

# The Convention on the Rights of Persons with Disabilities and Crip Time: How Can Law Instantiate the Lived Experiences of Disabled Workers?

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# Land Acknowledgment

- Research was based out of unceded Algonquin Territory.
- We pay respect to the Algonquin people, who are the traditional guardians of this land. We acknowledge their longstanding relationship with this territory, which remains unceded. We pay respect to all Indigenous people in this region, from all nations across Canada, who call Ottawa home. We acknowledge the traditional knowledge keepers, both young and old. And we honour their courageous leaders: past, present, and future.

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○ • The UN  
Convention  
on the Rights  
of Persons  
with  
Disabilities  
(CRPD)

- Came into force in May, 2008.
- Fastest negotiated Convention.
- First of the twenty-first century.
- Instantiates the principle of the social model of disablement.
- Response to barriers faced by people with disabilities in employment, transportation and housing.

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# Eight Guiding Principles of CRPD

- Respect for dignity and individual autonomy
- Non-discrimination
- Full and effective participation and inclusion
- Respect for difference and acceptance of persons with disabilities as part of human diversity
- Equality of opportunity
- Accessibility
- Gender equality
- Respect for the evolving capacities of children with disabilities.

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# Some Key Provisions of the CRPD

- Preamble accepts a social model definition of disability: “the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others”.
- Art 5: Equality and Non-Discrimination.
- Article 9: Accessibility.
- Art 10: right to life
- Art 12: Equal Recognition before the Law
- Art. 19: right to live independently, incorporating a right to personal assistance services.
- Art 20: mandates a right to personal mobility, including affordable mobility aids and assistive devices.
- Art 24: Right to Education.
- Art 27: Right to Work and Employment.

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# The UN Convention

- Builds on 1975 General Assembly Declaration on the Rights of Disabled Persons and the 1981 International Year of Disabled Persons.
- Addressed topics such as human dignity, economic security and the right to secure employment in accordance with their capabilities.
- 1981 IYDP led to inclusion of disability rights in the *Charter* and UN Decade of Disabled Persons (1983-92).
- Canada ratified CRPD in 2010 and the Optional Protocol in 2018.

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# Crip Time

- Ellen Samuels and Alison Kafer developed the concept of crip time to reflect how disabled people experience time differently than our able bodied counterparts.
- Reflects the barriers disabled people experience in accessing accessible transportation, attendant services and medical care: constant delays and compounding effect between services.
- Many disabled people must work part time due to impairments or disabilities or have shorter working careers, impacting their earnings and economic well being.

# Crip Time

“For *crip time is broken time*. It requires us to break in our bodies and minds to new rhythms, new patterns of thinking and feeling and moving through the world. It forces us to take breaks, even when we don't want to, even when we want to keep going, to move ahead. It insists that we listen to our bodyminds so closely, so attentively, in a culture that tells us to divide the two and push the body away from us while also pushing it beyond its limits. Crip time means listening to the broken languages of our bodies, translating them, honoring their words.”

— Ellen Samuels





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# Distinguishing Between Crip Time from Below and Crip Time from Above

- Crip Time from Above is the systemic barriers disabled people experience. Emotionally exhausting to constantly battle for access to delayed services.
- Crip Time from Below seeks to reimagine a world of flexibility where disabled and all people are not valued by their productivity.
- Need to reconstruct international law's interpretive framework to take account of crip time.

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# *Liliane Groninger v. Germany*

- The author maintains that every measure the employment agency takes is bound to fail because, under section 219 of book III of the Social Code, her son is eligible for an integration subsidy only if his full working capacity can be restored within three years.
- But son had a permanent disability.
- She maintains that the social legislation prevents inclusion in the labour market.
- Committee found that Art. 27 was violated and integration subsidy discriminated against people with disabilities due to arbitrary time limit.
- Demonstrates how arbitrary time restrictions adversely impact disabled people seeking inclusion in employment.

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# Marie- Louise Jungelin v. Sweden

- Woman born with severe visual impairment applied to the Social Insurance Agency (SIA) to work as an assessor/investigator of sickness benefit and sickness compensation applications.
- Employer said it was unable to accommodate Jungelin because neither the hardware nor the software could convert required information into braille.
- The author alleges that the decision by the SIA to discard her candidature, instead of adequately assessing the possibility to take support and adaptation measures, constitutes a violation of Articles [5](#) and [27](#) of the Convention.
- Majority of the Committee sided with the Swedish government.
- States Parties enjoy a certain margin of appreciation and that it is generally for the courts to evaluate facts and evidence in a particular case, except in cases where the evaluation was clearly arbitrary or amounted to a denial of justice. The Committee considered that in the present case, the Labour Court had thoroughly and objectively assessed all the evidence.
- Dissenting members of the Committee said that the Labour Court failed first to consider the potential impact of the measures suggested by the Ombudsman on the future employment of other persons with visual impairments as an additional positive criterion. Even if reasonable accommodation is in principle an individual measure, the benefit for future employees must also be taken into account, in compliance with Articles [5](#), [9](#) and [27](#).

# The Study

- We conducted 39 individual interviews and three focus groups (two for men and one for women) via Zoom funded by a three-year SSHRC Insight Grant.
- Eligibility to participate included being aged 18-65, residing in Ontario, currently employed, and self-identifying as disabled.
- Recruitment began in May 2022 with the cooperation of the ARCH Legal Clinic in Toronto, the Council of Canadians with Disabilities (CCD), and the National Educational Association of Disabled Students (NEADS).
- These organizations helped distribute information about the project through their communication channels, including bulletins, social media and email.
- We explored their experiences in the workplace and its relationship to time to reformulate the duty to accommodate.
- The interviews were conducted by myself, and Research Assistants, Jacqueline Moizer, and Julia Dobrowolski. The project is ongoing with a new research team.



# Methodology of the Study

- The focus groups and individual interviews were recorded, transcribed verbatim, and anonymized.
- Participants were assigned a pseudonym to ensure confidentiality.
- Following transcription, participants were provided with a copy of the finalized transcript and were invited to review and amend it within a fourteen-day period.
- The review process was not mandatory but included to ensure accuracy and allow participants to add any relevant details that were not discussed during the interview.
- The data from the finalized transcripts was subsequently coded using NVivo qualitative data analysis software. Both the transcription and coding processes were collaborative efforts within the research team.

# Insights from Qualitative Research

- Enforcement issues for disability legislation
- Job class creates barriers to seeking accommodation at work
- Time (e.g. shift time, more time for tasks) factors in to some workers' accommodations but Crip Time often unaccounted for
- Commuting and transportation pose significant time-related barriers
- Remote work creates flexibility, productivity, control over environment and lessens commute time



# Research Participants on experiencing Crip Time

- “Time really came into effect because my career was so short. My accommodations did not take into account that one of my main disadvantages was that I was not only the same timeline as everybody else.” —Blake
- “It’s not necessarily how much time tasks take. It’s about all the things kind of around work.” —Alanna
- “Crip time for women is different because we take on a lot of the caretaking roles. Many men with disabilities have women, whether that’s a partner or a personal support worker, doing household and administrative tasks for them. Disabled women do those tasks not only for themselves, but for the people they are responsible for.” —Andrea



# Job class impacts accommodations and experiences at work

- “I think it might be different when I’m not on part-time contract. Like it matters if you’re full time, if you’re unionized.” – Mason
- “I would absolutely seek accommodations if I were permanent.” –Alanna
- “Because I was a temporary worker, I was treated differently.” –Melissa
- “I never felt comfortable to take leave because I felt like that would disadvantage me trying to compete for a permanent position.” –Blake





# Findings

- Need to rethink the relationship between productivity and being an authentic worker.
- Build flexibility into social welfare programs to encourage employment on the terms most suitable for disabled people.
- Use an intersectional lens to centre the experiences of disabled women, glbt+ and racialized disabled people.



Questions?