

## Countering Policy Exclusions: Canada, Disability, and International Commitments

### Event Description

On **February 27, from 12:30-2:00pm ET**, the [Live Work Well Research Centre](#) (LWWRC) and Dr. Leah Levac's Canada Research Chair in Critical Community Engagement and Public Policy co-sponsored a panel on Zoom. Attendees joined host Deborah Stienstra along with three panelists to discuss how Canada's failure to implement international agreements has affected persons with disabilities. Canada has signed and ratified key international agreements including on disability, Indigenous rights, race, the environment, economic and social rights, and others. Reports from civil society organizations and researchers suggest that the implementation of these agreements is only partial, resulting in fewer supports and services for people with disabilities in Canada and abroad, and more people becoming disabled. This panel of civil society leaders and researchers identified key implementation gaps and their implications for people with disabilities. They also illustrated how women, girls, and gender-diverse people with disabilities provide leadership to counter these failures.

**Host:** Deborah Stienstra

**Panelists:** Bonnie Brayton, Stephanie Chipeur, Lynn Gehl

**Note taker:** Catherine Hall

### Round 1 of Questions

**Speaker(s):** Deborah, Bonnie, Stephanie, and Lynn

**Question for all panelists:** In your area of work, what are a few key gaps in implementing Canada's commitments to international agreements? How do these gaps show up in the lives of women, girls, and gender-diverse people with disabilities?

**What actions are needed to address these gaps, and how are women, girls, and gender-diverse people with disabilities contributing?**

**Bonnie's response:**

- Women and girls with disabilities are often excluded from policy and instead added as footnotes at the end of policy documents.
- A report was delivered by DAWN Canada to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) that discussed why MAID Track 2 should be removed due to the systemic barriers that particularly impact women with intellectual disabilities.
- To address some of these gaps, capacity should be increased within civil society organizations to produce better research that includes intersectional perspectives, and financial and resource support should be increased to enable advocacy among women and girls with disabilities within communities.

**Stephanie's response:**

- Article 19 of the Convention on the Rights of Persons with Disabilities (CRPD) is about the rights to live in the community and live independently, and yet this remains an issue in Canada.
- Census data is used to inform policy, but the Canadian government collects data only on people living in their own homes, which leads to the erasure of people living in collective dwellings (assisted living, prisons, long-term care facilities, etc.).
- The government includes a footnote stating that census data does not include people living in collective dwellings, but it does not discuss what this actually means: that those with some of the highest needs are excluded.
- This population gets dismissed because the government claims it is a very small percentage of people, but because this data isn't collected, we have no way of knowing how their needs are being neglected.

**Lynn's response:**

- A number of specific policies have implications for Indigenous women and girls with disabilities, for example:
  - Articles 21 and 22 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) applies to Indigenous people with disabilities and their right to live without discrimination and to have their needs met.

- Article 26 of UNDRIP talks specifically about the right to land and the right for Indigenous people to do what they want with their land.
- Article 28 of UNDRIP talks about readdressing compensation.
- Article 1 of UNDRIP addresses sexual discrimination.
- Article 9 of UNDRIP pertains to nationality and that Indigenous people have a right not to be excluded from their nationality.
- The history of the treaty processes in Canada is extensive and has been amended several times, including when Pierre Trudeau unilaterally drafted a land claim in 1981, and when the comprehensive land claim process was amended in 1987.
- The government offers only 1.7% of the territory that belongs to the Indigenous people, and as a result Indigenous people are unable to take care of Indigenous people with disabilities because they don't have the necessary resources.

## Round 2 of Questions

**Speaker(s): Deborah, Lynn**

**Question for Lynn Gehl: In thinking through the links between Indigenous Peoples' rights and disability rights, you use a wide-angle lens that can help us understand some of the more structural links between colonization and the high rates of disability among Indigenous people. Can you talk about some of these links specifically in the context of resource extraction and development? How do you see that illustrating some of the tensions that we're talking about today?**

**Lynn's response:**

- Indigenous land offers many financial benefits, including the following:
  - Algonquin forestry extracts \$330 million from Algonquin Park and adds that to the Ontario economy;
  - In Ontario more broadly, the forestry industry contributes \$18 billion to the economy;
  - The Ottawa River generates \$1 million per day to the economy; and
  - In 2003, \$6.5 million in gold was extracted from Indigenous territory.
- There are also many barriers in the legal system for Indigenous women and girls with disabilities, such as how Canadians must exhaust all domestic remedies before treaties formed at the UN level are considered, which is costly and time-consuming.

- There is also a lack of reparations for women dealing with sex discrimination, and the government has failed to address the intersection of sex discrimination and race discrimination.

**Speaker(s): Deborah, Stephanie**

**Question for Stephanie Chipeur: Given that the federal government is responsible for international agreements, but many dimensions of these require implementation by provincial government, how does Canada's federal system affect its ability to implement international agreements? And what do you think could be done to address this? Can you give any specific examples?**

**Stephanie's response:**

- Part of the problem is the issue of federalism.
- Canada ceded to the UN CRPD Optional Protocol in 2018, which means that the general public can bring issues to the committee, but they must exhaust every other option, so not many people do because it is such a long process.
- One example that illustrates how federalism can be overcome is the investment of significant amounts of money into retrofitting within built environment codes to address climate change efforts, but the gov't does not show the same level of support to retrofitting for accessibility.
- There is also the issue of accessible housing—there is a housing shortage, but there is not a lot of funding being put forward to ensure the housing is accessible, which leads to more people living in institutions.

**Speaker(s): Deborah, Bonnie**

**Question for Bonnie Brayton: You have been active in a number of different treaty body discussions, including the UN Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Covenant on Economic and Social Rights (CESR). Are there any tensions between these different commitments and Canada's accountability for implementing them? How do these international commitments shape the federal government's obligation to ensure the experiences of women and girls with disabilities are considered in its policy development and implementation?**

**Bonnie's response:**

- There are high levels of disability among Indigenous people, which is linked to gender-based violence.
- There is also the issue of silos: people who would be most inclined to do shadow reports and “fight the good fight” are the ones struggling to get a seat at the table, which raises the question of where they should spend their time and energy.
- Raised the question of whether we need to change our focus: Should we focus on what works, not what doesn’t? Just pointing out what isn’t working isn’t improving anything and is wearing people down. Is this where we want to put our time and energy?

## **Question & Answer Period**

**Speaker(s): Participant, Bonnie**

**Question: I would like to know from all your enriching experiences what analysis you make of Canada’s international commitment on the issues of women and girls with disabilities, namely in Africa.**

**Bonnie’s response:**

- It is difficult to even discuss sexual reproductive rights in Africa.
- She is even more concerned for women and girls with disabilities and the trans community.
- DAWN is part of the Global Forum on the Leadership of Women with Disabilities (GFLWD), which includes women from the Global South; it is working on understanding the implications of and accessing policies to increase access to sexual reproductive health and care for women in Africa.
- She suggested connecting with the African Disability Forum and highlighted that Humanity and Inclusion (HI) Canada are doing some really good work, including the “Making it Work” initiative.

**Speaker(s): Participant, Stephanie, and Bonnie**

**Question: Courts have been reluctant to use international treaties because, among other arguments, the signature / ratification is a pure act of the Government (Executive branch). However, there's a "new" policy that involves the Legislative branch (Parliament) in the process: Policy on Tabling of Treaties in Parliament. The Parliament now has an opportunity to act about the actions of the Executive branch. Should the Courts use the explicit or implicit approval (or silence) of the Parliament about a treaty to give a stronger legal effect of those treaties in cases before them?**

**Stephanie's response:**

- Stephanie provided an example from Nova Scotia, where a judge used the Convention on the Rights of Persons with Disabilities (CRPD) to justify not removing children from the care of their parents with disabilities, but the court of appeal upheld the removal of the children from the household.
- This was an attempt of a lower court to begin to use the treaty, but it will probably show other courts that they shouldn't try to use these treaties in their decisions.
- Stephanie suggested the CRPD should be integrated into our laws because courts rarely cite the CRPD.

**Bonnie's response:**

- Bonnie referred to MAID Track 2 as an example where Canada was contacted because it is in conflict with the CRPD.

**Speaker(s): Participant, Lynn**

**Question: How are spiritual traditions important for the wellness of people?**

**Lynn's response:**

- There is a \$350 billion gap in infrastructure between Indigenous people and the general population, which results in health issues and more disabilities.
- Many reports talk about the lack of modalities for Indigenous health and wellness.
- There are spiritual modalities; we all have these overlays, and healers can help.
- Due to generational trauma, it's not "just" physical trauma, but also spiritual trauma.

**Speaker(s): Participant, Lynn**

**Question: Can you explain more about some of the practices Canada relies on to skirt around its United Nations treaty obligations? I know you have a long experience addressing the issue of unknown and unstated paternity in the Indian Act that we can all learn from.**

**Lynn's response:**

- Lynn referred to her own experiences of being denied for Indian status registration in 1994, where the courts argued that they didn't have a policy for unnamed and unstated paternity.

- At the appeal, the government refused to disclose their policy, but eventually Lynn did win at the court of appeal.
- Discourse is also still an issue. For example, terms such as “incompetent Indian” and “cripple” are still used.

**Speaker(s): Participant, Stephanie**

**Question: The government clearly admits that they don’t collect data from some groups, but the government doesn’t give any justification for that. What could be the reason? Without exact numbers, how can they develop policy or make any kind of decision?**

**Stephanie’s response:**

- It is the government’s responsibility to collect data from everyone, including people living in collective dwellings, but they choose not to.
- This likely comes from an idea that people living in these institutions aren’t living valuable lives.
- It is important to question who is defining the norms of how we care for older adults and people with disabilities; Canada’s shame is continually institutionalizing people of all ages.