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# Brief for the House of Commons

By Debbie Windsor

Bill C-81 is about to be a historic piece of law for Canada and its’ citizens living with disabilities. It is imperative that the Act be all encompassing, inclusive and clear as possible to avoid any misconceptions about its’ meaning, leaving nothing that can be misconstrued in its’ interpretation as written. This Act, although it currently does not cover all areas that affect people with disabilities, does have the ability to be expanded to cover more areas in the future. The current draft needs to be strengthened and should clearly state how enforcement is to be executed. The Bill also needs to close any of the current loopholes and eliminate any exemptions that exist to ensure that the Bill maximizes its’ effectiveness. The current draft also has enforcement that is complaint driven by people with disabilities and I would like to address the ineffectiveness of taking this type of approach by illustrating some of my own personal firsthand examples to show how this is a failed process that needs to be eradicated. This bill needs to cover all Federal programs: EI, CPP Disability, Canada Pension, etc. There are currently elements in the current process delivery system mechanism that are flawed and discriminatory. I can illustrate my point through several examples: When a person even today is on the Employment Insurance program, they are asked: “are you willing, ready and able to take any and all available positions?” The disabled person is required to answer this question every week that they are eligible to collect Employment Insurance. If the disabled person were to answer this question, truthfully they would have to say ‘no’. This would result in them being cut off from collecting E.I. Another problem for the physically disabled who collect Employment Insurance is when they are asked to complete the form that asks them to list all the positions they have applied for within the current pay period. If the physically disabled person is honest when they fill out the form, it will only be comprised of positions that they know they would be physically able to do, which may mean that there are no positions on their list or very few. When Employment Insurance gets their form, it will look like the disabled person wasn’t looking for work, opening the door again for them to be cut-off. The problem with CPP Disability is most companies today carry disability insurance that covers their employees if they become injured or acquire a condition leaving them disabled. The employer will often encourage their employee to go on their long-term disability insurance instead of accommodating them or finding them an alternate position in the company. How will we ever achieve the goal of having more disabled people in the workforce when employers think it’s no longer necessary for someone in their company, who recently acquired a disability, to work for them? Why would the employer be inclined to hire a person already with a disability when they had just put their previous employee on long-term disability? This has long been an issue. Once the employee is on the long-term disability, the employer also knows that the employee can go on CPP Disability once the long-term disability runs out. The issue is not only with the employer but also with the insurance companies. The insurance companies need to change their long-term disability clauses in such a way that the employer must look for ways to accommodate their disabled employee whenever possible or find them an alternate position within their company. The problems with the Canada Pension is that those receiving financial support from the provincial governments are forced to take their Canada Pension early. This saves the provincial governments money but the amount they get does not cover their living expenses because of their disabilities. I do not see how this act Bill-C81 is going to address these concerns. These concerns effect people living with a disabilities’ daily life some sooner than others. The examples I have illustrated here are either from my own life experiences or listening to others also living with their disability. The Employment Equity Program has not been the overwhelming success for people with disabilities as had been first thought either. It too needs work and needs to be enforced by the Federal Government who also is not meeting its’ own set goals. It has not worked very well for people with disabilities because it is used for statistical purposes and not as a program to encourage the hiring of people with a disability. People with a disability do not know how to apply for positions within the Federal Government because they are unable to identify that they have a disability to the hiring manager. The contact information to the hiring manager is at best just an email address that the person applying may or may not have the ability to

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utilize because of the type of disability they have. All of these programs need to become more inclusive and revised to reflect the technological change in direction that our society has taken. The organizations that are currently serving the people with disabilities will all attest to this and tell you that they can no longer assist any person with a disability in getting any position within any level of government as they no longer have contact with the governments HR departments. I fail to see where this bill addresses these concerns.

There is no entity that is within the federal jurisdictional perimeters that should be exempted from Bill- C81. All exemptions should be done away with and all loopholes eliminated from the constructs of this bill.

This bill needs to ensure that people with a disability can travel across the country using accessible transportation that is economical. This is absent in this bill as written. This bill only covers that which the Federal Governement has jurisdiction over and does nothing to get the provinces to create their own Disability Act to cover the areas that their provinces have jurisdiction over. This then leaves a huge gap in the overall picture unaddressed as there are currently only three provinces in the country that have one.

The enforcement components in the bill are structured in such a way that the person with a disability is left with the burden of proving their claim as enforcement which is complaint driven. We already know that any system other than the court system that is complaint driven fails the people with disabilities as they can not afford the legal representation needed to litigate their case. If we look at the number of cases put forth by any of the Human Rights Commissions across the country you quickly see this. This bill also mentions the use of an Ombudsman of some sort, but an Ombudsman is limited to only making recommendations. The Ombudsman has no power to enforce any law nor can they make changes to an existing law. This too fails the people with disabilities leaving them with no positive end result. I would recommend that an inspection process be used. There should be inspectors using a process that would require them to go out and examine each situation. They would then be able to make an assessment based on their findings, and should be able to apply enforcement measures against any breaches to the law accordingly. These inspectors should be hired by the government to regularly do routine inspections of all entities that fall under federal jurisdiction. They should follow guidelines that would be mapped out in this bill. These inspectors would issue fines for less severe breachs and with severe breachs, the inspectors would take these cases to the courts which would take all onus off the person with the disability and place the onus on the rightful entity that broke the law. The person with the disability has no control over the way places are built or constructed nor are they in control over how they are being treated or viewed by others. They are only in control of how they are with others. This is the only way that any enforcement is ever going to be taken seriously by people without a disability. We already know that this approach works and is nothing new as this is how the Americans have moved towards making their country way more accessible than it is here. By using this approach, the government would be lifting all the anxiety off of the person with a disability and people with a disability would then feel that they could speak up and have more control over the environment that they have to navigate in. This would provide people with the independence that they so much desire and want. We want to be seen as people first and the disability as secondary.

There needs to be a review process and timelines incorporated into the bill. The timelines should map out the time frame for each of the elements in the bill. The review process should provide recommendations for the parts in the bill that need to be improved or expanded upon. The review process should be done every two or three years to ensure the bills effectiveness.

This Act Bill C-81 once passed is not only going to help those living with a disability, but also the growing number of seniors living and working in the country. We all become seniors eventually, therefore we should all be cognizant of this fact.

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I hope the government takes my input seriously and implements the suggestions I have made here. The thing that saddens me the most about all of this is that generations of people with disabilities have lived out their whole lives waiting, fighting and consulting with governments to do this. I applaud the government for finally doing something constructive in this area, but I want them also to remember those people with disabilities who have fought to get us to this point for without their efforts this would not be happening.

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