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## **Submission to the B.C. Government on Accessibility Legislation**

*A Broadbent Institute Report*  
*Written by Gabrielle Peters*  
*With contributions from Amina Yasin & Karen Ward*

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# Acknowledgements

This report was written by Gabrielle Peters, with contributions from Amina Yasin & Karen Ward.

This report was edited by Maria Dobrinskaya, who also wrote the introduction and submission outline.

***Author's Note:** The first step is to acknowledge the history, absorb the full weight of it and listen to its lessons. The past points our pen and informs our words. This legislation must be a hacker's manual on how to reveal, dismantle and disentangle the ableism and exclusion built into our systems, spaces, places, policies, attitudes, and things while simultaneously being a treatise that puts in place what is necessary to elevate disabled people into positions of power so none of this happens again. This document has been informed by the ten principles of disability justice and the work of numerous disability activists and scholars. In addition to those quoted directly specifically this work is inspired and informed by the work of Sins Invalid, Gregg Beratan, Lydia X. Z. Brown, Sarah Jama, Talila A. Lewis, Mia Mingus, Andrew Pulrang and Alice Wong among countless others who carve space and seek justice for themselves, for others and for the future. In addition, this work seeks to reflect and carry the knowledge, experience of Disabled Twitter which is shared freely but which holds immeasurable value and played a significant role in the shaping of the perspective reflected in this document - a special mention to @EbThen. May the wisdom and support of the entire community and our hope and need for justice be conveyed within.*

*In addition to the special section titled Racism, Ableism and the Built Environment written by Amina Yasin, the author has benefited extensively from her insights, knowledge and experience. Yasin's professional experience in planning and her analysis of race, class and Alzheimer's truly sets a gold standard which not only challenges current approaches to planning but also accessibility. By applying an intersectional analysis to accessibility and design of public space and causes of exclusion Yasin has demonstrated not only the importance of understanding how race can impact accessibility but how without that lens we not only build barriers but miss opportunities. "We know that a dementia diagnosis has as much to do with social disconnection as it does with the built environment. I've been wondering a lot about what it means for a region like Metro Vancouver which identifies so strongly with the "lonely city" identity."*

*Respected community leader, artist and harm reduction policy specialist Karen Ward provided guidance and assistance in the development of the Harm Reduction portion of this document specifically but also more broadly. Ward reminds us "that solutions here are about creating real choices that people can make, to be autonomous and free. not to cultivate dependency." And significantly, that "accessibility includes access to the policy process."*

*Gabrielle Peters*

## Introduction

The Broadbent Institute is Canada's leading progressive, independent organization championing change through the promotion of democracy, equality, and sustainability, and the training of a new generation of leaders.

We have an interest in the development of accessibility legislation as it connects to matters of equity and justice. One of the key areas of focus for the Institute is inequality — racial, economic, gender-based — and many of the issues and barriers disabled people face directly intersect with these areas. Additionally, we see the framework of disability justice as directly connected to our work on democratic engagement, and that accessibility must include disabled people having personal and political agency, and the ability to participate meaningfully in our communities.

We appreciate that the BC Framework for Accessibility Legislation is guided by the UN Convention on the Rights of Persons with Disabilities and the principle of 'nothing about us, without us.' In it in this spirit that the Institute has commissioned this submission be written by Gabrielle Peters, a writer and consultant with the lived expertise of being a disabled person.

## Submission Outline

This submission is comprised of three sections.

The first section provides historical context, and outlines the connection that ableism has to colonialism and racism, the role of the built environment as a disabling agent, and highlights the policies and practices designed to exclude, and in some cases eradicate, disabled people: eugenics, institutionalization, and sterilization.

The second section provides contemporary context about the conditions faced by disabled people: poverty, disproportionate representation among victims of violent crime and sexual assault, barriers in our healthcare system, among others.

The third section provides guidelines and recommendations intended to serve not only to contextualize accessibility and the role it plays in the lives of disabled people, but also to broaden the scope of how accessibility is defined and applied.

A summary of the guidelines and recommendations are as follows:

1. **Name of the legislation: Nothing About Us Without Us.** This new legislation should include Deaf and Disabled British Columbians in its name.

2. **Anti-ableism must be spelled out in full.** Barrier-free is not enough, this needs to be named as anti-oppression legislation.
3. **The legislation must be intersectional.** Various aspects of a person's identity and lived experience function within intersecting systems of oppression that serve to marginalize and disempower disabled people and thus alter their accessibility needs and the quantity and nature of the barriers they experience, as well as their ability to mitigate those barriers.
4. **Avoid the "Disability Essentialism" of Disability Rights Policy.** The experience of disability is not monolithic.
5. **Public domain.** All information, standards, and training must remain in the public domain. There should be no privatization of accessibility.
6. **Interconnected.** Cross the silos of government ministries and departments. The lives of disabled people are webs of interconnectedness and effectively addressing accessibility requires recognition of this.
7. **Research.** We need more data. At present we are lacking a lot of basic information about disability in BC.
8. **Scope and reach.** Bring all existing legislation, funding, policies, codes and standards into compliance with this legislation, including school boards and municipalities.
9. **Interdependence.** Move beyond a singular focus on employment and ensure accessibility includes other ways for disabled people to contribute and participate in society.
10. **Private and public space.** No exceptions or exemptions to accessibility — all design must be accessible.
11. **Harm reduction.** Recognize harm reduction as a component of accessibility, support disabled people who are non drug users to receive the pain medication they require, and help de-stigmatize drug users who may or may not be disabled and in pain as well.
12. **Disabled people need the right to move.** Eliminate the period of residency requirement before eligibility for disability benefits and supports to improve access for disabled people seeking employment or educational opportunities.
13. **Climate justice and emergency preparedness.** Recognize the impact of climate change disproportionately affects disabled people, take a

disability-inclusive approach when taking action to address climate change, design emergency preparedness with disabled people in mind.

14. **Tech.** Seek to establish models and standards, and take a multi-layered approach to ensure that new barriers are not introduced with new tech.
15. **Policing and prisons.** Examine and address the role inaccessibility plays in disabled people's interactions with police, as well as ensure accessibility within prisons for disabled prisoners.
16. **Enforcement.** Ensure staff and apparatus in place to oversee and enforce the legislation, as well as mechanisms for disabled people to lodge and resolve complaints dealing with accessibility failures and lack of compliance.

## **Section One: History**

The BC Government announced its commitment to “developing new laws, standards, and policies to better support” disabled people “to live with dignity and to meaningfully participate in their communities.”

Before we embark on making history we need to acknowledge the history and structure this legislation will be part of.

In order to draft laws and policies able to achieve the intended goals we need to understand the current situation. To understand the present we must understand the past.

### **Colonialism**

The logical and necessary place to begin any discussion about oppression in British Columbia is with colonialism. Most of the so-called Crown Land in B.C. was never sold or surrendered by Indigenous people. As recognized and affirmed in the Declaration of the Rights of Indigenous Peoples Act, recently passed unanimously in the BC Legislature, the rights of Indigenous people are inherent, if not always upheld, and Indigenous communities need to be involved in decisions on their territories. We agree with the 2019 More Than A Footnote report by DAWN (Disabled Women’s Network of Canada) and urge the province to “start from a place that recognizes the historic and continued violence of colonialism and how this shapes Indigenous lived experience” when drafting this legislation.

In addition to higher rates of disability, additional barriers to accessing services due to location, suitability of services and supports (for example, some equipment that is covered under BC Medical such as wheelchairs may be more suited for urban than rural areas), the report noted “there are inherent tensions between the concept of disability itself and Indigenous ways of knowing that must be acknowledged. Disability, which is often viewed as a marker of difference in western culture, is conceptually at odds with ways of living and knowing that do not see disability as difference.”

Whiteness is embedded throughout our definitions, approaches and understanding of disability and accessibility. It is imperative that any accessibility or disability legislation be consistent with Bill 41 and the provincial government’s commitment to bring its laws and policies in line with the United Nations Declaration on the Rights of Indigenous Persons.

Modern Western science emerged around the time of colonialism and science was used to justify the crimes of colonialism while simultaneously benefiting from the knowledge of those they were colonizing and claiming ownership of it.

“Racism and ableism are often thought of as parallel systems of oppression that work separately to perpetuate social hierarchy. Not only does this way of looking at the world ignore the experiences of people of color with disabilities, but it also fails to examine how race is pathologized in order to create racism...The *concept* of disability has been used to justify discrimination against other groups by attributing disability to them...The existence of the economic system of slavery relied on the social idea that African Americans lacked sufficient intelligence to participate or compete on an equal basis in society with white Americans. This idea was confirmed with the creation of several diseases specific to Black people. Drapetomania, for example, was a condition that caused slaves to run away “as much a disease of the mind as any other species of mental alienation.” [Isabella Kres-Nash, Racism and Ableism](#)

### **Eugenics: Intentional Exclusion and Oppression**

“Eugenicists believed that natural selection was insufficient, and they sought to influence human evolution by weeding out undesirables. A combination of heavy immigration and a fear that undesirables were reproducing at a high rate contributed to the popularization of eugenics in Canada.” [\(Canada’s Human Rights History: Eugenics\)](#)

We did not arrive at where we are today by accident. We do not stay here by mistake. Understanding the lessons of the past and how these beliefs, attitudes, norms and designs are perpetuated and replicated in the present is necessary to create a better future.

**This legislation must be at least as focused on dismantling as it is about building. Barriers are often thought of as things and some are, but all barriers began as ideas.**

The oppression of disabled people was always intentional. All levels of government codified it. The policies and practices designed to exclude and in some cases eradicate disabled people were based on a widely held and formally recognized belief that humanity as a whole would benefit from less or none of some humans and more of others. Disabled and/or poor people, and disabled and non-disabled Indigenous, Black and other racialized people and immigrants, are among those the theory of eugenics deemed to have undesirable genetic traits.

In particular, as was already noted, ableism played a central role in the enslavement of Africans as a means to falsely label them as disabled while simultaneously causing disability among them. In the late 19<sup>th</sup> century Sir Francis Galton first used the term

eugenics for policy, which he claimed was based on scientific principles aimed at positively intervening in the reproduction of some groups of people and negatively intervening in that of others. He was building on the ideas of Charles Darwin who said medicine and charity interfered with Malthusian checks on the reproduction of the poor. Ultimately it veered beyond just genes to issues of child rearing, housing, work and lifestyles and in each of these class, race, ethnicity and disability, separately or together, were the factors considered.

“White elites relied on imagery of disability and deficiency to argue that African Americans, immigrants, women and the poor were groups inherently unsuited for citizenship rights...” At the same time “racial and ethnic minority groups were attributed with disability labels of deviance and defectiveness, a pattern of unwhitening also occurred for white disabled people.”(Race and Disability: From Analogy to Intersectionality – Angela Frederick and Dara Shrifer)

Eugenics was widely supported, including by the medical professions, scientists, politicians across the political spectrum, and amongst some of Canada’s most famous heroes. Despite opponents using eugenics to argue against women’s suffrage, noted early feminists, including Nellie McClung, were eugenicists.

It is essential we acknowledge and understand that the goal of eugenics was presented and perceived as a positive one, namely the creation of a better, healthier population. This is not to minimize, rationalize or legitimize the harm caused or horror it would create (Aktion T-4, Nazi Germany) rather to contextualize why to this day a great deal of harm happens to Deaf and Disabled people in the name of the greater good for humanity and, even more disturbingly, under the pretext of helping Deaf and disabled people.

### **Institutionalization:**

“The institutional era needs to be understood not only as the operation of a series of large and separated building complexes (called asylums until recent decades), but also as a state of mind. This state of mind emerged from the values and ways of thinking that created and fed the industrial revolution that burst into being and expanded dramatically throughout the 18th to 19th centuries. Industrialization was possible because of the adoption of rational thinking and scientific innovation to guide everything from the way work was done to moral philosophy... Such responses were sometimes innovative and farsighted. More often, they turned out to be aggressive and hostile, as people with disabilities came to be regarded as “inefficient” and dangerous. Medical and other “scientific” research carried out at universities and other centres of learning often provided authoritative justification for horrendous



policy innovations. Indeed, it is possible to conceive of the modern university as the epitome of Enlightenment thought, while the asylum represents the darker side of the Enlightenment (Radford, 2000). “[\(Journal of Developmental Disabilities, Volume 21, No. 2, 2015\)](#)”

British Columbia opened its first asylum in 1872. It was closed in 1878 due to overcrowding and the Provincial Asylum for the Insane, which would later be renamed Woodlands, was opened. In 1883 Work Therapy was introduced into the province’s asylums; free labour disguised as ‘treatment.’

Abuse and neglect was the norm in institutions including Woodlands. A report by former provincial ombudsperson Dulcie McCallum found that there had been widespread sexual, physical and psychological abuse of Woodlands’ residents.

“In 2001, B.C.’s former ombudsman Dulcie McCallum submitted a disturbing report to the provincial government outlining the abuses endured by residents, some of whom were mentally challenged, some mentally ill and some simply children in care who had nowhere else to go.” [\(Global News, October, 8, 2018\)](#)

One of the most striking things about former institutions for disabled people is how little effort went into hiding the contempt they had for the people inside them. They were dehumanized and devalued in life and death.

“Attached to Woodlands was a cemetery where over 3,300 former residents of Woodlands were buried. When the construction of Queen's Park Hospital began in 1977 beside the Woodlands property, the cemetery was closed and made into a park. At that time over 1,800 grave markers were removed and all but a few hundred were "recycled" or disposed of. Some were used to make a barbeque patio on the Woodlands site for the use of staff. Others went off site for use at construction sites, and others were used to build retaining walls for the creek flowing through the Woodlands property.” [\(Inclusion BC\)](#)

L’arche Canada notes that whatever the stated goals of these institutions they became nothing more than a way to warehouse people who didn’t add any or enough surplus value and were inefficient members of society.

“The setting up of institutions also reflected the attitude that only those who were so-called productive members of society were of value—an attitude that, in part, found its roots in the industrial revolution and the movement away from home-based and cottage industries where, in spite of poverty, almost everyone, whatever their limitations, could be a

part of village life and be sheltered and valued by their family and community...sometimes people who were intellectually quite competent but had some physical disability – for example, cerebral palsy – or a mental illness, or were just slow developing as children were also placed in these institutions.” [L’arche Canada: A resource document on institutions and de-institutionalization](#)

The era of the institution never really ended. To this day disabled people under the age of 65 are housed in British Columbia’s nursing homes due to lack of sufficient supports and appropriately designed housing in the community. The BC Government needs to do more than say it will honour Article 19 of the UN Convention of the Rights of Persons with Disabilities, it needs to create policies and funding that make honouring it possible.

“Size and location doesn’t make an institution, power does. In fact there are even what I’ve called distributed institutions - agencies that provide assistance to individual people in our homes, but do it in an institutional way.” ([withasmoothroundstone tumblr](#))

## **Sterilization**

In 1933, the Conservative provincial government of British Columbia became one of two provinces in Canada to pass sexual sterilization legislation.

“Sterilization was imposed on many “problem groups” in Canada, including differently abled people labelled as having intellectual or physical “[disabilities](#),” those institutionalized in state-run facilities and immigrants, especially from Eastern European countries. Sterilization was also imposed on [Indigenous people](#). With respect to Indigenous people, eugenics served to explain away the negative effects of colonialism. According to eugenic theory, the high rates of ill health and poverty in Indigenous communities were evidence of a lower racial evolution — not the result of colonialism and government policies — and reinforced a view that Indigenous people were “unfit.” The criminalization of Indigenous women and the policing of their sexuality contributed to their being labelled “bad mothers,” unfit to care for their children. They were also subjected to coerced or forced sterilization.” ([The Canadian Encyclopedia](#))

The sexual sterilization act was repealed in 1973 under the NDP government of David Barrett. However this did not end the practice of forced and coerced sterilization of Indigenous women in Canada and as recent as 2018 Amnesty International issued a campaign advocating for it to end.

Eugenics played a pivotal and foundational role in the development of modern society and was decisive in everything from immigration laws all the way down to designing and running of local schools and the content of building codes. Racism, classism and ableism were supported by eugenics and it is worth noting that even decades after the horrors of Nazi Germany were fully known British Columbia still had sterilization on the law books and to this day we have not fully eliminated the eugenics elements in Canada's immigration policy.

None of this is ancient history. In 2003 the BC provincial government apologized for the abuse suffered by people in the province's institutions. From the Globe and Mail, May 30, 2003:

“The B.C. government issued a formal apology Friday to former residents, as well as their families, who suffered abuse at now-closed provincial institutions for the mentally handicapped. The systemic abuse and a code of silence among provincial institution employees that fostered a breeding ground of sexual and physical abuse were identified last year in a government-commissioned report.”

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### **Racism, Ableism and the Built Environment, by Amina Yasin:**

The term intersectionality was coined by leading Black woman thinker, scholar, and writer in the field of critical race theory and law, Dr. Kimberlé Crenshaw, who coined the term to help explain the multiple oppressions experienced by Black women. Doctor Crenshaw describes intersectionality as a lens through which you can see where power comes and collides, where it interlocks and intersects. This academic and mainstream term is now at the forefront of national conversations about racial justice, ableism, identity politics, and policing—and over the years has helped shape legal discussions.

It is within this framework that we understand the built environment has always been an essential and complicit expression of the compartmentalizing spirit of ableism, racism, colonialism and aesthetics. As a tool of power and control the field of urban planning has had a long history of justifying discrimination and segregation by pathologizing Black bodies and attributing disability to them. As a result the built environment itself has become a disabling agent, resulting in the struggle for spatial justice becoming a fight that is steeped in anti-ableism that includes anti-racism. Whether we choose to recognize them or not, hierarchies of exclusion have always been deliberately and strategically designed into our built and economic environment; beginning with the enslavement of African people. When considering space, place and history, Black presence in Canada, since the 1600s, is inextricably linked to the history of the enslavement of African people

and the colonial economic enterprise of the time (The Canadian Encyclopedia, 2019). In order to move forward with the North American colonial project, Europeans had to conceptualize Africans as deformed beings “between human and animal and as such only fit for servitude” (James Hunt, *On the Negro's Place in Nature*, 1864 ).

In order to manifest the conditions of slavery, European medical officials and other public authorities needed to undermine the abilities of Africans by tapping into European ideas of monstrosity and deformity and “discover” infectious diseases attributed to the Black population in order to facilitate racial capitalism and the ensuing settlement and development projects on the North American continent.

Furthermore, the relationship between the enslavement of Africans and urbanization is one that must continue to be examined, as the trans-Atlantic slave trade not only transformed the global economy but set the ground work for the emergence and development of maritime cities and towns (Carl Anthony, *The Earth, the city and the hidden narrative of race.*) As colonial authorities settled and colonized the Americas, manipulation and segregation as a form of power and coercion operated through a ‘sanitation syndrome’ to convince white settlers that the Indigenous population and the enslaved Black labour force posed a viable threat to the health of European settlers. As a result the Indigenous population was dramatically displaced and reduced in numbers. Those that survived were segregated and relegated to federal reserves. While enslaved Africans were maintained as the real property estate of the primary slaveholder and viewed as unfit to occupy even the most uncomfortable spaces in the main house – this included basement and attic spaces. As a result they were forced into crowded slave quarters built separately at a specific distance by landowners at the rear of their property. The colonial politics of urban public health administration and planners as regulators and enforcement officers remains strident today in urban planning principles and districting built on segregation. Today, we live in cities that have been split and dissected into parts that are a product of their histories, the ‘native city’, the ‘black and racialized city’ and the ‘healthy livable white city,’ also perceived to be the only “true part of the city.” We saw this across Canada, and here in British Columbia through racial and exclusionary zoning and the expansion of racial restrictive covenants. These covenants divided neighbourhoods and forbade the Indigenous population along with racialized communities including 'Asiatics and people of African descent' from purchasing property in "whites only" subdivisions (CBC, 2014).

Another element of Urban Planning history that has contributed to the partitioning of healthy and unhealthy spaces, can be found in the diffusion of 1940s and 1950s land redevelopment programs known as urban renewal. This policy saw capital infrastructure projects, primarily highways, used to “redeem”

urban areas and took hold in cities across North America. In many ways, these projects were as much about the proliferation of automobiles as they were about slum clearance – where slums were described as neighbourhoods with greater density, multi-family units, in the heart of downtown, with greater social cohesion and where residents were predominantly racialized. Masking segregationist policies once again in public health discourse, urban planners, engineers, and politicians conceptualized cities as human bodies, that needed to be protected from the cancerous onslaught of blight and slums, through a method of excision in the form of highways, that would cure cities of blight.

For example, we saw this exact scenario play out – right here in Canada - in Vancouver with Hogan’s Alley, where the first and last substantial Black community existed and was expelled with the construction of the viaducts. A racialized neighbourhood was decimated by automobile infrastructure - a highway. As a result exclusionary and expulsive design standards disguised as “scientific” engineering and urban planning standards spread across North American cities, which either decimated close-knit predominantly Black communities or served to prevent the free movement of this exact community. Today over 67% of Canadians own cars and the rise of the automobile, its infrastructure, and urban design principles built around it, have made many cities across Canada unhealthy. [CBC, 2019 Something in the Air]

So sick in fact that recently scientists have linked automobile infrastructure including traffic and proximity to highways and congested roadways as one of the factors in developing Alzheimer’s (Chen, Kwong, Copes et al, 2017). Over 1.1 million Canadians are affected directly or indirectly Alzheimer’s. Alzheimer’s is known to have diverse manifestations with main risk factors reported to be age, gender (Vina and Lloret, 2010) and most recently poverty, race, proximity to automobile infrastructure, sprawl and neighbourhood walkability. These studies link back to the history of urban planning reformers such as Robert Moses and Harland Bartholomew who advocated for exclusive urban planning and engineering standards, including automobile infrastructure in the form of highways being built right next to where poor, racialized and deeply marginalized segments of our population and communities live.

We see discriminatory policies being re-enacted today during a crucial intersection of evolving crises across cities including a housing, transportation, opioid, racism, classism, ableism, environmental and gendered crisis. The shifting cultural memory of perceived discriminatory policies of the past continue to manifest intersectionally in anti-poor and ableism bylaws referred to as “Safer Streets Bylaws,” that are being enacted across British Columbia and Canada. For example, most recently in Maple Ridge we’ve seen ‘an aggressive panhandling bylaw ban’ pass under the guise of deterrence and ‘safer streets,’ where homeless residents would be required to pay a \$100 fee if they are caught seeking assistance in public.’ This is important to note as the majority of the homeless

population is made up of Indigenous people, disabled people and 24% is made of seniors. In this way we are seeing the socio-legislative re-emergence of the '[ugly laws](#)' play out in our cities today.

Finally, it is important to note the importance of the value and potential of further disaggregated data when it comes to advancing a discussion on ableism in relation to homelessness and housing insecurity. Despite understanding that racial and ethnic health disparities and inequities - as described in this section - exist by design and can only be eliminated if high-quality data is available, we still unfortunately do not currently disaggregate racial data in homeless counts. In order to track immediate problems and the underlying social determinants and outcomes of health for marginalized communities we need to begin to recognize the value and potential of disaggregated data as a method of equitable policy-making.

The United Nations has declared this to be the International Decade for People of African Descent (2015-2024), a declaration that acknowledges that people of African descent represent a distinctly oppressed group whose human rights have often been institutionally neglected due to anti-Black racism of which ableism is embedded within. The BC Government should recognize the IDPAD and pay special additional attention to how the issues captured by this legislation are impacted by this history. This should be reflected in the drafting and application of this legislation.

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## Section Two: Present

**Nearly half of all Human Rights complaints (49%) in Canada are disability related. Discrimination against disabled people is rampant while simultaneously being almost entirely invisible in the public discourse about discrimination.**

Those receiving British Columbia's disability benefits live on \$13,596 per year. The average rent in Vancouver for a one-bedroom apartment is \$26,496 per year ([Vancouver Courier, August 17, 2019](#))

Disabled people are disproportionately represented among those living in poverty, people who are homeless, as victims of violence and are excluded from education, employment and public and community life, but again, disabled people are largely, if not entirely, unrecognized and ignored in discourse about these things.

“Disabled women are about two times more likely than non-disabled women to be: a victim of a violent crime, sexually assaulted, victimized in their own home, victimized multiple times, emotionally, financially,

physically or sexually abused by a current or former partner, sexually abused by an adult before they reach the age of 15 and homeless (visible or hidden) at some point in their lives (DAWN Canada).”

Disabled women are largely missing from the #MeToo and other feminist discourse and analysis. Worse still, disabled women face fewer options and more barriers trying to find safety. Forty-seven percent of women’s shelters in British Columbia reported that physical accessibility was a major problem with their facilities.

Disabled people, particularly those with chronic illness, face numerous and unique barriers in dealing with the healthcare system, a system which is a component of their life in a way that it simply is not for other British Columbians. Healthcare essential to the health and well being of disabled people such as physiotherapy, mental health counseling and therapy, dental care, hearing and others are not covered under the healthcare system. Many essential medications are not covered under pharmacare. Mobility and other equipment is either not covered or covered in an illogical way that doesn’t represent the needs of disabled people. Do you know what happens if you live alone and use a power wheelchair and it breaks down on the long weekend? Do you know that those eligible for coverage under BC Medical might be able to get funding for a power wheelchair but not for smart drive attachment to their manual wheelchair which would allow them to keep exercising and is a fraction of the cost?

There are ongoing campaigns about the stigma of mental illness but ableism is never mentioned as the cause of this stigma. People are encouraged to seek mental health care that is often not available.

It is within this context that the BC Government wishes to introduce this legislation.

### **Consultations for Crip Legislation Should Be Done On Crip Time**

“When disabled folks talk about crip time, sometimes we just mean that we’re late all the time—maybe because we need more sleep than nondisabled people, maybe because the accessible gate in the train station was locked. But other times, when we talk about crip time, we mean something more beautiful and forgiving. We mean, as my friend Margaret Price explains, we live our lives with a "flexible approach to normative time frames" like work schedules, deadlines, or even just waking and sleeping. My friend Alison Kafer says that "rather than bend disabled bodies and minds to meet the clock, crip time bends the clock to meet disabled bodies and minds." I have embraced this beautiful notion for many years, living within the embrace of a crip time that lets me define my own "normal." [Ellen Samuels, Six Ways of Looking at Crip Time](#)

Given this consultation process was announced in the midst of a federal election and the short timeframe for consultation preferences the involvement of staffed disability charities and others who have existing relationships with government, we urge the government to ensure ongoing engagement throughout the development and enactment of this legislation.

If the government wants the disabled community to take ownership of this legislation they need to have authentic engagement and consultation with a diversity of disabled people with a diversity of disabilities and this means slowing it down to “crip time.”

An important goal of this legislation and the process leading up to it should be to reduce the influence of large charitable organizations and their role as spokespeople for disabled people, instead making space and creating models and channels to allow disabled people to engage with government directly.

That said we wish to offer some overall guidelines for the legislation — some standards for guiding the standards.

### **Section Three: Future Informed by Disability Justice.**

“Accessibility is concrete resistance to the isolation of disabled people...We must, however, move beyond access by itself. We cannot allow the liberation of disabled people to be boiled down to logistics. We must understand and practice an accessibility that moves us closer to justice, not just inclusion or diversity...moving away from an equality-based model of sameness and “we are just like you” to a model of disability that embraces difference, confronts privilege and challenges what is considered “normal” on every front. We don’t want to simply join the ranks of the privileged; we want to dismantle those ranks and the systems that maintain them...We cannot have disability justice without it [accessibility], but we want to question a culture that makes inaccessibility even possible.” Mia Mingus, [Changing the Framework: Disability Justice, How our communities can move beyond access to wholeness](#)

The intent of this legislation must not be merely to allow some of disabled people to participate in privilege. The following guidelines are intended to serve not only to contextualize accessibility and the role it plays in the lives of disabled people, but also to broaden the scope of how accessibility is defined and applied.



## **1. Name of Legislation: Nothing About Us Without Us – Including the Name of the Legislation**

Considerable thought and effort, often based on purporting to be based on science and concern, went into excluding disabled people. Decisions about what was best for disabled people made by the province's respected leaders resulted in the worst outcomes and a shameful period in this province's history.

This new legislation must spell out whom it is for and what it is intended to begin to rectify and prevent. For this reason the legislation itself must include Deaf and Disabled British Columbians in its name.

This also means the Minister should not rely on non-disabled advisors for this Bill, regardless of whether or not they work for a disability charity. The charity model is a leftover from the Victorian era and it is long past time the government develop its own public, transparent model for engaging directly with a diversity of disabled people with a diversity of disabilities to develop and apply evidence-based policy.

Charities are not equitable. They are built by and rely on those who have the economic and time resources to fund them. They result in some diagnoses receiving a disproportionate amount of funding and resources and others receiving none at all. Multiple barriers and bias can influence which is which and as a result the funding and framing of disability does not represent the reality of disability.

The very concept of accessibility has largely been claimed and defined by a small fraction of disabled people while completely sidelining the very real access needs of the majority of disabled people. Gender, class and race bias can influence public perception and support for a specific disability, as can other factors that are leftovers of eugenics such as whether the disability is a result of injury or disease and whether it was present at birth or acquired and the level of stigma and fear associated with it. Furthermore the majority of disabled people have more than one disability so diagnosis or condition specific charities are the least efficient way to provide support and often result in disabled people having to either access multiple different organizations or have support for some or none of their disabilities.

The charity model also requires disabled people to share their disability stories, which are framed as inspirational or pitiable depending on the condition. The framing of these stories and the fact that these charity campaigns under the auspices of 'awareness' are often the only interaction the public has with disability (that they are aware of, since disabled people constitute nearly 25% of the population and the majority of disabilities are not

visible), it establishes a public narrative about disability that is suffocating and limiting for disabled people.

## **2. Anti-Ableism and Anti-Audism Must Be Spelled Out In Full. Barrier-Free is Not Enough – This is Anti-Oppression Legislation**

We urge the government to expressly name ableism as the source of systemic oppression of disabled people and the cause of inaccessibility. The provincial government must apply an anti-ableist, intersectional disability lens to all new and existing policy, systems, services, funding and structures under the jurisdiction of the BC Government and ensure that all other standards, codes and legislation will be superseded by and subject to this legislation and be brought into compliance with it.

**By focusing on actively working against ableism while building accessibility we believe this legislation has the potential to address issues faced by the most marginalized and multi-marginalized Deaf and disabled people in BC.**

Ableism is enmeshed in white supremacy and capitalism's industrial revolution and as a result without an anti-oppression analysis and framework, accessibility legislation has the potential to make sure every mansion is ramped and every wine tour has ASL interpreters while failing to give poor disabled people housing, disabled kids the right to wheel to and attend their neighbourhood school and make it possible for people with mental health disabilities, particularly disabled Black, Indigenous or people of colour to use and access public space and transit without fear of harassment or worse.

## **3. Intersectional**

“Over and over I meet disabled women of color who do not identify as disabled, even though they have the lived reality of being disabled. And this is for many complicated reasons around race, ability, gender, access, etc. it can be very dangerous to identify as disabled when your survival depends on you denying it.” [Mia Mingus on the Politics of Desirability and the Ugly](#)

Accessibility is a necessary precondition and integral component of social justice. In turn, social justice must be a part of accessibility or other forms of oppression will be embedded into and reflected in the prioritizing of some things and the ignoring of others. Worse still, solutions to inaccessibility could build harm. For example, the placement of elevators and ramps that put disabled women in isolated areas of public space, or solutions for public transit that involve increased policing which might serve to decrease rather than increase the accessibility of that service by some multi-marginalized disabled people.

There have been examples of instances where people have tried to use accessibility as an excuse to bring in more policing or to criminalize and displace homeless people (who are likely disabled). In this way accessibility can end up being a tool of racism and/or attacking poor disabled people.

**Displacing, criminalizing or making poor, multi-marginalized disabled people less safe in order to improve the accessibility of more privileged disabled people can not be an outcome we can tolerate and one the government must take steps to ensure this does not happen with this legislation.**

Accessibility that benefits the most privileged and further marginalizes the most marginalized should not be the goal of this legislation but it will be the outcome unless specific and deliberate action is taken to prevent that from happening.

Class, race, religion, ethnicity, sexual orientation and gender identity as well as other aspects of a person's identity and lived experience function within intersecting systems of oppression that serve to marginalize and disempower disabled people and thus alter their accessibility needs and the quantity and nature of the barriers they experience as well as their ability to mitigate those barriers.

#### **4. Avoid The Disability Essentialism of Disability Rights Policy**

When we look to the United States and the Americans with Disabilities Act and all the activism and advocacy that led up to it and since, we can see the tremendous impact and benefit that has come out of disability rights. At the same time we can learn from the disability essentialism that regards the experience of disability as monolithic and separated from other aspects of someone's identity and lived experience. In this way while pretending to be race-neutral it actually means our understanding of disability and therefore accessibility is white. (Angela Frederick, Dara Shifrer, Race and Disability: From Analogy to Intersectionality)

#### **5. Public Domain**

All information, standards and training must remain in the public domain. There can be no privatization of accessibility. There should be downloadable documents, websites, online tutorials and videos as well as free public courses provided about the legislation and the standards it mandates.

## 6. Interconnected

“The most effective way to tackle the inequality faced by disabled people is to think about it in the round, looking at issues of housing, employment, social security and social care, and offering a coordinated strategy that is not only morally right but also speaks to common sense.” (Frances Ryan, The Guardian, June 9, 2019)

The government is a series of silos defined by Ministries and departments. The lives of disabled people are webs of interconnectedness. It is impossible to effectively address accessibility without recognizing this. Inaccessibility exists throughout society and in every aspect of it. Barriers to going to university for a disabled person, for example, might not be the tuition fee or just the tuition fee but rather accessible, affordable housing in close proximity of the institution because transportation may not be accessible or managing the workload of a student on top of long commutes might not be possible for them. In this way you could have a situation where you build accessible housing and improve accessibility at the school and lower its tuition fees and the student would still not be able to attend.

## 7. Research. We need more data

“In general, disability research has failed to fully appreciate gender dynamics and their influence on the experience of disability. Conversely, many gender-based research initiatives have failed to include a disability lens.” ([DAWN Canada, More Than A Footnote](#))

At the moment we are lacking a lot of basic information about disability in British Columbia. We need data that breaks down other data by race, gender, class, type of disability, LGBTQ+2, marital status, etc. It is not enough to know how many disabled people are living in poverty we need to know which disabled people are living in poverty, which ones are employed, who is without housing, where in the province disabled people are working, what type of equipment they are using versus what they really require, what are their actual barriers to public space, transit and participating in society, etc.

As well, data collected needs to uniformly reflect the definition of disabled that includes mental-health related disabilities and chronic illnesses.

## 8. Scope and Reach

As already stated but repeated here for emphasis, all existing legislation, funding, policies, codes and standards must be brought into compliance with this legislation. The government must not fund or in any way support inaccessibility. For example,

do current fire codes require evacuation chairs in all buildings with more than one floor? No disabled people should be housed in buildings that do not allow for them to escape in a fire or other emergency.

The provincial government must ensure that school boards and municipalities follow this legislation and that they adapt their standards, policies and building, safety and emergency preparedness codes accordingly.

## 9. Interdependence

“With disability justice, we want to move away from the “myth of independence,” that everyone can and should be able to do everything on their own. I am not fighting for independence, as much of the disability rights movement rallies behind. I am fighting for an interdependence that embraces need and tells the truth: no one does it on their own and the myth of independence is just that, a myth.” Mia Mingus, [Changing the Framework: Disability Justice, How our communities can move beyond access to wholeness](#)

Sometimes it seems there is an almost singular focus on employment and effort to turn disabled people into non-disabled people by bringing (some) into the non-disabled workforce. Framing legislation this way will further stigmatize and marginalize those disabled people who simply are not able to work in the competitive workforce.

We need accessibility that includes other ways for disabled people to contribute and participate in society.

**We need to be one hundred percent clear: accessibility is the goal —not employment.**

**Employment is not the goal.** This is one of the most important points in this document. Employment is *not* the goal but it will be *one* of the outcomes for *some* disabled people.

Employment may be one of the things achieved for some disabled people as a result of accessibility but it ***must not*** be the goal of accessibility.

Accessibility is a rights issue and should not be made conditional, contingent or tied causally to employment or income.

## 10. Private and Public Space

All of it must be designed to be accessible — housing, businesses, recreation, playgrounds, cafes – everything. There can be no exceptions and no exemptions. Historical, aesthetic, design and/or community character must not be allowed to trump the access rights of disabled people.

## 11. Harm Reduction

While acknowledging there is no universally accepted definition of harm reduction, Harm Reduction International provides the following explanation:

“Harm reduction refers to policies, programmes and practices that aim to minimise negative health, social and legal impacts associated with drug use, drug policies and drug laws. Harm reduction is grounded in justice and human rights - it focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that they stop using drugs as a precondition of support.”

This legislation should acknowledge harm reduction as a component of accessibility.

As has been mentioned elsewhere in this document, disability essentialism not only defined the experience of disability as white and middle class but it also created a hierarchy. Disability rights efforts have historically focused on wheelchair users almost to the complete exclusion of other disabled people, including the [Mad Pride](#) activists and those dealing with legacy of childhood trauma. The history of charities governing and determining the provision of services to some disabled people resulted in competitive criteria and the most deserving disabled person trope. The poster children and telethons that served up pitiable stories about complete ‘innocents’ who had done nothing to ‘deserve’ their disability best capture this tradition. Even as recently as this past year a leader of a respected disability rights organization in the U.S. was videoed arguing that disabled people were more deserving of some services than illegal immigrants.

A similar discourse has taken place surrounding opioid and other pain medications, pitting disabled people with chronic pain against drug users (who also are sometimes disabled people and who also may have chronic pain).

The stigmatization around pain medications has extended to stigmatization of people who are in pain. The ‘War on Drugs’ turned doctors into police seeking out “drug seeking behaviour,” an unscientific term that not only allows for subjective judgment based on stereotypes, prejudice and bias, but also disguises it. As well there have been reports of doctors eliminating any patient on pain medication from their practice due to concerns about legal liability.

We also know assessment of a patient's pain is impacted by ethnic, racial, gender and other bias.

A survey of 222 white medical students and residents, found “about half endorsed false beliefs about biological differences between blacks and whites. And those who did also perceived blacks as feeling less pain than whites, and were more likely to suggest inappropriate medical treatment for black patients, according to the paper published in the Proceedings of the National Academy of Sciences.” [Stat News, Some medical students still think black patients feel less pain than whites](#)

Together these things create a perfect storm, which spreads harm under the auspices of trying to contain or prevent it.

In March of this year the [Globe and Mail](#) ran an article by Margo Kelly calling for governments to take action and warned “pain advocates in North America are raising the alarm. They say the number of suicides by people with debilitating chronic pain is growing.”

The article noted that a 2018 report from the BC Coroners Service found that “half of the 870 overdose deaths they reviewed involved people who'd been treated for pain. But only 10 per cent of them had an active prescription for opioids when they died; the vast majority died from the toxic street drug fentanyl...”

Leaving aside whether these distinctions are valid, turning physicians into police and trying to separate deserving from non-deserving users of pain medications will invariably result in needless suffering and death among both groups. If our goal is accessibility and the removal of barriers for disabled people to live and function in society then we need to adopt a harm reduction approach. As Kelly writes, “Equal access is paramount.”

“People who use drugs are also in lots of pain and historically have also had their claims to pain dismissed and undermined and they are, as a group, less likely to experience good-quality care and access to pain treatments.” Bioethicist Daniel Buchman, of Toronto's Krembil Brain Institute

Harm reduction as a component of accessibility would save lives, support disabled people who are non drug users to receive the pain medication they require and help de-stigmatize drug users who may or may not be disabled and in pain as well.

We need to work together to build a society that acknowledges and supports people and helps them heal and/or manage pain – all kinds – as best and safely as possible while respecting their autonomy.

The philosophical underpinnings of harm reduction are worth exploring as an approach and model beyond drug use.

We value the lived experience and knowledge of the drug user community. Those who wish to identify as such are members of the disability community. We appreciate the work and knowledge drug users have done to create a model that emphasizes human rights and justice and respects the autonomy and intrinsic value of every human being, all of which are fundamentals cherished by disabled people as necessary for our liberation.

## **12. Disabled people need the right to move**

The province should not avail itself of the exception provided in Section 6 of the Charter and should eliminate the period of residency requirement before eligibility for disability benefits and other supports. This is an accessibility issue. A disabled person may have the opportunity to live with family or friends or participate in a training program or internship in British Columbia. As well, B.C. should set the example for other provinces to follow. By imposing these time restrictions it significantly limits a disabled person's ability to seek employment or educational opportunities. People in our society move depending on where their skills might be most sought after. Someone on disability benefits is not able to save money to live on during the period of transition between provinces and therefore these restrictions essentially trap them in place and all but negate their right to mobility.

## **13. Climate Justice and Emergency Preparedness**

In July of this year the United Nations passed a resolution calling on governments to adopt a disability-inclusive approach when taking action to address climate change. The UN did so because it recognized the impacts of climate change disproportionately affect disabled people.

As David Perry pointed out in [Pacific Standard in 2017](#):

“The consequences of a natural disaster for any individual will be intensified not only by specifics of the disability, but also by other forms of inequality and marginalization such as race, class, gender or sexual identity, and legal status. Disabilities can also be temporary or changing, especially when disasters bring injury or new health risks. Disability disaster response therefore requires understanding all the varieties of disabilities and the inequities of our society—and too often requires fighting against governmental structures built without disability in mind.”



Despite this, our emergency preparedness fails disabled people. Even our basic fire codes and ordinary emergency services have not been designed with disabled people in mind. Emergency preparedness often tells people to stockpile medications, meanwhile our programs and rules around medications prevent this. They place the burden for preparedness on individuals who exist on barely survivable incomes in dwellings which are not designed for storage. Disabled people who require access to electricity for equipment often live in buildings where they can't have a back-up generator even if they could afford one and none is provided in the building. Many disabled people are housed in apartment towers that are not required to have evacuation chairs in the stairwells. Ambulances will not transport wheelchairs which means a disabled person arrives at a hospital and can't leave their bed regardless of their condition.

In addition to the need for accessibility to be part of climate justice and emergency planning, the government must ensure all its policies intended to address or reduce the impacts of climate change do not worsen accessibility for disabled people.

#### **14. Tech**

“The advancement of robotics, AI, and other “futuristic” technologies has ushered in a new era in the ongoing struggle for representation of people with disabilities in large-scale decision-making settings. These technologies come with their own set of ethical design challenges, with more unknown consequences than ever before. And we have yet to have an honest, critical conversation about it.” ([My fight with a sidewalk robot, CityLab, Emily Ackerman, November 19, 2019](#))

A special mention needs to be made here about technology and more broadly the invention of new things. When designing items for the mass-market companies still fail to include accessibility as a necessary component. Any consideration that may be given almost never plays a central or decisive role and as a result we have new products being introduced in ways that actually lessen the accessibility that exists today – such as dockless e-scooters. Alternately when technology is designed specifically for disabled people it often fills a need that doesn't exist or isn't what the vast majority of disabled people desire or could possibly afford. An example of this would be the notoriously absurd stair-climbing wheelchairs or exoskeletons.

The solution to both of these things is for disabled people to be involved at every stage of development and even better to be the impetus for the design. The government needs a multi-layered approach to ensure that new barriers are not built. Along with the passing of this legislation the government should seek to establish models and standards

As well, AI presents a uniquely concerning opportunity for bias and ableism to be embedded, spread and worsened. Tech firms not only lack diversity that includes disability but they have demonstrated an unwillingness and/or inability to improve the systemic failure that shows up in their algorithms and that results in amplifying discriminatory practices.

Strong oversight and standards for new tech needs to prevent new products or services being introduced into the market before these 'glitches' are addressed.

## 15. Policing and Prisons

“John Pruyn, a Revenue Canada employee was at a Canadian Labour Congress march with his wife and daughter “when he was told to “move” by police. Pruyn, who only has one leg, says he was unable to stand up fast enough to avoid arrest. Pruyn says he was struck, jailed, had his canes knocked away, and had his prosthetic leg torn off, labelled a “weapon” and not returned until he was released 27 hours later.”

[Accommodating People With Disabilities in Prison, Alliance for Equality of Blind Canadians](#)

British Columbia has the country’s highest rate of people killed in encounters with police and the majority are disabled people and disproportionately they are Black and Indigenous disabled people.

Some people with mental health related disabilities avoid activities and public space because of fear of being perceived as odd by a member of the public and the police being called. Police can interpret any delay in compliance or any behaviour they deem unusual to be justification for use of force. There are many disabilities that can make immediate compliance with police direction difficult if not impossible.

Ableism, racism and classism funnel people into prison and this legislation needs to examine and address the role inaccessibility plays in making that happen.

But this legislation must also ensure accessibility within prisons for disabled prisoners right now in the present. This includes necessary equipment, aids, facilities, appropriate diet, medications as well as access to interpreters, appropriate healthcare and proper support and protection from treatment, policies and practices that worsen or cause further disability and harm.

## 16. Enforcement

None of this matters if you don't write this legislation with timeframes and enforcement mechanisms and follow through with enforcement — the accessibility carrot has been dangling for decades, we need a stick.

In an article in Forbes, Andrew Pulrang points out that despite its incredible impact and immeasurable benefits for disabled people, the ADA (Americans with Disabilities Act) has never reached its full potential as a result of spotty enforcement that largely falls to disabled people themselves to make complaints and file lawsuits.

“There are no “accessibility police” giving tickets for steps and narrow doorways. The Department of Justice oversees Title III of the ADA, which governs accessibility of businesses and other entities that provide goods and services to the public. But although the DOJ has pursued many ADA cases that helped clarify important precedents, it has never had the staff or apparatus to comprehensively identify all barriers and force uniform compliance.” [Andrew Pulrang. Why is accessibility still a problem? What can we do about it?](#)

This government needs to make sure there are mechanisms both for disabled people to lodge and resolve complaints dealing with accessibility failures and lack of compliance with the legislation, and that the staff and apparatus is put in place to not rely on these complaints but rather to oversee and enforce the legislation regardless of whether a complaint is made. We do not rely on consumer complaints for inspection and enforcement of fire and health codes, however if a member of the public does see something that concerns them they can initiate a process to have it investigated.

**A very important role of this legislation is to begin to transform our individual and collective understanding of what have been thus far framed as ‘personal problems’ resulting from ‘defects’ within disabled people’s bodies, into policy and design problems.**

In this way this legislation cannot only eliminate design barriers but the attitudinal barriers in the community. What’s more, it lifts the weight we impose on disabled people that blames them as source of their own isolation and exclusion and engages them as political actors and members of society.

## Conclusion

This legislation needs to be part of a provincial disability plan.

This document is intended to provide a glimpse at some of the things generally not considered when thinking about the accessibility of disabled people. Health, education and housing are three extremely important areas that require accessibility standards and an intersectional, disability lens and anti-ableism policies.

Accessibility without an anti-oppression analysis will privilege the most privileged and further marginalize the most marginalized. **Disabled people in this province deserve to be treated as citizens, not solely consumers.** Accessibility is a rights issue not a product for the marketplace.

“Our rhetoric around disability is stuck in the nineties, still focused heavily on service user language and charities and not focused on the structural root causes that people with disabilities face. I don’t want to talk about access to public institutions for the sake of exerting my economic purchasing power or to talk about equality or people with disabilities being valued and loved the way they are. I know we have value. I don’t need to participate in capitalist structures in order to feel this. I want to challenge the way the prison industrial complex in Canada thrives upon the criminalization of people with disabilities who are people of colour. I don’t want to sit here and argue that people with disabilities are employable. I want to challenge the way the bodies of people with disabilities are seen as disposable or treated as unworthy because a lot of us don’t fit common and often exploitative understandings of productivity.” [Sarah Jama, Hancock Lecture 2019 Interview](#)