

**A Path to Coordinated Federal Leadership and Investment  
In Accessibility, Inclusion and Poverty Reduction  
For Canadians with an Intellectual Disability**

**Brief Submitted to  
Federal Consultations on Poverty Reduction and Accessibility Legislation**

**by  
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&  
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l'intégration communautaire

Diversity includes. On se ressemble.



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## **Executive Summary**

### ***Widespread Poverty and Exclusion***

Canadians with an intellectual disability are among the most vulnerable in Canadian society. They are much more likely than others to be:

- Isolated, lonely, stigmatized and hopeless;
- Victimized, unsafe and discriminated against;
- Living in poverty and excluded from paid employment;
- Without needed personal and communication supports at home and in the community;
- Homeless and lacking affordable and adequate housing; and,
- Powerless over their own lives – in personal, health care and financial decisions.

### ***Main Barriers to Inclusion***

The main barriers causing poverty and exclusion of people with an intellectual disability are:

- Negative perceptions and attitudes
- Communication barriers
- Failing social infrastructure
- Lack of power over personal decision making

### ***Building on Current Federal Commitments***

Through Budgets 2016 and 2017, and its calls for a National Housing Strategy and Poverty Reduction Strategy, the Government of Canada promises to make social and economic inclusion a reality for all Canadians, including people with an intellectual disability. Canada's commitments in five main areas could address the barriers that people face:

- Accessibility Legislation
- National Housing Strategy
- Poverty Reduction
- Inclusive Social Infrastructure and Strengthening Communities
- Workforce Development and Job Creation

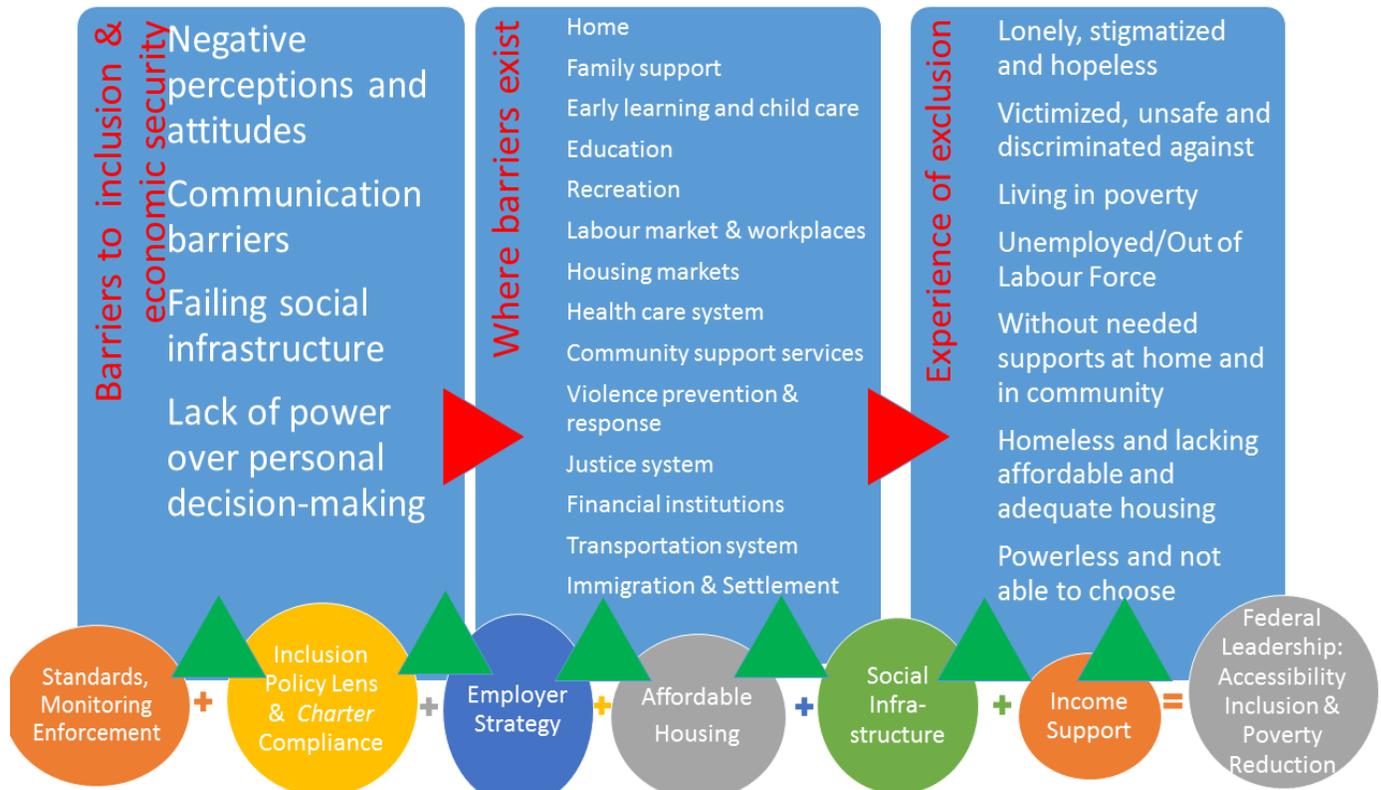
### ***A Call for Federal Leadership and a Coordinated Strategy***

These are historic commitments. The investments could make a lasting impact on inclusion. To do so, the federal government must take leadership in a coordinated strategy that includes:

1. Human-rights based accessibility and inclusion standards, with monitoring and enforcement mechanisms
2. Mandatory federal government *Charter* compliance and inclusion policy lens
3. Employer-based strategies in the federal as well as private, non-profit and public sectors
4. Inclusive affordable housing development
5. Social Infrastructure investments for accessible and inclusive communities
6. A basic income program for people with significant disabilities.

The following diagram puts these pieces together. It shows how with federal leadership and a coordinated strategy the multiple dimensions of poverty and exclusion could be addressed for this group:

## Federal Leadership in a Coordinated Strategy for Accessibility, Inclusion and Poverty Reduction



### ***Need for a National Action Plan***

There is no magic bullet, no one investment, no single piece of legislation that will address longstanding barriers and assure the social and economic exclusion of Canadians with intellectual and other disabilities. To deliver on the promise and potential of federal commitments and investments a National Disability Action Plan is required. Essential components are:

- Federal leadership and accountability;
- Central agency direction and inter-departmental collaboration in a coordinated strategy;
- Participation of national organizations of Canadians with disabilities and their families;
- Engagement and co-leadership with provincial/territorial governments; and,
- Leadership from private, non-profit, voluntary and public sectors where transformation is required – e.g. education, employment, justice, healthcare, etc.

## **Introduction**

This brief responds to the Government of Canada's calls for input and consultation with Canadians on federal Accessibility Legislation and a Poverty Reduction Strategy. It builds on an earlier brief we submitted for the National Housing Strategy consultations. The Canadian Association for Community Living (CACL) and People First of Canada (PFC) welcome these opportunities, and together we make recommendations recognizing the government's broad agenda for social and economic inclusion.

We are national federations of over 300 local-to-provincial/territorial-to-national self-advocacy and family-based organizations dedicated to advancing inclusion and full citizenship of people with an intellectual disability. We believe that coordinated and proactive federal leadership to address persistent barriers to accessibility, inclusion and economic security is urgently needed and long overdue.

Federal accessibility legislation and a poverty reduction strategy hold enormous potential for advancing inclusion of Canadians with an intellectual disability and other vulnerable groups. But the impact of these investments could be 'much greater than the sum of their parts' if they are coordinated effectively with other historic commitments the Government of Canada has recently made to inclusive workforce development and job creation, affordable housing, and strengthening communities through investments in inclusive social infrastructure.

To that end, our brief points to the realities of social and economic exclusion that Canadians with an intellectual disability experience every day, and to the underlying barriers that cause these outcomes. It then outlines the drivers needed to turn the Government of Canada's historic commitments into strategic investments that will have lasting impact on the inclusion of Canadians with an intellectual and other disabilities. These drivers are: federal leadership, a coordinated strategy and a National Disability Action Plan.

## **Realities of Social and Economic Exclusion**

We believe that accessibility legislation, a poverty reduction strategy and other federal tools must be coordinated to address six main areas of social and economic exclusion. We identify these based on our consultations and the day-to-day work of our own organizations, as well as documented evidence. In summary, Canadians with an intellectual disability are much more likely to be:

- Isolated, lonely, stigmatized and hopeless;
- Victimized, unsafe and discriminated against;
- Living in poverty and excluded from paid employment;
- Without needed supports at home and in the community;
- Homeless and lacking affordable and adequate housing; and,
- Powerless over their own lives – in personal, health care and financial decisions.

People with an intellectual disability are not a homogenous group. The experience of exclusion is compounded when people are also racialized, are Indigenous, are girls or women, are immigrants, migrants or refugees, also have mental health or other disabilities, and/or identify as LGBTQ persons. We briefly highlight the scale of social and economic exclusion below:

### ***Isolated, lonely, stigmatized and hopeless***

- Up to 50% of people with an intellectual disability experience chronic loneliness, compared to 15-30% of the general population.<sup>1</sup>
- Over 50% of people with an intellectual disability also experience mental health difficulties, primarily anxiety and depression.<sup>2</sup>
- People with an intellectual disability tend to experience self-stigma and lower self-esteem, internalized from the bullying and negative attitudes from others.<sup>3</sup>
- Studies report that up to 60% of youth with an intellectual disability have suicidal thoughts, compared with 20% in the general population.<sup>4</sup>
- Only 21.5% of adults with an intellectual disability live with a spouse or partner, compared to almost 60% of other adults with disabilities or adults without disabilities.<sup>5</sup>

### ***Victimized, unsafe and discriminated against***

- Lack of needed personal supports and social isolation contribute to a victimization rate four times higher than among the general population.<sup>6</sup>
- Children with an intellectual disability are five times more likely to be victims in abuse and maltreatment cases.
- Almost 35% of people with an intellectual disability experienced discrimination in the past 12 months, compared to 10% of the general population.<sup>7</sup>
- Women and men with an intellectual disability experience rates of sexual assault and violence, with evidence indicating that women with disabilities are four times more likely than women without disabilities to experience sexual assault.<sup>8</sup> Moreover, women with mental health and other cognitive disabilities experience higher rates of violence than non-disabled women. Sexual assault for women with disabilities occurs at a rate twice that of the general population of women, and for women with an intellectual disability, the number is higher.
- Almost 80% of women with disabilities have experienced physical violence from their intimate partners compared to 29% of women without disabilities, and sexual offence is the most common type of abuse against women with intellectual and mental health disabilities.<sup>9</sup>
- Adult men with disabilities face sexual abuse in higher numbers than men without disabilities; 30% of Canadian men who have survived sexual abuse are men with disabilities, and 32% to 54% of men with an intellectual disability have experienced sexual assault.<sup>10</sup>

### ***Living in poverty***

- Seventy-three per cent (73%) of working age adults with an intellectual disability who live on their own are living in poverty, compared to 23% of those in the same age cohorts among the general population.<sup>11</sup>
- Average income for working age people with intellectual disability is less than half of that of Canadians without a disability.<sup>12</sup>
- Nearly half (43.7%) of working-age people with an intellectual disability were on provincial/territorial social assistance as their primary source of income at some point in 2009.<sup>13</sup> ‘Claw back’ rules in social assistance are part of the problem, creating disincentives to employment.

### ***Unemployed and out of the labour force***

- Only 25.5% of working age people with an intellectual disability have any paid employment compared to the national average of 75.5%.<sup>14</sup>

### ***Without needed supports at home and in the community***

- More than 50% of children with disabilities do not have access to needed aids and devices.
- People with intellectual disabilities are twice as likely as other Canadians with disabilities to have unmet needs for help with everyday activities such as meal preparation, everyday housework, heavy household chores, getting to appointments, personal finances, personal care and needed nursing care or medical treatment at home.
- This group is almost twice as likely as others with disabilities to have none of their needs met for assistive aids / devices, such as for mobility, agility, hearing, seeing, communicating, learning and pain management.<sup>15</sup>
- In Ontario alone, there are 13,000 people with intellectual disabilities on waiting lists for residential and other support services.<sup>16</sup>
- Lack of needed personal supports and social isolation contribute to a victimization rate four times higher than among the general population.<sup>17</sup>
- There is a direct link between poverty and lack of support for people with disabilities – for those whose needs are completely unmet, over 35% live in poverty.

### ***Homeless and lacking affordable and adequate housing***

- Adults with an intellectual disability are over-represented among the estimated 35,000 homeless population in Canada – available evidence points to a much greater likelihood of being homeless than the general population.<sup>18</sup>
- Almost 30,000 adults with an intellectual disability are currently placed in congregate residential facilities and group homes, based only on their diagnostic label. Many want to have a home of their own but are unable to access one.<sup>19</sup>
- An estimated 10,000 adults with an intellectual disability under the age of 65 are living in hospitals, nursing homes or long-term care facilities because they cannot get the

personal supports and affordable housing they need (estimated over 5,000 in Ontario alone).

### ***Powerless and not able to choose***

- More than half of people with an intellectual disability report they make none or only some of the decisions about their everyday activities.
- Adults with an intellectual disability are likely to have their legal capacity to have power over their own decisions, questioned by others. Many are placed under guardianship as a result.
- Over 47,000 Canadians are under guardianship, and many more are denied power over their lives through informal means – where caregivers and service providers assume control of daily decisions.

We urge the Government of Canada to bear witness to the lives behind these statistics, as we do every single day. When we consider the scale of social and economic exclusion of Canadians with an intellectual disability, we can only arrive at the following conclusions:

***It is tragic.***

***It is a profound violation of human rights.***

***It is a stain on Canada's commitment to diversity and inclusion.***

***It is both unnecessary and unacceptable.***

***It must stop.***

## **Barriers to an Accessible and Inclusive Canada for People with an Intellectual Disability**

The massive social and economic exclusion of Canadians with an intellectual disability is not inevitable. It does not happen *because* people have an intellectual disability. Exclusion is organized – through cultural, social, legal, economic and physical barriers. The toughest, most entrenched barriers to inclusion and economic security faced by people with an intellectual disability are not so much physical barriers, although many face these barriers too. It is not building architecture as much as *cultural, social, legal and communications architecture*. The main barriers to access, inclusion and economic security are:

- Negative perceptions and attitudes
- Communication barriers
- Failing social infrastructure
- Lack of power over personal decision-making

## ***Negative Perceptions and Attitudes***

- Almost half (47%) of the Canadian public is “not very” or “not at all” comfortable being around people with an intellectual disability.<sup>20</sup>
- According to a national survey, only 33% of Canadians support inclusive education.<sup>21</sup>
- Research shows that the more significant a person’s intellectual disability, the more social distance other people want and the more negative their attitudes towards the person.<sup>22</sup>

Combined with the 35% of Canadians with an intellectual disability who experience discrimination, three and half times the Canadian average, these statistics paint a grim reality. How people with an intellectual disability are seen and known by others shapes their daily experience of feeling and being excluded. Facing closed doors at so many turns, coming to feel sad and bad about themselves, many Canadians with an intellectual disability feel shoved to the margins of society.

Why does this happen? Because the idea that intellectual disability means a ‘deficit’, is ‘abnormal’ and is associated with words like ‘retard’, is cemented in most Canadians’ perceptions and attitudes – whether as neighbours, schoolyard peers, teachers, employers, private or public sector service providers, health or community service professionals, police, attorneys and judges.

This content in the minds of Canadians is a major barrier to inclusion and access for people with an intellectual disability. This content must be cracked apart and challenged. Canadians’ perceptions must change so that people with an intellectual disability can be seen for who they *are* – family members, neighbours and community members, students, friends, valued employees, spouses, parents, citizens deserving of equal respect, dignity and rights.

## ***Communication Barriers***

We all have capacity to communicate with others, if we have partners in communication who can understand and interpret how we speak. There is a long history in Canada of struggle over recognition and support for different languages and communication systems. Canada’s colonial regime was designed to displace Indigenous persons, their Nations and languages and resulted in the disappearance of some languages and precarious existence of many of the over sixty Indigenous languages used in Canada today. The politics of French language equality and bilingualism has been a constant question the past 150 years and longer. Teaching, recognition and support of heritage languages – spoken by a growing number of people of minority cultures – is also a major policy question.

With respect to people with disabilities, there are urgent calls for increased support and recognition of sign languages that Deaf people use. For example, the Supreme Court of Canada decision in *Eldridge* ruled that governments have an obligation to ensure Deaf people can use sign language in the health care system. However, as the Canadian Association of the Deaf reports, governments in Canada have not yet fulfilled that obligation, or heeded the call to

make sign language an official language in Canada.<sup>23</sup> Moreover, many Canadians with disabilities are lacking the communication aids and devices that could improve their communication access.

People with an intellectual disability may communicate in English, French, an Indigenous, heritage or Sign language. However, one of the main barriers they face is that others use terms in oral, written or a signed language that are not comprehensible. Plain language is essential to enable their inclusion in communication.

Other people with an intellectual disability are not able to communicate in French, English, Indigenous, Sign or heritage languages. They have their own communication systems with unique gestures, sounds and sign systems, and rely on close family, friends and supporters who can understand and interpret their signs and signals to create a common language. However, their unique languages and interpretive communities are often not recognized as a legitimate form of communication with others – whether in education, health care, or the justice system. This contributes to their exclusion and denies them power over decision making. And where people do not have trusted and committed others who have personal knowledge about them, they have no one who can understand them or interpret their language to the broader community.

The experience of isolation, loneliness, stigma and disrespect is devastating and people often end up hurting themselves out of desperation. This profound exclusion is unimaginable to those who take for granted that their form of communication is ‘normal’ and that their access and inclusion in Canadian society is deserved because they have mastered a way of speaking and communicating with others.

This is one of the biggest barriers that people with an intellectual disability face – their communication abilities and systems are not accorded equal respect, support or accommodation.

Communication Disabilities Access Canada advances the right to communication without discrimination based on disability and has identified key communication barriers and accommodations to enable inclusive communication (<http://www.cdacanada.com/>). However, an inclusive right to communication is not yet fully recognized in Canada, and consequently people with an intellectual and communication disability face an uphill battle to have their voices heard, to participate in society and to have power over their own lives.

### ***Failing Social Infrastructure***

The Government of Canada has recognized the importance of ‘social infrastructure’ to individual and community well-being and Budget 2016 announced social infrastructure investments in First Nations, Inuit and northern communities, culture and recreation, early learning and child care, and affordable housing. This is a good beginning. But the gaps in social infrastructure for people with an intellectual disability are large and growing. Lack of access to

needed social infrastructure denies them the needed bridge to participation and inclusion in all sectors of the community.

Social infrastructure has been defined as:

*The interdependent mix of facilities, places, spaces, programs, projects, services and networks that maintain and improve the standard of living and quality of life in a community. The glue that holds community together... broadly categorized as: health; individual, family and community support; education; arts and culture; information; sport and recreation; housing; community development; employment and training; legal and public safety; emergency services; and public and community transport.*<sup>24</sup>

We all rely on support of others in our lives. But the social infrastructure that makes our interdependent lives possible – enabling families to support and nurture family members through developmental stages across the lifespan, children to access early learning and child care, inclusion in public education and lifelong learning, access to needed community services, health care, and the justice system – currently only works for those who meet certain norms.

- **Families and Family Support**

Families are a basic unit of society. Ideally, we can rely on families to: nurture and care for their family members; enable developmental opportunities; support the labour force participation of those working outside the home; and help assure current and future financial security for all its members. The social infrastructure to enable families to play these roles are early learning and child care, accessible and inclusive education and recreation, accessible labour markets for parents, income security, and accessible health care systems.

There is no question that this infrastructure needs further work and investment for many families. Yet most people with an intellectual disability and their families *cannot depend at all* on current community infrastructure to meet their needs.

Families with members with an intellectual disability are called upon to provide far beyond the caring, support and financial responsibilities of most other families – as demonstrated by the fact that over 40% of adults with an intellectual disability live with their parents or grandparents, compared to just 6% of adults with other disabilities, and 18% of Canadian adults, overall.<sup>25</sup> Their families have unsustainable caring responsibilities, are draining life savings and have *Nowhere to Turn*, as a recent Ontario Ombudsman’s report names the problem, which leads to “institutionalization by default.” In Ontario alone, 10,000 adults with an intellectual disability in Ontario alone are on waiting for residential services.<sup>26</sup>

Moreover, Statistics Canada reports that among parents of children with disabilities:

*over one-third (38.4%) of parents work fewer hours due to their child's disability, and are more likely to be more likely to report that they have turned down a job; are 50% more likely to experience difficulties coordinating care and balancing other responsibilities; are*

*about twice as likely as parents with whose children have other disabilities to experience money problems due to their child's condition.*<sup>27</sup>

- **Early Learning and Child Care**

Over 20% of parents with children with disabilities indicate that childcare service providers – whether daycare centres or in-home caregivers – refused to provide care for their child. Severity of disability has a significant impact on refusal of services, with over 30% of children with severe disabilities being refused services.<sup>28</sup>

- **Residential and Employment Supports**

Beyond families, the predominant form of social infrastructure for people with an intellectual disability is specialized congregate residential and vocational services for people with an intellectual disability, and there are significant waiting lists for these services. While there is growing recognition and commitment to more individualized supports so that adults can live and work in the community, these have not been established at anywhere near the scale required. A major transformation is required in these services to turn them into residential and employment supports that enable people with an intellectual disability to live and work in their communities just like anyone else.

- **Community Safety and Inclusion**

The hugely disproportionate scale of violence and victimization experienced by people with an intellectual disability is explained in part by negative stereotypes, social isolation and lack of support which leaves people powerless. It is also explained by the fact that existing social infrastructure – settlement services, violence prevention and response and community social services routinely deny or do not have the know how to reach out to and meet the social support needs of people with an intellectual disability.

- **Justice System**

The high rate of abuse, particularly sexual assault, experienced by people with an intellectual disability results in part from the fact that offenders assume that victims cannot or will not complain or report abuse. This is exacerbated by a lack of access to the various supports and services available through the justice system, ensuring that those experiencing abuse are less likely to report it. Even when a victim with a disability reports a crime, often charges are not laid and the abuse is given support to continue.<sup>29</sup>

Moreover, women with an intellectual disability, traumatic brain injury or mental health disabilities experience multiple challenges when attempting to access justice services when they are victims of violence, largely due to communication barriers and the presentation of differential, often misunderstood behaviour.<sup>30</sup>

When individuals with disabilities do make it to the court stage, their capacity to tell the truth and/or understand the process is questioned; they usually are not seen as credible witnesses and there is a pronounced lack of supports available to them in the justice process.

For offenders with an intellectual disability in the corrections system in Canada, justice is not being done because the system is not designed at any level with the infrastructure to effectively respond to, assist and accommodate this group. The result is that despite representing 2-3% of the population, there are estimates that 10-20% of incarcerated adult offenders are persons with intellectual disabilities, in particular people with Fetal Alcohol Syndrome Disorder (FASD) and that youths with FASD are 19 times more likely to be in prison than youths without FASD.<sup>31</sup> While system-wide data on the Canadian corrections system is lacking, “it is generally agreed that developmentally disabled persons [or persons with an intellectual disability] are over-represented in the criminal justice system.”<sup>32</sup>

Intellectual disability disadvantages accused persons or offenders at every stage of the criminal justice process because it assumes independent ability to make informed and voluntary choices and to learn from one’s experiences.<sup>33</sup> Inadequate social supports significantly increase the likelihood of negative social interactions and criminal behavior. Out of a desire to please others, persons with an intellectual disability are also more likely to be drawn by others into criminal behavior. Social isolation and lack of personal supports makes individuals vulnerable to preying behavior by others. For this reason, they are also more likely to be compliant with police and judges, and to be drawn in by leading questions and make false or exaggerated confessions.<sup>34</sup> Accused people with an intellectual disability also are often unable to fully understand the criminal process, including the consequences of a guilty plea.<sup>35</sup> These barriers are compounded in a criminal justice system lacking processes to protect and accommodate this group.

Prisons are not designed for persons with an intellectual disability. The Supreme Court of Canada has noted that “fewer than one-third of Ontario provincial jails have special units for inmates with mental illness or developmental disability” and that these offenders “do not typically fare well as inmates.”<sup>36</sup> The potential for their sexual, physical and emotional victimization in correctional facilities is high. An Ontario provincial court judge has found that offenders with intellectual disabilities are “an easy target for the unsavoury members of the inmate population.”<sup>37</sup>

- **Health care system**

Health inequities affect all Canadians but have especially strong impacts upon the health of those living with an intellectual disability who encounter a range of barriers when they attempt to access health care, including a lack of access to appropriate services. People with an intellectual disability are three to four times more likely to die preventable deaths, compared to the rest of the population.<sup>38</sup>

With the move from institutional to community care models, general health care services have not adapted to meet the needs of people with an intellectual disability, and health care providers have demonstrated difficulties in providing quality care to patients with an intellectual disability.<sup>39</sup> A national survey found that adults with disabilities in Canada reported more than three times as many unmet health needs as those without disabilities.<sup>40</sup> The social determinants of health specific to the experiences of people with an intellectual disability such

as poverty, lack of access to education, employment, appropriate housing and income supports, also put them at a significant risk of poor health and developing serious health conditions. Men with an intellectual disability are at a greater risk of leukemia, brain and stomach cancers, and women with an intellectual disability are at a greater risk of leukemia, corpus uteri and colorectal cancers.<sup>41</sup>

- **Transportation**

The lack of available and accessible transportation remains a significant barrier to community inclusion for many people with an intellectual disability. Key challenges include: difficulty navigating the public transit system, lack of access to reliable para transit, safety, and affordability.<sup>42</sup> Furthermore, due to numerous factors such as high rates of poverty as well as disability-related factors, most individuals with an intellectual disability do not own or operate vehicles. Consequently, people with an intellectual disability are often forced to rely on family, community members, or support personnel to provide transportation,<sup>43</sup> further limiting freedom of movement and societal participation.

Bus, rail and air transit also pose barriers to people with an intellectual disability because customer service standards do not usually include provision for outreach, plain language signage, or personal assistance in navigating terminals and check-ins.

- **Immigrant, Refugee and Settlement Services**

Immigrants and refugees experience numerous complex issues affecting their access to and utilization of settlement services. Newcomers living with disabilities struggle with barriers common to all immigrants and refugees settling in Canada, these include: access to affordable housing, education and employment and overcoming language barriers. However, immigrants and refugees with disabilities also experience additional barriers to accessing settlement services, including: challenges in interactions with settlement workers due to negative attitudes towards disability and a lack of capacity and resources to serve people with disabilities; a dearth of culturally and linguistically relevant and appropriate services; and gaps between immigrant settlement services and disability-specific services.<sup>44</sup>

For immigrant, refugee or migrant parents of children with an intellectual disability, these challenges are compounded, including discrimination and stigma as well as “difficulty in navigating the system, lack of relevant information regarding services, excessive paper work mandated by organizations for access to supports and services, dispersed services, transportation problems, lengthy waiting time, cost of services and lack of respite care.”<sup>45</sup>

- **Disability Organization Capacity**

Social infrastructure is failing Canadians with disabilities largely because the voice and expertise of their representative organizations is not at the table to ensure universal design, accessibility, and inclusion across sectors from health care to employment support to education to the justice system. The main federal program to invest in capacity is the Social Development Partnerships Program-Disability Component. Yet the funding for this program has not increased

in well over a decade despite the significant growth in disability in Canada's population and anticipated growth with aging of the population and other demographic factors. An agenda for inclusion and accessibility is simply not achievable without far greater capacity than is currently available in the local-to-national disability sector. This sector is an essential component of community social infrastructure, and needs infrastructure investments if it is to play its much needed and growing role.

### ***Lack of Power over Personal Decision-Making***

People with an intellectual disability face longstanding barriers to exercising autonomy and control over their own lives. Detailed proposals have been developed to implement "supported decision-making" so that people may still direct their own personal, health care and property decisions even if they are unable to manage all aspects of decision making independently.<sup>46</sup> As CACL and PFC pointed out in their brief to the UN Committee on the Rights of Persons with Disabilities<sup>47</sup>:

- **Tens of thousands of Canadians with disabilities are under guardianship and without supports to exercise legal capacity** – Because provinces and territories have not put in place needed legal frameworks and support systems for supported decision making, tens of thousands of Canadians with disabilities are forced to live under guardianship. Canada estimates that there are over 47,000 people under some form of guardianship or public trustee.<sup>48</sup>
- **There are legal barriers in both provincial/territorial and federal laws** – Civil rights, and therefore the right to legal capacity,<sup>49</sup> are largely regulated under provincial/territorial jurisdiction in Canada. The Parliament of Canada does have authority for income tax and criminal law, and regulates financial institutions. Through these powers, it regulates the right and enjoyment of legal capacity. For example, the *Income Tax Act* requires that any person who opens a Registered Disability Savings Plan, a disability benefit regulated under the *Act*, must meet the test of "contractual capacity". This test discriminates based on mental disability.
- **Existing provincial/territorial legislative schemes for supported decision making are not providing needed options for all people with disabilities** – There are good examples of community-based supports to enable access to supported decision making (for example, Nidus in British Columbia, [www.nidus.ca](http://www.nidus.ca)). However, in no province or territory is there a public policy framework for delivery of needed community-based resources to enable supported decision making. The result is that people are being placed under guardianship in the tens of thousands across the country, and many, many more are denied power over their own lives by less formal means.
- **Financial institutions lack the regulatory framework for transactions through supported decision making** – One of the main concerns for legal and financial professionals and institutions is that to date in Canada, provisions for supported decision making do not provide adequate safeguards to ensure valid contracts and

transfer of property from financial institutions to individuals. These concerns have been addressed in proposals for statutory reform, which in fact include more robust safeguards than many guardianship systems.<sup>50</sup> Political leadership is required to introduce recognition of supported decision making and requisite safeguards in the regulatory framework for financial institutions in Canada.

Together the barriers described in this section keep most people with an intellectual disability poor – because they are excluded from regular education, socially isolated, stigmatized, victimized, unsafe in their communities, outside of the labour market, often homeless and usually unable to access affordable housing and supports needed to live in the community. No wonder their health status is generally poorer than other Canadians, they experience mental health difficulties at three times the rate of others, are likely to internalize the rejection by others and are many more times likely to have suicidal thoughts and behaviours.

Addressing these barriers in a way that will truly address entrenched poverty and exclusion and make a positive difference in the lives of Canadians with an intellectual disability will require sustained federal leadership, coordinated efforts and a National Disability Action Plan. The next section outlines proposed steps.

## **Building on Current Commitments: Federal Leadership for a Coordinated Strategy**

Moving forward to address entrenched barriers across so many sectors of society requires multiple interventions and coordinated leadership by the Government of Canada. With Canada's commitment to move several agendas forward for social and economic inclusion, the time is ripe for a coordinated effort that will have a demonstrable and lasting impact.

The Government of Canada has already made five broad commitments in Budgets 2016 and 2017 which together provide the pillars for a coordinated strategy, including:

- Accessibility Legislation
- National Housing Strategy
- Poverty Reduction
- Inclusive Social Infrastructure and Strengthening Communities
- Workforce Development and Job Creation

With these pillars a coordinated federal strategy to advance social and economic inclusion becomes possible. To address the barriers identified in this brief, the pillars should make possible strategic interventions and investments in six main areas:

1. Human-rights based accessibility and inclusion standards, with monitoring and enforcement mechanisms
2. Mandatory federal government *Charter* compliance and inclusion policy lens
3. Employer-based strategies in the federal as well as private, non-profit and public sectors

4. Inclusive affordable housing development
5. Social Infrastructure investments for accessible and inclusive communities
6. A basic income program for people with significant disabilities.

**1. Human-rights based Accessibility and Inclusion Standards with Monitoring and Enforcement Mechanisms**

- Anticipated Accessibility legislation should provide a framework for setting accessibility standards, a monitoring system, and enforcement mechanisms to ensure full accessibility, including inclusive customer service standards, in the federally-regulated sector – where the federal government has the jurisdiction to regulate.
- Because federal accessibility legislation can only address the federally-regulated sector, mechanisms to deal with the wider set of barriers is essential. Canada’s obligations under the UN *Convention on the Rights of Persons with Disabilities* (CRPD) requires a much broader framework for advancing accessibility in Canadian society than federal accessibility legislation will provide. Therefore, we urge that the Government of Canada adopt the recommendations of the UN *Committee on the Rights of Persons with Disabilities* in its 2017 ‘Concluding Observations’ on Canada’s implementation of the CRPD and appoint and fund the Canadian Human Rights Commission to undertake benchmarking and independent monitoring of the implementation of the standards in the CRPD. The Committee recommended that the Government of Canada:

*formally appoint the Canadian Human Rights Commission as the independent monitoring mechanism under article 33 of the Convention, bearing in mind the guidelines on independent monitoring frameworks and their participation in the work of the Committee on the Rights of Persons with Disabilities.*<sup>51</sup>

- We also recommend that the Government of Canada fulfill the Committee’s recommendation to support disability organizations to fully participate in this exercise:
 

*Provide adequate funding for the functioning of an independent monitoring mechanism and the full involvement of organizations of persons with disabilities in its monitoring tasks under the Convention.*<sup>52</sup>
- As part of standards setting and monitoring the Government of Canada should also set measurable, rights-based goals, and benchmarks for measuring progress on inclusion and accessibility within the core investments and strategies to advance accessibility and inclusion. This should cover investments in the National Housing Strategy, the Poverty Reduction Strategy, Social Infrastructure, and Workforce Development and Job Creation.

## **2. Mandatory Federal Government Charter Compliance and Inclusion Policy Lens**

- The Government of Canada should take steps to implement a mandatory review to identify and address barriers to accessibility and inclusion currently embedded in federal laws, and to implement a disability inclusion lens as part of cross-government policy making. The government has already taken such steps for gender-based policy analysis. As well, Budget 2017 committed over \$3 million to a ‘Working Group on the Review of Laws and Policies related to Indigenous Peoples’ and a secretariat in the Privy Council Office for this purpose. Both examples could be applied to review of laws and policies from a disability perspective and bring substantial long-lasting benefit to creating a more inclusive legal and policy framework at the federal level.
- A priority for the *Charter* compliance review should be consistency of the federal legal structure with Canada’s obligations under Article 12 of the UN CRPD. This Article recognizes the right to equal recognition before the law, and enjoyment of the right to legal capacity – or the power to make one’s own decisions – without discrimination based on disability and with supports and accommodations as may be needed. While legal capacity is regulated in part under provincial/territorial jurisdiction, Parliament also regulates enjoyment of this right through its authority for income tax and criminal law, and through its regulation of financial institutions. For example, the *Income Tax Act* requires that any person who opens a Registered Disability Savings Plan, must meet the test of “contractual capacity”. This test currently discriminates against people who require supports in decision making.

## **3. Employer-based strategies in the federal as well as private, non-profit and public sectors**

- The needed bridges between employers and community employment support agencies to enable greater labour force participation of people with an intellectual disability have not been built anywhere near the scale required. That said, there are successful prototypes now developed for this purpose and which facilitate employer recruitment and hiring of people with an intellectual disability, including the internationally recognized, ‘Ready, Willing and Able’ initiative (<http://readywillingable.ca/>).
- These examples point the way to a role for the federal government in becoming a ‘model employer’ of Canadians with disabilities, which could be a centerpiece of the federal accessibility legislation. This would include measures to foster federal employer confidence and leadership, and undertake proactive outreach, recruitment, hiring, career advancement and accommodation in the federal

workforce. These steps should be undertaken with a vision for the federal government lead the way in creating inclusive workforces in Canada.

- The new Workforce Development Agreements should be designed to require investments in inclusive labour market participation, with clear benchmarks for provinces and territories to meet in achieving social and economic inclusion of Canadians with intellectual and other disabilities.

#### ***4. Inclusive Affordable Housing***

- CACL and PFC have outlined the need to ensure the National Housing Strategy addresses the gap for the 100,000+ Canadians with an intellectual disability who need affordable housing, and propose that the strategy enable three investment streams to grow access to affordable housing for this group:
  - Investment in individual and family-led solutions, to build on capacity and capital for private investment and housing opportunity;
  - Partnerships and investment tools for local associations and self-advocacy organizations to partner with housing developers in their communities;
  - Support to leverage the assets of current congregate residential housing providers for investment in inclusive, affordable housing options in their communities.

#### ***5. Social Infrastructure investments for accessible and inclusive communities***

- A substantial increase is needed in the Social Development Partnerships Fund – Disability Component to ensure viable capacity in the national disability sector to support and inform federal leadership for a coordinated strategy, and to help promote public awareness and support for an inclusive and accessible Canada.
- Benchmarks are needed for measuring progress in advancing accessibility and inclusion in all aspects of new investments in social infrastructure – transportation, early learning and child care, housing, recreation, etc.
- In addition, targeted social infrastructure investments to increase supports to families, to ensure accessibility and inclusion in the health care and justice systems, and to improve community safety and violence prevention and response are essential.

#### ***6. A Basic Income Program for people with significant disabilities***

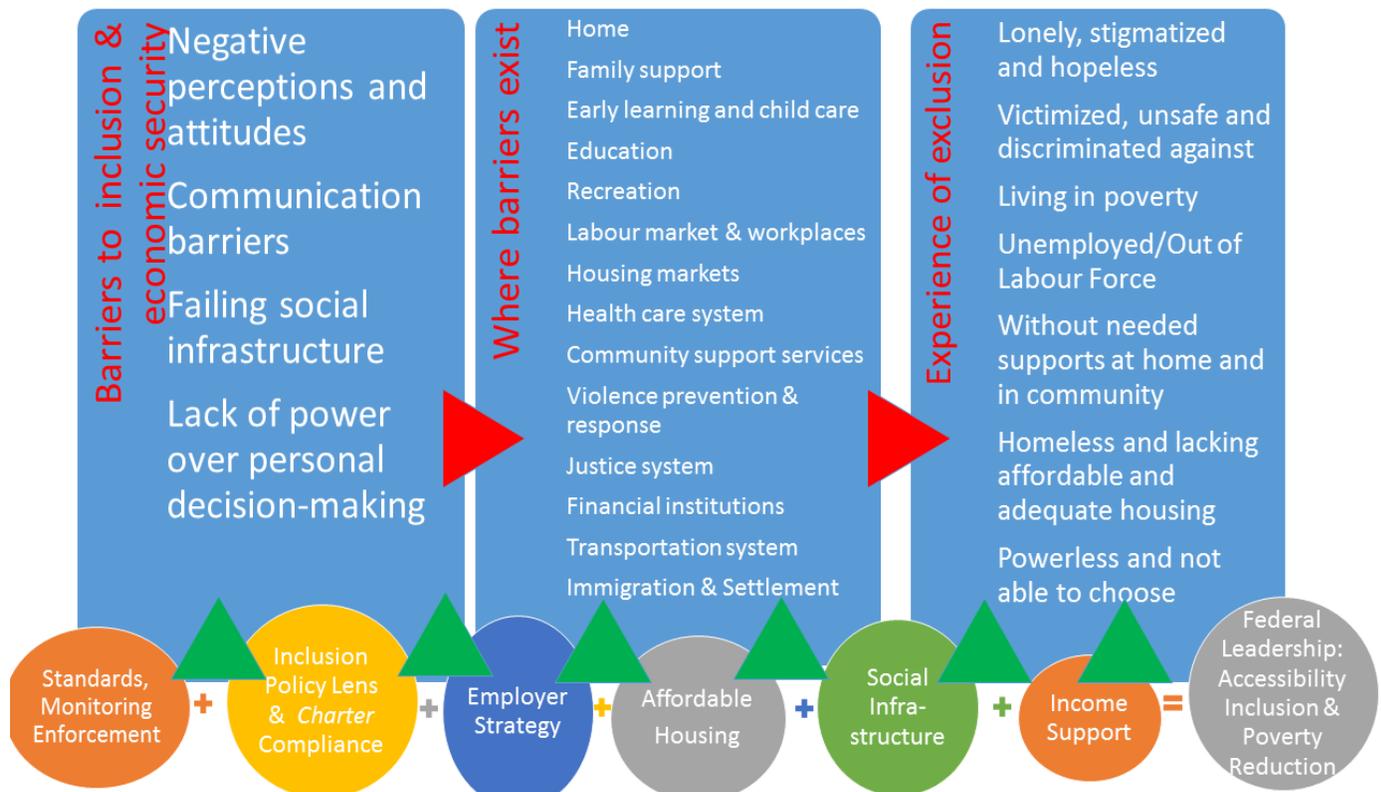
- While addressing the structural sources of poverty requires the multi-faceted approach outlined in this brief, confronting the deep poverty experienced by Canadians with intellectual and other disabilities will also require federal leadership to enhance income assistance to people with significant disabilities.
- CACL and PFC along with the Council of Canadians with Disabilities and other partners undertook a five-year research initiative on ways to address persistent poverty. Our recommendations point to the need for federal investment in a

'basic income' program to meet income security needs of people with significant disabilities. The program would be designed to enable people who spend most of their adult lives on provincial/territorial social assistance (originally intended to provide for temporary benefits) to obtain federal income transfers equal to Old Age Security/Guaranteed Annual Income for low-income seniors. (A full set of recommendations from this study for income reform is available.<sup>53</sup>)

- The first step in the program could be to make the Disability Tax Credit refundable, so that low-income Canadians with severe disabilities who do not pay tax because of limited or no income could begin to get some relief for their out-of-pocket disability-related expenses.
- As part of this program, there would need to be a reinvestment agreement with provincial/territorial governments so that the resulting savings in their social assistance payments would be invested in expanding access to individualized and person-directed disability-related supports that enable accessibility and inclusion.

The following diagram shows how the barriers people face – across community sectors – result in their experience of poverty and exclusion. It points to the strategic investments proposed in this brief, which could be used to change this dynamic. Together these investments are a formula for federal leadership. In a coordinated approach, they could make a significant and lasting impact on accessibility, inclusion and poverty reduction for Canadians with an intellectual disability.

## Federal Leadership in a Coordinated Strategy for Accessibility, Inclusion and Poverty Reduction



### Need for a National Action Plan

There is no magic bullet, no one investment, no single piece of legislation that will address longstanding barriers and assure the social and economic exclusion of Canadians with intellectual and other disabilities. To deliver on the promise and potential of federal commitments and investments as outlined above, a National Disability Action Plan is required.

The need for federal leadership in national action planning has also been recognized by the UN Committee on the Rights of Persons with Disabilities in its Concluding Observations on Canada's first report on implementation of the CRPD.<sup>54</sup>

We propose five components of a Plan:

- **Federal leadership and accountability:**
  - Senior Ministerial leadership and accountability is essential for delivering a coordinated strategy to deliver on the potential for Canadians with disabilities of the various commitments the federal government has made to poverty

reduction, affordable housing, social infrastructure, accessibility and inclusion, and workforce development and job creation.

- These various commitments must not be treated in ‘silos’ – they are all pieces of the puzzle and should be recognized as such. The federal government is to be congratulated for putting these puzzle pieces on the table. Now we need the process, mechanisms and investments so they can be put together in innovative and responsive ways in local communities, across diverse provincial/territorial jurisdictions, and within a shared framework of outcomes.
- **Central Agency direction and inter-departmental collaboration in a coordinated strategy:**
  - While Senior Ministerial accountability for pulling the strategy together and implementing a plan is needed, there must also be direction from the Central Agencies of the federal government to ensure a coordinated and accountable cross-government strategy. Clear and consistent direction is needed from the Prime Minister’s Office, the Privy Council Office, Department of Finance and the Treasury Board Secretariat. This must be combined with a commitment at both Ministerial and Deputy levels to interdepartmental coordination across the range of federal departments, agencies and programs that will need to engage in a coordinated strategy.
- **Representative national organizations of Canadians with disabilities and their families:**
  - An effective National Action Plan, capable of being implemented to achieve the intersecting federal commitments will not be possible without participation and full engagement of representative national disability organizations. They must be resourced to participate and given a role at the table in ‘co-constructing’ the plan, in order to maximize the potential for success.
- **Participation and co-leadership of provincial/territorial governments:**
  - Many of the levers to advance social and economic inclusion are at the provincial/territorial level. Therefore, proactive, joined up and shared leadership with this level of government is essential for federal investments to have real impact in people’s lives. A designated table of provincial/territorial (PT) and federal Ministers responsible for a disability agenda should be convened, co-chaired by the federal Minister responsible and a rotating PT Minister. Representative national disability organizations should have a place at this table and be fully engaged in the process. The purpose of the table should be to craft a shared and joint plan to achieve common goals and to direct officials to collaborate in planning and implementation.
- **Engagement of private, non-profit, voluntary and public sector leaders:**
  - Leaders from across sectors where transformation is required – e.g. education, employment, justice, healthcare, etc. – should be fully engaged in the process. A

federal Minister's advisory council could serve this purpose. Informed by government and disability representatives, these individuals should be positioned, resourced and supported to become opinion leaders in their own sectors and to make a commitment to driving the National Plan forward in their respective sectors. Accessibility, inclusion and poverty reduction will not happen without a wide array of sector leaders across Canadian society being full partners in the exercise.

## **Conclusion**

Poverty is a multi-faceted problem for Canadians with intellectual and other disabilities. Real pathways out of poverty can only be designed by linking together investments in accessibility, community social infrastructure, housing affordability, employment, income security and the legal and policy frameworks which regulate these sectors. Federal leadership is essential for this purpose. It must be exercised in the context of a coordinated, cross-government strategy that addresses the various dimensions of the poverty-disability nexus, and do so within a robust framework for National Disability Action Planning and implementation. For the plan to be successful it must fully engage representative national disability organizations, the participation of provinces and territories, and private, non-profit, voluntary and public sector leaders.

Our community has waited a very long time for this moment. The Government of Canada's promise is before us. We see a horizon of immense possibility. There is no time to waste in charting the path forward and getting underway – together, and in a shared commitment for full citizenship and inclusion of Canadians with intellectual and other disabilities.

## Acknowledgements

**The Canadian Association for Community Living** is a national association of over 40,000 members, 300 local, family led Associations for Community Living and 13 provincial/territorial Associations representing the over 750,000 Canadians with intellectual disabilities and their families. We are families, people with intellectual disabilities and our supporters working together to ensure all people:

- Have the same rights and access to choice, supports and services as all other people.
- Have the same opportunities as others to live in freedom and dignity, and have the needed support to do so.
- Are able to voice and realize their aspirations and rights.

**People First of Canada** is the national voice for people who have been labeled with an intellectual disability. We are about rights – human rights, citizenship rights, accommodation rights, and language rights. We believe in the right to freedom, choice, and equality for all.

We see ourselves as self-advocates and full citizens of our country – living equally in the community. We see ourselves as people first, and as people who have taken back control of our lives from families, policy makers and professionals such as support workers, doctors, social workers, and others, who, for far too long, made decisions for us.

**IRIS – Institute for Research and Development on Inclusion and Society** provided research and drafting support in preparation of this brief.

IRIS is a Canadian-based Institute that provides policy research and social development leadership in Canada and internationally. It encourages new ways of thinking, inspiration, and education to advance the citizenship, inclusion, human rights and well-being of people with intellectual and other disabilities. It builds on a 40-year legacy as a successor Institute to L'Institut Roehrer Institute and the National Institute on Mental Retardation, first established in 1969.

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