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# **Submission of the Disability Rights Coalition to the Human Rights Committee**

On the List of Issues Prior to Reporting for Canada to be adopted during the 132nd Session of the Human Rights Committee (28 June to 23 July 2021)

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## Contacts for this Submission

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## **The Disability Rights Coalition**

The Disability Rights Coalition (DRC) is an advocacy group made up of people with disabilities, their friends and family members and dedicated professionals and was formed after the Nova Scotia government failed to implement the recommendations in the [Kendrick Report](#); a report commissioned by the Nova Scotia government and prepared by Dr. Michael Kendrick in 2001.

We are a cross-disability coalition of individuals and over 32 organizations across Nova Scotia, which is committed to promoting the equality interests of all persons with disabilities. Since 2001, we have advocated for the Province to stop institutionalizing persons with disabilities, and to fund the community supports necessary for persons with disabilities to claim their rightful place in society.

As an organization, we filed a complaint to the Nova Scotia Human Rights Commission, along with three individuals who had been unnecessarily institutionalised by the Province, to bring the systemic human rights concerns forward concerning the approximately 1500 Nova Scotians with disabilities waitlisted by the Province for social services to live in the community, as well as individuals who are unnecessarily institutionalised in psychiatric hospitals, regional rehabilitation centers and other facilities funded by the Province.

The Disability Rights Coalition argued in the Human Rights hearing that the Province discriminates by warehousing hundreds persons with disabilities in segregated, remote, old institutions and denying persons with disabilities the supports they need to lead integrated lives in the community.

We support the human claim of the three individuals who had been warehoused in a locked psychiatric ward in one case for 17 years despite there being no medical or legal reason to keep them there. To read more about the human rights complaint [click here](#).

## **List of Issues for Canada regarding the Convention on Civil and Political Rights; Liberty (Articles 9) and Equality (Article 26)**

### ***Factual Background***

In many provinces of Canada, people with disabilities, (either physical or mental and/or both) living in poverty are forced to live in segregated, institutional settings rather than community-

based settings. Often these congregate care settings are locked (e.g., locked wards in psychiatric wards), located in remote settings and away from family and community.

In 2016, after reviewing Canada's Sixth Periodic Report, the *Committee on Economic, Social and Cultural Rights* stated in its [Concluding Observations](#):

**Housing for persons with disabilities**

45. The Committee is concerned that persons with psychosocial and intellectual disabilities continue to be placed in care institutions due to a lack of adequate housing for them. It is also concerned by the increased rate of incarceration of these persons and the excessive use of solitary confinement (arts. 11 and 12).

In 2017, the *Committee on the Rights of Persons with Disabilities* stated in its [Concluding Observations on Canada's](#) Initial Report that:

...persons with disabilities continue to be placed in institutions in many provinces, such as Alberta, British Columbia, Manitoba, Nova Scotia, Prince Edward Island and Quebec, and in the territories. It is also concerned about the lack of adequate services and support available to persons with disabilities within the over 600 First Nation communities in the State party. (para. 37)

In 2005, after reviewing Canada's Fifth Periodic Report, this [Committee's Concluding Observations](#) included the following concern and remedial recommendation regarding the *intersecting* concerns impacting the 'right to liberty and security of person' (article 9 of the *International Covenant on Civil and Political Rights* ('*ICCPR*')) and the right to be free from discrimination (article 26 of the *ICCPR*):

17. The Committee is concerned about information that, in some provinces and territories, people with mental disabilities or illness remain in detention because of the insufficient provision of community-based supportive housing (arts. 2, 9, 26).

**The State party, including all governments at the provincial and territorial level, should increase its efforts to ensure that sufficient and adequate community based housing is provided to people with mental disabilities, and ensure that the latter are not under continued detention when there is no longer a legally based medical reason for such detention.**

[emphasis in original]

**Issues/Questions:**

The questions for Canada arising from this factual background are as follows:

1. How many people with disabilities resided<sup>1</sup> in institutions (including hospitals) in Canada in 2005 when the Committee first raised the unnecessary institutionalization of people with disabilities as a concern, and how many people with disabilities reside in institutions currently?
2. Does Canada agree that persons with disabilities have a right to inclusion and community-based living as part of their right to liberty (Article 9) and equality (Article 26) under the Convention on Civil and Political Rights (CCPR) and that these are obligations of immediate effect?
3. With respect to submissions by the Province of Nova Scotia in the human rights case, *Disability Rights Coalition and Beth MacLean, Olga Cain on behalf of Sheila Livingstone, Tammy Delaney on behalf of Joseph Delaney v. The Attorney General of Nova Scotia* (2020 C.A. No. 486952), that international human rights under the ICCPR have no relevance to the determination of the equality rights of persons with disabilities in relation to their unnecessary segregation in institutions,<sup>2</sup> does Canada agree with these submissions made on behalf of the Province of Nova Scotia?

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<sup>1</sup> By “resided” we mean living in institutions, including hospitals, segregated from the rest of society. where there is no medical or legal reason for them to be there.

<sup>2</sup> “The obligations alluded to in the ICCPR are not even “non-discrimination” obligations, and the treaty makes no mention of disability; whatever obligations may be contained there, they provide no guidance to this court in interpreting the meaning of discrimination under the Human Rights Act.” See factum filed on behalf of the Province of Nova Scotia [here](#)