It follows that governments should not discriminate on either of these grounds in their laws or programs. At the same time as it protects equality, the Charter also allows for certain laws or programs aimed at improving the situation of disadvantaged individuals or groups. They will be discussed further on.

The Canadian Human Rights Act of 1977 also protects Canadians from discrimination. The law prohibits discrimination based on physical or mental disorders.

There are additional resources that contain information about rights in specific areas. [1]

What exactly do the courts provide for real accessibility to justice in Canada?

One of the easiest ways to obtain the necessary information about the activities of the court is to visit its website on the Internet. The Supreme Court of Canada on its website offers a brochure which in the PDF contains information about the history and role of the Supreme Court of Canada, as well as other general information. The English and French versions of the pamphlet are also available in Braille and can be obtained upon request by email, phone or regular mail. [2]

Also, the Supreme Court of Canada in case of difficulty in using the web page, applications or device-based mobile applications suggests contacting for assistance or obtaining alternative formats, such as conventional printing, Braille or other suitable format. [3]

The Braille font (a relief-dotted tactile font intended for writing and reading by blind and poorly seeing people), as well as queries in various ways, naturally, facilitate access to justice for visually impaired people who are limited in capabilities.

If you have a disability and you have been called to give evidence in the Federal Court or the Tax Court of Canada, there are services to help you provide testimony. Communications assistance includes sign language interpreters for interviews or meetings. People with intellectual or physical disabilities may also provide testimony through videotape. Since most legal proceedings take place in provincial or territorial courts, these courts may also offer similar services. [4]

In addition, Canada has ratified the Convention on the Rights of Persons with Disabilities. The first report of Canada spells out specific measures adopted by federal, provincial and territorial governments.

Regarding the measures taken by the Government of Canada to improve access to justice, the report specifies: constitutional and statutory guarantees of equality for people with disabilities, including the right to accommodation to the point of undue hardship, apply to proceedings before federal courts and tribunals, as well

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**Education, Social Studies, Law**

as to any administrative services offered in support of such proceedings, such as those offered by court registrars. Section 14 of the Charter guarantees to the party or witnesses, who are deaf, the right to the assistance of an interpreter in any proceedings.

Within the criminal justice system, the Criminal Code provides for testimonial aids and other measures which make it easier for victims and witnesses with disabilities to provide testimony during criminal proceedings. These measures include: providing testimony outside of the courtroom by closed-circuit television, behind a screen or by recorded video; allowing a support person to be present during testimony; and appointing a lawyer to conduct a cross-examination of a witness with a disability when the accused is self-represented.

For example, in the Yukon, all parts of the courthouse, including the prisoner and jury boxes, are accessible by wheelchair. The building has a vehicle access ramp and elevators. Arrangements are made for American Sign Language interpreters for deaf witnesses or accused, at no charge.

A legal aid project - The Mental Health Office - was launched in Newfoundland and Labrador. It provides persons with mental illness with psychiatric help and legal assistance for civil and criminal matters. The Legal Aid Act allows an application for legal aid from a person found to be mentally incompetent, mentally ill or incapable of managing their own affairs to be accepted if made on that person's behalf by a third party. Recognizing that certain offenders with a mental disorder may commit offences as a consequence of their mental disorder or due to lifestyle issues related to their disorder, the province has instituted a Mental Health Court that provides increased supports to persons who appear before it.

A guardian ad litem may be appointed for persons with disabilities in Family Court in Nova Scotia. There are also processes to ensure that the special communication needs of victims and witnesses in criminal court are met. Some persons may have their criminal charges dealt with through the Mental Health Court. There are new guidelines for correctional workers on the use of conductive energy devices, and corrections workers receive training on dealing with emotionally disturbed individuals. Legal Aid is generally available for low-income persons for criminal and family matters, and legal assistance for persons with disabilities is also available through Reachability, a charitable organization supported by the province.

In Ontario all custody/detention (correctional) staff and probation office staff are required to be trained in accommodating or admitting persons with disabilities, in accordance with the Public Service of Ontario Act, the Child and Family Services Act, the Youth Criminal Justice Act and the Criminal Code of Canada and standards, policies, procedures and directives established by the ministry.

The Ministry of Community Safety and Correctional Services has developed the Police Response to Persons who are Emotionally Disturbed or Have a Mental Illness or a Developmental Disability Guideline to assist police services in the implementation of the Police Services Act and its regulations.

The Ontario Provincial Police piloted the use of video conferencing equipment to provide access to sign language interpreters for both victims and witnesses who are deaf/hard of hearing. It also recently revised its policy to ensure that officers consider the provision of a support person when interviewing an accused with a cognitive-related disability. [5]

We can draw a conclusion that the process of improving access to justice for people with disabilities is going on throughout the country. It is good that people with disabilities can get adequate support.

Not only in Canada, but everywhere it is important every individual can have, and believe they can have, access to justice when they need it. It is necessary to identify and improve the system and increase the confidence disabled people have in justice. Perhaps in other spheres of life, people with disabilities may have some restrictions, because of their health problems, but with regard to access to justice, it is in the power of society to ensure equality and adequate provision.

#### REFERENCES

1. Rights of people with disabilities [Electronic resource]. – Mode of access: <https://www.canada.ca/en/canadian-heritage/services/rights-people-disabilities.html>. – Date of access: 07.02.2018.
2. General Information about the Court [Electronic resource] // Supreme Court of Canada. – Mode of access: <https://www.scc-csc.ca/court-cour/info/index-eng.aspx>. – Date of access: 05.02.2018.
3. Terms and Conditions [Electronic resource] // Supreme Court of Canada. – Mode of access: <https://www.scc-csc.ca/terms-avis/notice-enonce-eng.aspx>. – Date of access: 05.02.2018.
4. Services for People with Disabilities [Electronic resource] // Guide to Government of Canada Services for People with Disabilities and their Families. – Mode of access: [http://www.faslink.org/disability\\_guide\\_eng.pdf](http://www.faslink.org/disability_guide_eng.pdf). – Date of access: 15.02.2018.
5. Convention on the Rights of Persons with Disabilities: First Report of Canada [Electronic resource] // Council of Canadians with Disabilities. – Mode of access: <http://www.ccdonline.ca/en/international/un/canada/crpd-first-report>. – Date of access: 17.02.2018.