

**Redefining Access to Justice for
Self-Represented Litigants with Disabilities:
Applying U.S. Court Accessibility Strategies
to the Canadian Context**

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April 2025

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Abstract

This paper examines how court accessibility strategies developed under the Americans with Disabilities Act (ADA) in the United States can inform efforts to improve access to justice for self-represented litigants (SRLs) with disabilities in Canada. Using Critical Disability Theory (CDT) as a framework, the analysis demonstrates how systemic ableism, vague legal definitions, and uneven enforcement limit meaningful court participation for people with disabilities (PWDs). The Illinois model offers a promising structure for reform through its centralized oversight, its use of Court Accessibility Coordinators (CACs), and its emphasis on proactive accommodation practices. However, challenges such as variability in enforcement and under-recognition of cognitive and invisible disabilities remain. The paper explores how Canada's federal and provincial accessibility frameworks could adapt lessons from the U.S., emphasizing the need for robust policy design, inclusion of disabled voices, mandatory training for legal actors, and enforceable accessibility standards. Ultimately, true access to justice demands not only physical accommodations, but cultural shifts that recognize dignity, diversity, and the lived realities of disability in court processes.

Keywords: Access to Justice, Disability Law, Self-Represented Litigants (SRLs), Court Accessibility, Americans with Disabilities Act (ADA), Critical Disability Theory (CDT), Court Accessibility Coordinators (CACs)

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Equal access to justice is a foundational principle of democratic legal systems, yet people with disabilities (PWDs) continue to encounter significant—and often invisible—barriers within the courtroom. In Canada, where self-representation is becoming increasingly common due to rising legal costs and limited access to legal aid, the compounded challenges faced by self-represented litigants (SRLs) with disabilities demand urgent attention. A 2021–2023 intake report by the National Self-Represented Litigants Project found that 43% of SRLs surveyed identified as having a disability (Chintapalli, 2024). Although accessibility is embedded in both constitutional and statutory law, its practical implementation varies widely across provinces and often fails to fully accommodate the range of disabilities, particularly cognitive and invisible impairments. As Canada seeks to strengthen access to justice, there is a critical opportunity to learn from the successes and limitations of disability accommodations implemented elsewhere. In particular, the Americans with Disabilities Act (ADA) offers valuable lessons. By examining U.S. court models—especially the accessibility infrastructure developed in Illinois—Canada can draw insights for creating a more equitable and inclusive justice system for SRLs with disabilities.

The concept of accessibility in the justice system—particularly in courthouses—extends far beyond physical access. In the United States, Title II of the ADA mandates that all state and local courts must provide “reasonable modifications” to policies and procedures, as well as auxiliary aids to ensure effective communication (U.S. DOJ, 1990). While it is left up to each state to determine supporting guidelines and complementary laws surrounding Title II, this obligation typically includes (but is not limited to) physical modifications such as ramps and elevators, and procedural adjustments such as permitting remote appearances or allowing extended time for submissions. In some states, new courthouses are being designed with universal access in mind, with consideration for architectural features and signage that accommodate a diverse range of physical and sensory needs (U.S. Access Board, 2020). Title II also requires that courts take proactive steps to assess the effectiveness of existing accommodations and must provide them free of charge unless doing so causes *undue burden* (Illinois SC, 2024). To accomplish this proactivity, many U.S. court systems have implemented Court Accessibility Coordinators (CACs) who serve as liaisons for individuals seeking accommodations, a model that has proven effective in ensuring timely and informed responses to litigant needs (Rickard & Rosenthal, 2024). However, some states are less advanced than others in their Title II frameworks, with many utilizing the *undue burden* clause to avoid responsibility for providing accommodations for PWDs; this is largely dependent on the political and social ideologies surrounding disability in certain demographics. Altogether, it is evident that Canada could stand to learn from both the

strengths and limitations of the ADA in shaping its own accessibility policies and accommodation practices going forward.

This paper's analysis will proceed in four main parts. First, it establishes a conceptual framework using Critical Disability Theory (CDT) and evaluates the current policy landscapes in both Canada and the U.S. Second, it explores the disparity in how physical versus cognitive disabilities are accommodated in courts, drawing on CDT to understand how invisibility and disbelief function as systemic barriers. Third, this paper evaluates the structural limitations of the ADA itself, particularly its definitional ambiguity, inconsistent enforcement, and reliance on complaint-based redress. Fourth, it examines Illinois's court accessibility in depth, with attention to its legal policies, implementation mechanisms, and feedback processes. Finally, the paper synthesizes these findings to offer targeted recommendations for Canadian jurisdictions—highlighting opportunities for legislative reform, institutional role creation, and the integration of accessibility into judicial education and policymaking.

The goal of this research is not to advocate for wholesale importation of U.S. policy, but to identify scalable and context-sensitive strategies that can enhance equity in Canada's fragmented court accessibility landscape. In doing so, it affirms a broader principle: that access to justice is not achieved merely through legal formalism or architectural compliance, but through an ongoing institutional commitment to recognizing and responding to the diverse realities of disabled court users. As legal systems grapple with mounting pressures around affordability, digitization, and public trust, ensuring

substantive accessibility for SRLs with disabilities is not a peripheral concern—it is a test of the justice system’s legitimacy and inclusiveness.

I. Theoretical Framework: Critical Disability Theory (CDT)

The concept of “accessibility” is often treated as self-evident in policy and law, yet CDT urges deeper scrutiny of what it truly entails. CDT reframes accessibility not as a checklist of environmental modifications, but as an evolving relational process shaped by social, institutional, and epistemic contexts. From this perspective, accessibility includes not only physical and digital spaces but also procedural fairness, communication norms, and cultural attitudes that either enable or inhibit participation (Krantz & Melander, 2023). Accessibility must therefore be understood as intersectional, situational, and co-constructed—what counts as “accessible” for one person may be exclusionary for another. This is particularly visible in courtroom settings, where accessibility is often reduced to the presence of ramps or assistive devices, while overlooking deeper systemic barriers such as complex legal language, time constraints, or institutional inflexibility (Wasserman & Aas, 2022). True accessibility in justice requires designing systems with the most marginalized in mind—those with cognitive, sensory, and communication-related disabilities—not simply retrofitting them once barriers become visible (Rickard & Rosenthal, 2024). CDT critiques static or minimal definitions of access and instead advocates for accessibility as a dynamic, justice-oriented practice rooted in the lived experiences of PWDs themselves.

CDT also moves beyond the medicalized view of disability by centering the lived experiences of disabled people and emphasizing the role of social, political, and legal systems in producing exclusion. It challenges the assumption that treating everyone “the

same” yields equitable outcomes, instead advocating for substantive accessibility that considers how existing norms often privilege able-bodied ways of being (Devlin & Pothier, 2006; Vehmas & Watson, 2014). In the courtroom context, this means recognizing that formal procedural fairness may still mask deep inequities—especially for individuals whose disabilities are invisible, episodic, or cognitively based (Goodley, 2013; Lochner, 2005). CDT thus demands a shift from accommodation as exception to accessibility as a foundational design principle. It also offers a sharp critique of liberal legal traditions, particularly their emphasis on neutrality and individualism. By framing disability as misfortune rather than as a product of exclusionary systems, these traditions reinforce a charitable or paternalistic model rather than one grounded in rights and agency (Barnes & Mercer, 2010; Devlin & Pothier, 2006). CDT instead insists on centering disabled voices as experts in their own experiences and calls for structural change that dismantles ableist norms embedded within institutions—including the courts. This includes challenging the idea that laws and procedures are neutral or universally accessible, exposing how able-bodied assumptions shape what is considered reasonable, competent, or fair. CDT’s push for transformative, participatory justice aligns closely with international frameworks such as the Convention on the Rights of Persons with Disabilities (United Nations, 2006), which advocates not just for equal treatment, but for systemic inclusion. The theory’s origins in lived experience give it not just analytical depth, but political urgency—reminding us that accessibility is not a favour extended, but a right withheld.

This theoretical lens compels us to evaluate not only the existence of accessibility frameworks, but also their substantive effects on the lived experiences of persons with

disabilities. In particular, CDT illuminates how traditional models of accessibility often center around visible, physical impairments, while cognitive and invisible disabilities remain less fully accommodated. Traditional interpretations of accessibility often emphasize physical infrastructure—such as ramps, elevators, and signage—addressing primarily visible, mobility-related disabilities. While these measures are essential, they can inadvertently leave less visible disabilities, such as cognitive or sensory impairments, under-recognized (Wasserman & Aas, 2022). Therefore, before turning to an evaluation of Canada’s current legal and policy landscape, it is necessary to first examine how these less visible forms of disability challenge conventional approaches to access.

II. Inconsistent Accommodation for Invisible and Cognitive Disabilities

“Invisible” and cognitive disabilities introduce a layer of complexity that many legal systems are ill-equipped to manage. These include mental health conditions, learning disabilities, chronic illnesses, and brain injuries—conditions that may not manifest outwardly but can significantly affect a litigant’s ability to navigate legal proceedings (Meikle & Battaglia, 2021). Physical disabilities tend to be “visible” and have well-understood solutions – for example, wheelchair ramps, elevators, accessible restrooms, or sign language interpreters can be installed or provided as standard accommodations. These needs are relatively concrete, so courts can address them through structural design and clear-cut policies. By contrast, cognitive, intellectual, and mental health disabilities are highly individualized, making accommodation more complex. There is no equivalent “one-size-fits-all” solution for an anxiety disorder or a learning disability; these conditions require personalized adjustments – such as simplified language in court forms, extra time

to process information, breaks during proceedings, or the assistance of support persons – tailored to the individual’s needs. Because such needs are not immediately apparent, they are frequently addressed only if the person self-identifies and requests an accommodation, rather than being pre-emptively built into the court’s infrastructure.

Individuals with such disabilities often face skepticism when requesting these accommodations, as their impairments are not readily observable. As Krantz and Melander (2023) point out, invisible disabilities frequently require disclosure, which in turn can lead to stigma, disbelief, or even retaliation. New York’s Unified Court System has proposed rules allowing judges to privately consider accommodation requests *ex parte* to safeguard the privacy of individuals with hidden disabilities, a policy innovation directly addressing this challenge (2023). In the Canadian context, SRLs with cognitive disabilities have reported feeling disbelieved or dismissed, often encountering systemic barriers when attempting to assert their needs (Meikle & Battaglia, 2021). In an interview, Neil Kelley (an accessibility official with the Illinois Attorney General’s Office) explained that even in the U.S., stigma around invisible disabilities remains widespread. Many still perceive these conditions as “less real” than physical disabilities, contributing to slow and uneven systemic change. He noted that while the ADA recognizes both physical and mental impairments, widespread misunderstanding continues to affect how courts and the public respond to requests related to behavioral or cognitive processing conditions. These dynamics emphasize the importance of not only offering accommodations but also cultivating trust in the institutional processes through which they are accessed.

The fundamental structural difference – between tangible, standardizable remedies for physical barriers and intangible, case-by-case supports for cognitive disabilities – has led to uneven accommodation practices in courts. While most courts in the U.S. would avoid conducting a trial in an upstairs courtroom inaccessible to a wheelchair user (for fear of mistrial or reversal), courts have indeed proceeded with trials that functionally excluded a person with an invisible disability. A striking example is *Reed v. State of Illinois*, a case in which a self-represented litigant with a complex neurological disability was effectively denied a fair hearing (2015). The plaintiff, Ms. Reed, had a movement disorder (tardive dyskinesia) that caused involuntary tics and episodes of muteness, as well as PTSD and bipolar disorder that exacerbated her anxiety under stress (Goren, 2015). Before trial, she requested several accommodations; although the court approved some minor adjustments—such as allowing her to stand at a podium, take occasional recesses, and have a friend assist with note-taking—it denied her other critical requests. The judge also refused to provide a microphone to amplify her voice when her condition made her speech inaudible, denied her an interpreter or other communication aide for times she could not speak, and declined to give the jury an instruction explaining her disability (Goren, 2015). As a result, during the trial Ms. Reed often could not communicate effectively, and the judge misinterpreted her prolonged pauses and unconventional behavior as signs of indecisiveness or disobedience—at one point even scolding her when her disability caused a piece of gum to fall from her mouth in court (Goren, 2015).

Deprived of any explanation about her disability, the jury saw only a litigant who appeared unresponsive. They ruled against her, and the judge denied her motion for a new

trial, failing to grasp how inadequately her needs had been met. It was only on appeal, when she sued under the ADA, that the higher court recognized the depth of the problem. The Seventh Circuit pointedly observed that many of the plaintiff's accommodation requests had been ignored or denied by a trial judge who was impatient and even rude to her, rendering "untenable" his claim that she'd been adequately accommodated (*Reed v. Illinois*, 808 F.3d 1103, 1108, 2015). The appellate decision emphasized that courts must ensure a litigant's disability does not impede their ability to be heard: "A litigant may not have had an adequate day in court if he or she was laboring under a mental or physical disability that impeded effective litigation" (Goren, 2015) (*Reed v. Illinois*, 808 F.3d 1103, 1108, 2015). In Ms. Reed's case, the lack of appropriate supports for her invisible disabilities meant she effectively did not get her day in court. This outcome – a verdict reached without truly hearing one side – is the very definition of an access to justice failure.

Unfortunately, Ms. Reed's case is not an isolated incident. It is just one of many examples that emphasizes how credibility determinations – central to legal outcomes – can be skewed by unaccommodated cognitive disabilities. If a simple accommodation had been in place (for instance, allowing the witness to take frequent breaks to re-focus, or educating the judge and/or jury beforehand about her cognitive disability), the result in these cases might have been very different. Instead, the legal system effectively penalized the litigant for behaviour beyond her control. By comparison, it is hard to imagine a court proceeding where a wheelchair user would be expected to make their way up the courthouse steps (without physical assistance) while the judge and lawyers looked on with impatience. Yet expecting someone with an invisible disability to perform in court with no

adjustments is a parallel form of injustice that has only recently begun to be acknowledged.

From this case study, it is clear that even well-intentioned accessibility frameworks can fall short without a deep, practical understanding of disability's diverse impacts. It also demonstrates the importance of critically examining where existing legal protections, such as the ADA, have succeeded—and where they have failed. With these insights in mind, the following section turns to the Canadian legal and policy landscape to assess how current accessibility measures align with broader commitments to disability inclusion, and where lessons from other jurisdictions might guide future reforms

III. Canadian Accessibility Policy Landscape (2025)

At first glance, Canadian law appears to strongly protect the rights of people with disabilities (PWDs) to access the justice system equally; Section 15 of the Canadian Charter of Rights and Freedoms guarantees equal benefit and protection of the law without discrimination, explicitly including mental and physical disability. In addition, Section 14 of the Charter provides a constitutional right to interpretation services for Deaf persons in legal proceedings (Ontario Superior Court, 2017). These constitutional guarantees are reinforced by human rights codes, which prohibit disability-based discrimination in services (such as courts) and require *reasonable accommodation* of disability-related needs to the point of *undue hardship* (Ontario Human Rights Code, 1990, s. 17(2)). In essence, courts in Canada have a legal duty to remove barriers and accommodate PWDs so they can participate fully in all roles (as litigants, witnesses, jurors, or observers) on an equal footing with others.

To operationalize these rights, multiple federal and provincial frameworks address accessibility in the justice context. At the federal level, Canada enacted the *Accessible Canada Act* in 2019 with the ambitious goal of making Canada barrier-free by 2040 (Federal Court of Appeal, 2022). This Act requires federally regulated entities – including federal courts and tribunals – to develop accessibility plans in key domains such as the built environment, digital services, communications, and employment. It also established oversight roles (a Chief Accessibility Officer and an Accessibility Commissioner) to monitor progress—both positions are currently held by members of the PWD community. The decision to appoint PWDs to these roles likely reflects Canada’s commitment to the principles set out in the UN Convention on the Rights of Persons with Disabilities (CRPD), which explicitly calls for the involvement of persons with disabilities in the development and implementation of legislation and policies affecting their lives, echoing the disability rights movement’s slogan, “Nothing About Us Without Us” (United Nations, 2006). While this principle is widely acknowledged in federal and provincial accessibility initiatives, implementation remains uneven and often symbolic. As ARCH Disability Law Centre (2021) has noted, the federal system is still in its early stages, and current mechanisms for participation do not yet ensure that PWDs are meaningfully involved in shaping court-related policy—particularly in institutions like the Supreme Court of Canada or the Federal Court, where accessibility gaps persist in areas such as courtroom accommodations, digital access, and standardized procedures for requesting support.

These gaps further expose the reality that accommodations must be tailored to the individual. Court Accessibility Coordinators (CACs) are well-positioned to meet this need

by offering case-specific guidance and support. However, outside of British Columbia and Ontario, these roles are not mandated across Canada. While CACs will be discussed in greater depth later in this paper, their absence highlights a central tension within Canada’s accessibility landscape: although federal commitments establish baseline obligations, provincial variation—particularly in the justice system—can result in inconsistent and inequitable experiences for people with disabilities.

Provincial Accessibility Policies

On the provincial scale, the initiatives that govern most courthouses and court services vary widely. Ontario was a pioneer with the *Accessibility for Ontarians with Disabilities Act (AODA)* in 2005 – legislation that mandates a fully accessible province (including its justice system) by January 1, 2025 (Ontario Superior Court, 2017). The AODA introduced enforceable accessibility standards across areas like customer service, information and communications, employment, transportation, and the built environment. However, implementation has fallen short of expectations. In 2019, an independent review led by former Ontario Lieutenant Governor David Onley delivered a stark critique of the province’s progress on accessibility. Onley concluded that “for most disabled persons, Ontario is not a place of opportunity but one of countless, dispiriting, soul-crushing barriers.” His report found that, nearly 15 years after the passage of the AODA, people with disabilities continued to face systemic obstacles in accessing public services, and it faulted the government for poor enforcement and slow advancement of accessibility standards (Onley, 2019). This critique demonstrates that legislative commitments alone have not guaranteed accessible justice in Ontario.

Other provinces have more recently followed Ontario's lead by enacting their own accessibility legislation. For instance, Manitoba's Accessibility for Manitobans Act (AMA), passed in 2013, introduced a phased approach to removing barriers in five key areas, including customer service and transportation. However, implementation has lagged, with critics noting the absence of enforceable built environment standards and minimal oversight mechanisms (Barrier-Free Manitoba, 2023). Similarly, Nova Scotia's Accessibility Act (2017) sets a goal of becoming fully accessible by 2030, but disability advocates have expressed concern over slow progress and a lack of accountability structures, particularly for private sector compliance (Government of Nova Scotia, 2024). In both provinces, accessibility commitments remain largely aspirational without consistent enforcement or widespread public awareness.

Although British Columbia only passed formal legislation with the Accessible BC Act in 2021, the province had already taken proactive steps to improve accessibility within the justice system prior to doing so. Most notably, every courthouse in the province is supported by a Court Accessibility Coordinator (CAC), a designated contact who assists PWDs in arranging accommodations such as sign language interpreters, assistive listening devices, or alternate document formats (Provincial Court of British Columbia, 2025). Yet, this level of formal support is not universal; while Ontario also claims to offer CAC services, many PWDs complain that they still do not receive the accommodations they require. A notable example is the new courthouse in downtown Toronto, a multimillion-dollar facility that opened in 2023, which was publicly promoted as an accessible, state-of-the-art building. However, a 2024 report by the AODA Alliance (an advocacy group

committed to advancing the true agenda of the AODA) revealed that the courthouse exhibited numerous accessibility shortcomings, including insufficient disability parking, inadequate waiting areas for accessible transit, confusing navigation features for blind visitors, and Braille signage errors mislabeling non-accessible washrooms as “universal” (Arsenych, 2024). These were not isolated oversights, but violations of Ontario’s accessibility standards, made more troubling by the fact that disability community groups had flagged many of these issues during the planning process, yet their recommendations were largely disregarded (Arsenych, 2024).

The situation is even more challenging in provinces like Alberta, where no comprehensive accessibility legislation exists. As a result, court accommodations are handled informally on a case-by-case basis, often relying solely on general human rights obligations (Alberta Human Rights Commission, 2024). Furthermore, both Quebec and Prince Edward Island have no stand-alone laws guaranteeing access for service animals beyond traditional guide dogs. People with other types of service animals — like psychiatric or medical alert dogs — often face inconsistent access and must rely on human rights complaints if denied entry. Without clear legislation, businesses and public spaces can legally refuse uncertified or non-guide service animals (MSAR Service Dogs, 2023). This variation in policy from province to province creates a system in which a person’s ability to meaningfully access justice may hinge on geography—a growing concern that has led to calls for federal-provincial collaboration and national baseline standards to promote equity and consistency across jurisdictions (Accessibility Canada Alliance, 2023).

Much of this represents a direct contradiction of the UN’s “Nothing About Us Without Us” ethos. In alignment with CDT, genuine inclusion must go beyond tokenistic consultation; it requires sustained, well-resourced processes that prioritize lived experience and disability leadership throughout all phases of legal and policy development. A third-party review of AODA similarly emphasized that inclusion must be “early, frequent, and ongoing” (Onley, 2019). Yet even the AODA itself has faced criticism for insufficient engagement with diverse disability communities (ARCH, 2021). PWDs are often brought into discussions after key decisions have been made, or consulted through narrow sampling methods that fail to capture the full range of needs and perspectives. As Wasserman and Aas (2022) argue, participatory justice requires not just inviting feedback, but actively transferring decision-making power to those most affected. Such missteps illustrate how *equitable access* in the justice system is not achieved merely by passing laws; it requires diligent implementation, inclusive design practices, and continuous consultation with those who have lived experience of disability. Canada’s progress thus far has been mixed: while the legal framework for accessibility is robust, practical accessibility in courts remains inconsistent, necessitating exploration of new approaches and lessons from other jurisdictions.

IV. U.S. Accessibility Policy Landscape (2025)

As noted earlier, the ADA (enacted 1990) requires both state and local courts in the U.S. to meet accessibility standards. Title II prohibits disability discrimination by all public entities, which explicitly includes state and municipal courts (U.S. DOJ, 2025). In essence, Title II requires courts to ensure that PWDs have an equal opportunity to participate in all

services, programs, and activities of the justice system. U.S. courts have faced litigation when these obligations were not met – for example, the U.S. Supreme Court in *Tennessee v. Lane* upheld that inaccessible courthouses violate Title II, affirming that the right to access one’s own trial is fundamental (*Tennessee v. Lane*, 541 U.S. 509 (2004)). More routinely, the U.S. Department of Justice (DOJ) enforces Title II through investigations and settlement agreements with court systems (for instance, compelling courts to provide sign language interpreters or remove architectural barriers). Through these measures, the ADA has created a strong expectation that courthouses (and the services within them) be universally accessible and accommodating to PWDs.

Due to these provisions, courts are required to *communicate effectively* with individuals who have hearing, vision, or speech disabilities, which often entails providing auxiliary aids such as sign language interpreters, real-time captioning (CART), assistive listening devices, or documents in alternate formats (US DOJ, 2020). They must also make *reasonable modifications* to policies and practices when necessary to avoid excluding someone – for example, allowing a support person to accompany a litigant with an intellectual disability, granting recesses for a person with a chronic health condition, or permitting service animals in courtrooms even if pets are generally barred. Physical accessibility is another cornerstone: new or renovated courthouses must comply with ADA architectural standards (e.g. ramps, elevators, wheelchair-accessible restrooms), and even older facilities must be arranged so that programs are accessible (often termed “program access”) (US DOJ, 2020). In practical terms, if a historic courthouse lacks an elevator, the court might relocate proceedings to a ground-floor courtroom or another

accessible building to ensure a wheelchair user can attend – a requirement of providing access to the program or service despite an existing facility’s constraints. These obligations are analogous in spirit to Canada’s human rights duty to accommodate but backed by the detailed federal standards and enforcement mechanisms of the ADA.

Taken together, the U.S. experience under the ADA offers a valuable point of comparison for Canada. It demonstrates the importance of comprehensive legislation coupled with concrete implementation mechanisms. The ADA’s influence is evident in how U.S. courts now consistently provide accommodations as a matter of course, rather than as charity or special permission. Canadian courts, operating in a different legal landscape, may glean insights from the American model – particularly the benefits of standardized accommodation request protocols and dedicated accessibility officers. As Canada strives to enhance equitable access for self-represented litigants with disabilities, examining these U.S. court practices can inform reforms and encourage the adoption of best practices to ensure that legal systems on both sides of the border are inclusive and barrier-free (Ontario Superior Court, 2022). Each country’s approach shares the same goal: that no person is prevented from seeking justice or participating in court because of disability. The following sections of this paper will delve deeper into how U.S. models might be adapted to the Canadian context, identifying opportunities to bridge existing gaps in policy and practice. However, it is essential to also critically examine the shortcomings of the ADA to ensure that any similar policy adopted in Canada is both effective and equitable.

Challenges and Limitations of the ADA

The ADA was a landmark in disability rights, but its broad drafting has led to notable limitations in practice. One fundamental critique is the statute’s definitional vagueness—particularly as it relates to the meaning of “disability” and “reasonable accommodation.” The ADA’s definition of disability (“a physical or mental impairment that substantially limits one or more major life activities”) proved nebulous and subject to restrictive judicial interpretation in the years after its 1990 enactment. In *Sutton v. United Air Lines, Inc.* (527 U.S. 471, (1999)), the Court held that mitigating measures must be considered; in *Murphy v. United Parcel Service, Inc.* (527 U.S. 516 (1999)), it found that controlled high blood pressure was not disabling; and in *Toyota Motor Manufacturing v. Williams* (534 U.S. 184, 2002)), it required that impairments limit activities “central to most people’s daily lives.” Together, these rulings excluded many individuals whom Congress had likely intended to protect, prompting the passage of the ADA Amendments Act of 2008.

Although the ADA Amendments Act of 2008 was later passed to broaden coverage, ambiguity remained—particularly around the meaning of “reasonable accommodation.” The term is only generally defined in the law, leaving it up to courts to determine what qualifies, often on a case-by-case basis. This has led to burdensome litigation and unpredictable results (Harris & Tani, 2021). Even after the ADA’s definition was expanded in 2008, the law’s focus in courts has skewed toward physical barriers rather than the full spectrum of disabilities. As one analysis points out, Title II has been less effective in securing robust accommodations for individuals with less visible or cognitive disabilities (Corra, 2019). In short, the ADA’s deliberately broad definitions, while intended to be inclusive, have paradoxically contributed to uncertainty and narrow applications.

Another major concern is the inconsistent interpretation and application of the ADA across different states and court jurisdictions. Because Title II sets out general requirements without highly specific mandates for every scenario, individual courts and local governments have developed their own policies – with varying degrees of rigour – to comply. Some jurisdictions have strong ADA compliance rules and dedicated accessibility coordinators, while others lag behind or interpret their obligations more minimally. The result is a variation of accessibility practices nationwide; what one courthouse readily provides as an accommodation, another might resist as not “required” – and differing court decisions have sometimes deepened these disparities.

For example, it took a U.S. Supreme Court ruling in *Tennessee v. Lane* (541 U.S. 509 (2004)) to affirm that states could be sued for failing to make courts accessible, underscoring that some states had not uniformly accepted their ADA obligations in the judicial context. Even today, how courts handle certain ADA questions (such as allowing support persons in court or adjusting procedures for a litigant with mental disabilities) can vary widely. This inconsistency undermines the ADA’s promise of a uniform baseline of rights. In effect, the ADA’s impact can be as strong as the most proactive local interpreters – or as weak as the most reluctant, making equitable access a “justice-by-geography” problem for PWDs.

These disparities are compounded by the ADA’s limited enforcement mechanisms, which rely heavily on individual action rather than systemic oversight. Unlike some regulatory regimes that employ proactive inspections or government enforcement, the ADA largely places the onus on PWDs to spot violations and pursue remedies. Under Title

II, while the DOJ can investigate and bring enforcement actions, in practice the resources needed to do are limited and as such, interventions are relatively rare. Therefore, a major structural weakness of the ADA is its reliance on individual complaints and private litigation. Rather than proactive oversight, the statute depends largely on PWDs themselves to identify violations, file grievances, and initiate lawsuits (Harris & Tani, 2021).

In the context of public accommodations (Title III) and state services (Title II alike), Congress deliberately structured enforcement to “rely substantially on private enforcement through individual lawsuits” (Harris & Tani, 2021). This design reflects faith in private civil rights action, but it has significant drawbacks. Many individuals, especially self-represented litigants with disabilities, lack the knowledge, time, or means to initiate legal action for ADA violations. Those who do seek to enforce their rights may face protracted litigation against well-resourced institutions. Consequently, numerous barriers go unchallenged – and thus unrepaired – because the burden to contest them is too high. Even when complaints are filed, the process can be slow; remedies often come only after-the-fact, long after an individual was denied access or accommodations. In short, the ADA’s dependence on individual enforcement has led to uneven compliance, where only flagrant or frequently litigated issues get addressed, while many subtler or less-known accessibility problems persist. Observers across the political spectrum have flagged this as a structural flaw: in the absence of robust proactive oversight, compliance can become “piecemeal” and driven by whomever has the fortitude (and resources) to sue (Saunders, 2021). This reactive model not only strains PWDs, who must effectively fill the role of

private attorney generals but also results in continued gaps in accessibility that undermine the law’s intent and fail to remain mindful of CDT considerations.

These structural and interpretive shortcomings are mirrored in the lived experience of disabled court users; even when accommodations are clearly mandated by law, the procedures for obtaining them in court can be cumbersome and discouraging, especially for SRLs with disabilities. Although Title II technically requires *courts* to provide reasonable modifications and auxiliary aids to ensure equal participation, in practice individuals must navigate a multilayered process to secure those accommodations. This process often involves bureaucratic steps—filling out request forms, contacting an ADA coordinator or clerk, meeting advance notice requirements, and in some cases providing medical documentation or other proof of disability (Naqui, 2023; ADA National Network, 2023). For a person without legal counsel, these requirements can be confusing and intimidating.

Additionally, even though many courts provide instructions on how to request accommodations, that information is often buried in dense websites or written in inaccessible legal language (Naqui, 2024). Moreover, when a request is denied or only partially granted, an SRL may have limited options beyond filing a grievance or lawsuit—an action that can feel overwhelming and particularly adversarial within a larger adversarial process. The power imbalance in these situations is significant; judges ultimately retain discretion over certain courtroom accommodations, such as whether to permit alternative testimony formats, grant extra breaks, or allow a support person to assist a litigant (Larson, 2008). Some judges—often due to insufficient training or a commitment to procedural uniformity—may resist accommodations that depart from standard courtroom protocol.

This leaves disabled litigants vulnerable to inconsistency, and in some cases, entirely dependent on the personal attitudes and awareness of the presiding judge.

Judicial Discretion and Implicit Bias

The ADA has been faulted for failing to tackle the implicit bias and ableism ingrained in legal culture and practice, largely due to its failure to incorporate the insights of CDT. Unfortunately, legal rights alone cannot instantly erase deep-seated prejudices or assumptions about PWDs. Within many courtrooms, subtle forms of bias can influence how litigants with disabilities are perceived and treated – yet these attitudes often fall outside the reach of formal ADA enforcement. As discussed in section II of this paper, a person with a cognitive disability may be unfairly viewed by judges or jurors as less credible or competent, regardless of the merits of their case (see *Reed*). The ADA prohibits discrimination “by reason of” disability, but proving such bias in decisions is exceedingly difficult, especially when it is implicit. Critics argue that the statute does little to uproot entrenched ableism in the justice system’s culture. As a result, even with accommodations, disabled litigants may face skepticism about their abilities or skepticism about their claims. The U.S. DOJ has acknowledged that stigma remains a serious barrier: PWDs frequently encounter justice system actors “who question their credibility, their ability to make decisions in their legal matters, and whether they deserve redress” (U.S. DOJ, 2023).

Even less extreme delays can harm litigants – for instance, if a deaf individual requests an interpreter but one is not arranged in time, a hearing might be postponed, causing frustrating delays for a person who may already have waited months for a court

date. Or, for example, a wheelchair user might arrive at an older courthouse that technically has a ramp, only to discover that the courtroom itself is located on an upper floor without elevator access. In such cases, court staff may need to scramble to relocate the proceeding, causing inconvenience for the disabled party and implicitly signaling to others that the individual is a "problem." These scenarios illustrate that simply the *experience* of seeking accommodations can be taxing. As courts increasingly shift toward online platforms, these same challenges are now emerging in digital spaces.

Only in 2024 did the DOJ issue a long-awaited rule establishing specific technical standards for Title II websites and mobile apps, finally providing clarity that court digital services must meet detailed accessibility benchmarks (U.S. DOJ, 2024). While this is a positive development, it comes after decades in which digital inclusion was murky. The slow adaptation of standards meant that disabled individuals often struggled with online court procedures – a modern inequity stacked atop the traditional physical barriers the ADA sought to eliminate. This illustrates how the law’s effectiveness can be limited when new modes of public service arise without explicit legal updates. As courts continue to innovate with technology, ensuring the ADA’s promise extends fully to the digital sphere is an ongoing challenge.

Lessons from the ADA’s Shortcomings

Notably, many of the ADA’s shortcomings in the court context echo problems observed in other arenas of public service and the built environment, suggesting systemic issues. The ADA’s limited scope has also been criticized in the context of physical accessibility. Accessibility experts frequently note that the ADA establishes only a basic

floor, not a comprehensive ceiling, mandating minimum standards while omitting many features necessary for truly inclusive design (Corra, 2019). For example, after surveying her university campus, one commentator observed that the ADA “doesn’t encompass everything that makes up full accessibility,” pointing out that it does not even require automatic door openers or accessible restrooms on every floor (Saunders, 2021). These gaps mean a facility can be technically ADA-compliant yet still very difficult for PWDs to use. The parallel to courts is clear: a courthouse might meet the letter of ADA regulations (e.g. having a ramp and accessible restroom) but still fail to provide meaningful access (perhaps no signage for accessible routes, or inadequate acoustics for those with hearing loss, etc.).

The ADA does allow complaints about failures to accommodate or undue delays, and courts have been found in violation when they unreasonably delay accommodation (as such delay effectively denies access). But again, enforcing those rights means the individual must push back within the system that has more power and knowledge than they do. Self-represented litigants, who have no attorney to advocate for them, are especially vulnerable to either not receiving the accommodations they need or deciding not to request them at all because the process is too onerous or intimidating. Ideally, every courthouse would have a streamlined, highly visible process for requesting accommodations, coupled with a culture of readily granting them whenever reasonable. In practice, many disabled litigants still encounter a maze of procedures and the subtle pressure that they are asking for “special treatment;” this undermines the ADA’s vision of equal access (Corra, 2019). Treating people with different accommodation needs

identically is not true equality – yet some courts continue to default to one-size-fits-all processes that place disproportionate burdens on those who need adjustments. Until all accommodation processes become more user-friendly and imbued with a spirit of support rather than skepticism, the ADA’s guarantees will continue to ring hollow for many self-represented PWDs.

The U.S.’s experience with the ADA shows that even a comprehensive disability rights law will underperform without robust enforcement mechanisms, clear standards that evolve with the times, and a concerted effort to change on-the-ground practices and attitudes.

These lessons from the ADA’s shortcomings in the Title II context provide both a cautionary tale and a valuable guide for other jurisdictions, such as Canada, as they work to improve access to justice. In sum, the ADA has revolutionized accessibility in American courts, but persistent problems—ranging from vague definitions and inconsistent application to weak enforcement, cultural biases, lagging digital guidance, and procedural hurdles—continue to impede its goal of equitable justice for PWDs (Brayton, 2019; U.S. DOJ, 2023).

V. Structural Reform in Practice: Illinois Case Study

There is a clear need for a more individualized and responsive approach to accommodations; as the previous section illustrates, one-size-fits-all accessibility frameworks often fall short, not due to a lack of intent, but because they fail to account for the complexity and diversity of human experience. Although the ADA firmly established accessibility as a civil right, its practical limitations continue to leave many barriers unaddressed. Its reactive enforcement model, reliance on litigation, and lack of specificity around non-physical disabilities create serious challenges for those seeking equitable

treatment. To better understand how these issues manifest on the ground, the Illinois court system provides an example of a jurisdiction attempting to address systemic accessibility gaps through structural reform and dedicated coordination. An interview with Neil Kelley, the Senior Assistant Attorney General at the Disability Rights Bureau in Illinois, will be used to frame this analysis.

Illinois' Accessibility Reforms in Action

Under the ADA, Illinois offers a particularly instructive model of state-level coordination when it comes to accessibility in the justice system. The state's unified court structure, governed administratively by the Illinois Supreme Court, allows for consistent and enforceable accessibility policy implementation across different levels of court. This administrative centralization is in contrast to the fragmented approaches seen in many jurisdictions, particularly in Canada. Unlike in provinces where court accessibility varies by municipality or is subject to individual judicial discretion, Illinois has mandated a comprehensive framework that aims to standardize access across court buildings and procedures.

The foundation of this accessibility structure is the Illinois Supreme Court's "Policy on Access for People with Disabilities," revised most recently in 2024. The policy affirms that "all individuals have the right to full and equal access to the programs and activities of the Illinois judicial system," and explicitly defines this as a matter of both state and federal compliance (Illinois Supreme Court, 2024). Its scope includes not only litigants and witnesses, but also jurors, attorneys, and the public. By embedding accessibility into court policy through both the ADA and the Illinois Human Rights Act, the Supreme Court

effectively harmonized federal mandates with state-level legal norms—something that remains aspirational in many Canadian jurisdictions where the Charter and provincial human rights codes are not reflected in consistent courtroom procedures. As Neil Kelley emphasized, the policy is not just a checklist, but a “living document” that undergoes review and revision to adapt to emerging issues and user feedback. The following case study demonstrates how these principles operate in practice.

People v. Tapley: A Landmark Case (IL App (2d) 190137 (2020))

Legal precedent has played a critical role in shaping how accessibility is interpreted and implemented within the Illinois courtrooms. One of the most illustrative cases is *People v. Tapley* (IL App (2d) 190137 (2020)), which exemplifies how courtroom accommodations for PWDs can be integrated into legal proceedings without compromising the rights of other parties. The case involved a child sexual abuse survivor who requested to testify in the presence of a trained service dog to help manage symptoms of post-traumatic stress disorder (PTSD). The trial court granted this request, and the appellate court later upheld the decision, signaling an important endorsement of trauma-informed accessibility practices in Illinois trial courts (Kelley, 2025).

In its ruling, the Appellate Court of Illinois grounded its analysis in both federal and state laws. The opinion explicitly referenced Title II of the ADA and the *Illinois Human Rights Act*, emphasizing the court system’s obligation to provide reasonable accommodations for qualified individuals with disabilities. Additionally, the decision referenced the Illinois Rule of Evidence 611, which grants trial judges broad authority to control the courtroom environment in a manner that facilitates witness testimony and the pursuit of truth. In

doing so, the court affirmed that providing the service dog was not a deviation from, but a fulfillment of legal norms—especially when such accommodations are necessary to ensure that a vulnerable witness can participate meaningfully in a judicial process.

The court also addressed concerns about the possible prejudicial effect that a service animal might have on jurors. Rather than dismissing this concern, the appellate decision reaffirmed the lower court’s discretion to take steps that mitigate any such risk, such as providing instruction to the jury or designing the courtroom setup in a way that minimizes distraction. In balancing the rights of the defendant with the needs of the witness, the court ultimately emphasized that fairness does not mean sameness. This is a key principle in CDT and is directly applicable to broader debates about how accommodations should function in adversarial legal systems.

Importantly, the *Tapley* decision also reinforced the right of individuals with disabilities to privacy and dignity in the accommodation process. The court noted that under both federal and state law, it was inappropriate to demand detailed disclosure of the witness’s medical history or the exact nature of her PTSD symptoms as a prerequisite for providing a service animal. This approach challenges common misconceptions that accommodations must be justified through intrusive inquiry and aligns with best practices that view disability supports as a matter of equitable access, not medical exception.

The broader significance of *Tapley* lies in its illustration of how accommodations can be proactively and creatively integrated into courtroom procedure. The ruling shows that courts have both the authority and the responsibility to think beyond traditional formats and to implement accessibility in a way that protects vulnerable litigants or witnesses

without compromising the legal rights of others. This is particularly relevant for self-represented litigants, who may have less familiarity with how to articulate their needs in legal language or navigate formal procedures for requesting accommodations.

Furthermore, the case helps clarify the discretionary space judges already possess under procedural rules like Rule 611, encouraging a jurisprudence of inclusion rather than minimal compliance. For jurisdictions looking to build on the Illinois model (such as Canada), *Tapley* provides a useful precedent for how accommodations can be framed not as exceptions to courtroom protocol but as instruments of truth-seeking and procedural integrity. It affirms that accommodating disability can and should be part of mainstream judicial reasoning, not treated as a marginal or disruptive request.

Overall, *Tapley* offers a valuable comparative lens in the Canadian context. Although Canadian judges also have procedural discretion to manage courtroom dynamics, cases involving trauma-informed or psychosocial accommodations remain relatively rare. Drawing inspiration from *Tapley*, Canadian courts could do more to explicitly affirm the legitimacy of accessibility supports and to situate them within existing judicial authority frameworks. This could reduce hesitation among judges, litigants, and counsel about whether accommodations are appropriate or permissible. As the Illinois precedent makes clear, accessibility is not about favour or exception—it is integral to fulfilling the court’s fundamental duty to be open, fair, and equitable for all.

Court Accessibility Coordinators (CACs): Key to Implementation

Illinois’s accessibility framework is commendable for its scope, clarity, and structural coherence—but as with any institutional model, its effectiveness depends on

how policies are translated into practice. At the heart of Illinois’s accessibility infrastructure is the mandatory appointment of CACs in every courthouse, as mandated by the Illinois Supreme Court’s Policy on Access for People with Disabilities (2024). These coordinators are more than administrative figures—they are the frontline enablers of justice for PWDs. Their presence ensures that accommodation requests are not lost in bureaucratic limbo but instead receive timely and informed responses. In practice, the CAC is often the first point of contact for a self-represented litigant with a disability who may otherwise have no idea how to navigate the system. Their role is central to operationalizing abstract legal rights into concrete procedural support.

As Neil Kelley emphasized in his interview, CACs are expected to be highly trained and equipped with the technical and interpersonal skills necessary to assess accommodation requests. They are also in frequent communication with the administrative arm of the Supreme Court, as well as with external bodies like the Disability Rights Bureau. Kelley described his team’s ongoing relationship with CACs as a mix of mentorship, troubleshooting, and policy guidance. CACs often seek advice on nuanced situations—for instance, when a requested accommodation involves emotional support animals in the courtroom or when a litigant requests real-time written transcripts for cognitive processing reasons.

Perhaps most importantly, the CAC role helps mediate between judicial discretion and legal obligation. While judges retain authority over courtroom procedure, they often defer to CAC recommendations, especially in situations involving ADA compliance. This collaborative approach balances judicial independence with expert-informed policy

application. According to Kelley, this has helped reduce resistance from judges who might otherwise view accessibility requests as disruptions to court decorum or as challenges to their authority.

Moreover, CACs are charged with implementing and overseeing grievance processes. If accommodation is denied or mishandled, the CAC must facilitate the lodging of a formal complaint and escalate it through proper channels if necessary. This creates accountability without forcing the litigant to navigate adversarial or legalistic complaints processes alone. Kelley noted that this mechanism is particularly crucial for SRLs, who often lack the bandwidth, confidence, or legal knowledge to contest an accommodation denial without assistance. In this way, the CAC model not only empowers the courts to meet their obligations but also protects vulnerable litigants from procedural harm.

Another strength of the CAC system is its potential to foster systemic change through pattern recognition. Because they interact with multiple court users and track multiple requests over time, CACs are uniquely positioned to identify recurring accessibility barriers—such as architectural flaws in courthouses, inaccessible forms, or digital platforms that do not interface well with assistive technology. These insights can then inform larger judicial reforms. Kelley described one instance where CACs across the state reported frequent issues with access to assistive listening devices. This data was shared with the administrative office, which then initiated a statewide audit of audio systems and ultimately led to updated equipment being distributed to multiple court locations.

Kelley also noted that CACs are embedded within a culture of continuous education. The Supreme Court encourages them to attend training sessions, participate in webinars, and consult with disability advocacy organizations. This ensures that their understanding of disability remains current, nuanced, and rooted in lived experience. It also guards against the institutional stagnation that can occur when accessibility is treated as a compliance issue rather than an evolving area of justice. In this way, CACs operate not only as accessibility officers but also as catalysts for cultural and structural change within the judiciary.

CACs are also tasked with educating others on accommodation practices. New judges and court staff are routinely trained on accessibility principles, practical accommodation strategies, and evolving ADA interpretations. In Illinois, Kelley plays a direct role in this education, conducting sessions that emphasize the importance of recognizing disability as a systemic justice issue rather than a matter of personal hardship. This proactive training has helped foster a culture in which accessibility is seen as a standard professional competency rather than an ancillary concern.

Practical Limitations of the Illinois Model

Despite the strengths of the current model in Illinois, implementation consistency remains a key challenge. While the policy framework is concrete and universal within the state, Kelley acknowledged that some courthouses are more proactive or better resourced than others. CACs may vary in how assertively they advocate for accommodations, and some judges—particularly those with longer tenures—may still approach accessibility from a minimalist, compliance-based perspective. This variability introduces a level of

uncertainty for court users, especially SRLs who may not know how to respond if their request is met with hesitation or skepticism.

Another limitation is the lack of publicly available data on accommodations. Although grievances are tracked internally and used to inform policy changes, there is no standardized public reporting on how many requests are received, what types of accommodations are granted or denied, or how long requests take to process. Kelley expressed support for improving data transparency, noting that such reporting could help identify patterns of concern and empower advocacy organizations to push for targeted reforms. Without this information, systemic shortcomings can remain hidden behind the facade of an otherwise strong policy.

The model also struggles with the nuanced accommodation of invisible or fluctuating disabilities, such as mental health conditions, chronic fatigue, or neurodivergent processing needs. These types of accommodations often require individualized, flexible responses, which can be difficult to implement in systems designed for uniformity. While Illinois courts have made strides in accommodating physical and sensory impairments, less visible disabilities still face higher barriers to recognition and support. Kelley noted that even when an individual discloses their condition and explains the impact on their participation, court staff may still question the legitimacy or necessity of the requested adjustment—especially if the request appears to deviate from standard procedure.

Finally, there remains an ongoing challenge in promoting cultural change among legal professionals. While training has improved, Kelley emphasized that cultural attitudes

lag behind policy. Some court officials still view accommodations as “extra” rather than integral or worry that granting them could raise fairness concerns in adversarial proceedings. This sentiment was evident in cases like *Reed*, where judicial discomfort with nontraditional courtroom dynamics may have influenced the denial of accommodations. Illinois’s training programs attempt to confront these biases, but change is incremental and requires consistent reinforcement.

In sum, Illinois’s implementation strengths rest on three pillars: institutional centralization, empowered coordination via CACs, and proactive education. These components interact to create a more stable and accessible system for litigants with disabilities. However, the model is not without its limits; variability in practice, a lack of data transparency, and ongoing cultural resistance can undermine even the best-intentioned policies. For jurisdictions like Canada looking to adapt aspects of the Illinois framework, these implementation challenges serve as critical reminders: laws and policies are necessary, but not sufficient if they do not address systemic inequities. True accessibility requires continuous feedback, resourcing, and cultural transformation at every level of the legal system.

With a clearer understanding of Illinois’s strengths, challenges, and lessons, the focus now shifts to what this model might offer Canada. While legal structures and federal-provincial dynamics differ between the two countries, many of the principles driving Illinois’s success—such as centralized oversight, designated accessibility roles, and procedural transparency—are equally relevant in the Canadian context. The following section examines how Canada's current accessibility frameworks align with these

standards and considers how lessons from Illinois could inform more effective support for self-represented litigants with disabilities in Canadian courts. This comparative lens not only brings to light practical policy solutions, but also reinforces the shared values of dignity, equity, and access that transcend jurisdictional borders.

VI. Applying the Illinois Model to Canada

The Illinois model offers a compelling blueprint for Canadian jurisdictions seeking to close the gap between disability law and meaningful access to justice. Although some regions—such as British Columbia—have begun introducing Accessibility Coordinators in courthouses, these roles are often under-resourced, inconsistently applied, or not well integrated into court operations (Accessibility Canada Alliance, 2023). In contrast, the Illinois approach demonstrates the value of embedding accessibility coordination within the judicial system’s administrative structure, supported by training, visibility, and policy authority. As Neil Kelley emphasized, CACs often serve as the first and most critical point of contact for self-represented litigants (SRLs) with disabilities. This early intervention can shape whether a litigant is empowered to navigate the process or ultimately excluded from it.

To effectively institutionalize such roles, Canadian jurisdictions could benefit from developing an entity akin to Illinois’s Disability Rights Bureau. In Illinois, the Bureau plays a critical oversight function: it is empowered under the *Human Rights Act* to conduct pattern-and-practice investigations, allowing it to proactively monitor and address systemic noncompliance. Although formal complaints related to court inaccessibility remain relatively rare, Kelley noted that the Bureau retains authority to intervene when needed—

acting as both a safeguard and a signal that accessibility obligations are taken seriously. Therefore, adopting a similar entity in Canada could bolster accountability. Kelley suggested that increasing the visibility of such an office and streamlining the complaint process would further strengthen public trust and enforcement.

Finally, Kelley emphasized that accessibility must be paired with clear, transparent communication. Many court users—especially SRLs with disabilities—remain unaware of their right to request accommodation or unsure of how to initiate that process. To address this, courts must make information about accessibility rights widely available and easy to understand. This includes publishing content in plain language, ensuring court websites feature accessible navigation and clear request procedures, and displaying notices prominently in courthouses. In Kelley’s view, accessibility should be public facing, not buried in bureaucracy. Promoting these rights as foundational—rather than insider knowledge—can significantly improve both awareness and participation.

Moving forward, we will discuss how these suggestions and criticisms arising from the Illinois model—and the ADA more generally—can explicitly manifest in the Canadian context, as well as how existing frameworks like the *Accessible Canada Act* and provincial legislation such as the *AODA* might evolve to reflect them. Drawing from the structural strategies, oversight mechanisms, and communication practices explored above, this analysis will now examine what a Canadian adaptation could look like in practice.

VII. Recommendations for a More Accessible Canadian Court System

The goal is not to replicate the U.S. approach wholesale, but to identify core elements—such as dedicated accessibility coordinators, proactive audits, and inclusive

design principles—that could be thoughtfully implemented to close existing justice gaps and promote a more equitable legal system for PWDs in Canada. To strengthen accessibility across Canada, the following practices and considerations should be prioritized:

1. Concrete, Inclusive Disability Policy

The ADA prohibits disability-based discrimination in all state courts, ensuring accommodations are a legal right rather than a discretionary favor. However, it is necessary that new enforcement mechanisms in Canada underscore consistency: although the U.S. DOJ actively enforces Title II of the ADA in state courts, guidelines surrounding how Title II is interpreted is left to the individual states (U.S. DOJ, 2020). Therefore, Canada could benefit from a modified unequivocal federal mandate – comparable to the ADA – to standardize accessibility obligations across all jurisdictions. A clear national policy would set expectations that every court must accommodate disabilities without exception, thereby reducing inconsistent practices or prejudicial refusals of support.

2. Court Accessibility Coordinators (CACs)

The U.S. model of appointing CACs in every courthouse provides a practical framework for delivering accommodations consistently and effectively. Research on court accessibility in combination with the Illinois model has made clear the importance of such roles; a dedicated accessibility coordinator serves as a single point of contact who understands both legal requirements and the needs of persons with disabilities. This leads to more timely, consistent accommodations – for example, ensuring a deaf SRL can readily

arrange for a sign language interpreter or a person with low vision can obtain large-print materials without delay. Adopting a similar approach in Canada (i.e. appointing CACs at courthouses or across courthouses in more remote areas) would help standardize accommodation processes. It would also signal a culture shift toward proactive accessibility, rather than the onus falling on SRLs to navigate a maze of bureaucracy for each request. An accessibility coordinator in every courthouse could educate staff, streamline requests, and make sure that no litigant “falls through the cracks” when seeking accommodations.

3. Seeking the PWD Perspective

The meaningful inclusion of PWDs in decision-making is essential – an area where U.S. initiatives provide inspiration and where Canadian efforts like the AODA point the way forward. This requires embracing the “Nothing About Us Without Us” principle and involving PWDs in the design and evaluation of accessibility measures. Including the lived experiences of PWDs helps identify gaps that court officials might overlook and ensures reforms address real-world barriers. Building on this model, Canadian courts and justice ministries could formally involve PWDs (including former SRLs with disabilities) in developing court accessibility guidelines and monitoring their effectiveness. Their input can guide improvements ranging from physical layout of courthouses to the clarity of accommodation request procedures. Ultimately, co-designing solutions with the disability community not only leads to more effective accommodations but also affirms the dignity and agency of those most affected.

4. Education and Training Court Professionals

Both U.S. experience and Canadian advocacy point to the importance of education and training for judges and court staff on disability accessibility and bias. Legal requirements alone are not enough if those implementing them lack awareness or carry unexamined biases. Studies in the U.S. have found that even well-intentioned judges and court employees may have implicit biases about individuals with disabilities, or simply lack knowledge about certain conditions, which can influence their behavior (American Bar Association, 2019). To counter this, many U.S. jurisdictions have implemented training programs on ADA obligations and disability cultural competence. Courts have started to train judges, clerks, and security personnel on how to interact respectfully and effectively with people with various disabilities – from using appropriate communication techniques to understanding when to offer assistance or adjustments. Such training directly addresses implicit bias by improving understanding; it equips court staff to recognize that disabilities are diverse and often non-apparent, and that providing accommodations is part of ensuring equal justice. Canadian courts could similarly institute regular training for judges, court clerks, and administrators on disability rights and inclusion. This might include modules on recognizing accommodation requests (so that an SRL does not have to make multiple asks), on ensuring courtroom technologies (like microphones or remote hearing software) are accessible, and on confronting one’s own implicit biases. By improving disability awareness, the judiciary and court staff can create a more empathetic, informed environment where policies on paper translate into genuine accessibility in practice.

5. Universal “Baseline” Accessibility

Finally, an overarching lesson is the need for a clear, enforceable baseline of accessibility across all public spaces and courthouses – essentially, a guaranteed floor of access that is consistent nationwide. In the U.S., the ADA and its implementing regulations establish minimum standards for facilities and services that courts must provide. For example, courthouses are required to meet accessibility design standards (e.g. ramps, elevators, signage in Braille) and to offer assistive listening devices, sign language interpreters, or other aids as needed for equal participation. There is also an expectation of accessible digital infrastructure: court websites must be screen-reader compatible and electronic filing or videoconference systems must accommodate users with disabilities (Corra, 2019). These baselines are legally enforceable, meaning that a person facing barriers can file a complaint and expect prompt remedial action if any courthouse falls short. Canada could strive to establish and enforce comparable baseline standards; this might involve strengthening federal accessibility laws (building on the Accessible Canada Act) or coordinating provincial standards so that all courthouses meet certain core requirements for physical, communicational, and digital access. Crucially, any Canadian approach must include robust enforcement mechanisms – either through a government agency or a complaint process – to ensure compliance doesn't depend on individual goodwill. Setting a clear floor for accessibility (for example, mandating the allowance of service animals in all courthouses) across the country would address the current inconsistencies where some courthouses or regions provide exemplary accommodations while others lag. It creates a level playing field by affirming that accessibility is a fundamental prerequisite to justice, not an optional amenity. By looking to the U.S.

system's federal mandates, coordinator roles, inclusive policymaking, training programs, and enforceable standards, Canada can adapt these ideas into its own context. The overarching takeaway is that improving access for SRLs with disabilities requires systemic commitment: top-down from policy development to day-to-day courthouse practice, accessibility should be embedded as a non-negotiable element of the justice system. Adopting these lessons would move Canada closer to a truly equitable court experience for persons with disabilities, ensuring that rights are meaningful in practice and not just in theory.

VIII. Continuing Challenges and Future Directions

This paper has explored how U.S. court accessibility models—particularly those in Illinois—can inform more equitable practices in Canada for self-represented litigants with disabilities. Viewed through a CDT lens, it becomes evident that equitable access to justice is not solely a legal issue, but also a deeply social and institutional one (Devlin & Pothier, 2006). While federal frameworks like the ADA provide a starting point, their limitations—especially for cognitive and invisible disabilities—reveal the need for individualized, dynamic solutions grounded in lived experience.

The Illinois model demonstrates that structural reform is possible, but meaningful progress requires more than legislation. It demands transparency, proactive accommodation, and above all, systemic inclusion of people with disabilities in the design and enforcement of access measures. Yet, many open questions remain—questions that demand further research, legislative innovation, and cultural reflection:

- **How do we make notice of accessibility accessible?**

Too often, accommodation is technically available but hidden behind complicated forms, inaccessible websites, or unclear procedures. Ensuring access requires not just offering accommodations but actively publicizing them in plain language, across multiple formats, and in ways that reach people before they encounter barriers. Further research on this subject is required going forward.

- **How do we ensure the inclusion of PWDs in decision-making, given that no single sample can represent the full range of disabilities?**

Consulting a few individuals is not enough. Decision-making bodies must include a broad, rotating, and representative range of perspectives—accounting for diversity across physical, cognitive, sensory, and mental health disabilities—to create policies that are inclusive by design rather than reactive to gaps.

- **How can able-bodied individuals support or advocate for PWDs without reinforcing saviour narratives or speaking over lived experience?**

Genuine allyship must prioritize listening, amplifying disabled voices, and deferring to lived expertise. Advocacy should focus on structural change rather than personal heroism, recognizing that the goal is empowerment, not paternalism.

- **How do we hold judges and legal actors accountable for their own biases in upholding their responsibilities around accommodations?**

It is not enough for courts to allow accommodations—they must ensure that accessibility is built into courtroom procedures and rigorously monitored consistent with a commitment to procedural fairness. Mechanisms like mandatory training,

formal grievance processes, and external audits may be necessary to shift accommodations from discretionary goodwill to enforceable legal rights.

- **Should people with disabilities be expected to access all the same physical spaces, especially in older infrastructure? And if not, how do we define equality in settings where retrofitting is costly or impossible?**

There is a tension between the ideal of universal access and the practical realities of aging, inaccessible spaces. Addressing this requires thoughtful definitions of substantive equality—where the goal is not simply identical treatment, but ensuring equal dignity, participation, and opportunity even when perfect physical access cannot be achieved.

These questions are not peripheral—they are central to the evolution of a justice system that truly serves all. Addressing them will require legal reform, public education, and a fundamental shift in how we understand accessibility: not as a set of physical features or technical policies, but as a matter of dignity, participation, and justice.

References

- Accessibility Canada Alliance. (2023). *Toward a barrier-free justice system: National standards for equitable access*. <https://accessibilitycanada.ca/barrier-free-justice>
- Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11.
<https://www.ontario.ca/laws/statute/05a11>
- ADA National Network. (2023). *Role of an ADA coordinator*. Retrieved April 25, 2025, from <https://adata.org>
- Alberta Human Rights Commission. (2024). *Duty to accommodate in the justice system*.
<https://www.albertahumanrights.ab.ca>
- American Bar Association. (2019). *Implicit bias and disability*.
<https://www.americanbar.org>
- American Bar Association. (2020). *Model code of judicial conduct*.
https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/
- ARCH Disability Law Centre. (2021). *Meaningful participation of persons with disabilities in regulation making: Final report*. Government of Canada.
- Barnes, C., & Mercer, G. (2010). *Exploring disability* (2nd ed.). Polity Press.
- Barrier-Free Manitoba. (2023). *The unmet promise of the AMA: Ten years later*.
<https://www.barrierfreemb.com/reports/2023>
- Brayton, B. (2019). *Submission to the House of Commons Standing Committee on Justice and Human Rights on access to justice for vulnerable groups*. DisAbled Women's Network (DAWN) Canada. <https://www.dawncanada.net>

Canadian Bar Association. (2013). *Reaching equal justice: An invitation to envision and act*.

https://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf

Canadian Heritage. (2023). *Rights of people with disabilities*. Government of Canada.

<https://www.canada.ca/en/canadian-heritage/services/rights-people-disabilities.html>

Chintapalli, K. (2024). *2021–2023 Intake report: Summary of contacts to the NSRLP*.

Windsor Law. <https://representingyourselfcanada.com/wp-content/uploads/2024/02/2021-23-Intake-Report.pdf>

Corra, M. (2019). *Disability and the federal courts: A study of accessibility and accommodation*. Federal Judicial Center.

<https://www.fjc.gov/sites/default/files/materials/24/Disability%20and%20the%20Federal%20Courts.pdf>

Devlin, R., & Pothier, D. (2006). Introduction: Toward a critical theory of dis-citizenship. In *Critical disability theory: Essays in philosophy, politics, policy, and law* (pp. 1–16). UBC Press.

Employment and Social Development Canada. (2023). *Reference guide to the Accessible Canada Act*. <https://www.canada.ca/en/employment-social-development/programs/disability/arc/reference-guide.html>

Federal Court of Appeal and the Court Martial Appeal Court of Canada. (2022).

Accessibility plan 2022–2025. <https://www.casatj.gc.ca/en/pages/publications/accessibility-plans/accessibility-plan-2022-2025>

- Goodley, D. (2013). Dis/entangling critical disability studies. *Disability & Society*, 28(5), 631–644. <https://doi.org/10.1080/09687599.2012.717884>
- Goren, W. D. (2015). Inaccessibility of court system and ADA Title II. *Understanding the ADA*. <https://www.understandingtheada.com/blog/2015/11/10/inaccessibility-of-court-system-ada-title-ii/>
- Government of Canada. (2022). *Accessibility in the federal public service: Reference guide*. <https://www.canada.ca/en/employment-social-development/programs/disability/arc/reference-guide.html>
- Government of Nova Scotia. (2024). *Progress report on the Accessibility Act: 2023–2024*. <https://novascotia.ca/accessibility/reports>
- Harris, A. P., & Tani, K. M. (2021). The administrative law of disability. *Stanford Law Review*, 73(5), 1095–1150.
- Illinois Supreme Court. (2024). *Policy on access for people with disabilities*. <https://www.illinoiscourts.gov>
- Kelley, N. (2025). *Interview regarding disability accommodations in Illinois courts*.
- Krantz, L., & Melander, J. (2023). A critical disability approach to policymaking: Learning from the experiences of young adults with disabilities in Sweden. *Scandinavian Journal of Disability Research*, 25(1), 33–44. <https://doi.org/10.16993/sjdr.1001>
- Larson, D. (2008). Unconsciously regarded as disabled: Implicit bias and the “regarded as” prong of the Americans with Disabilities Act. *UCLA Law Review*, 56(2), 451–500. <https://www.uclalawreview.org/unconsciously-regarded-as-disabled-implicit-bias-and-the-regarded-as-prong-of-the-americans-with-disabilities-act/>

- Lawrence, H., McDonald, K., & McDonald, C. (2019). Disabilities, disparities, and court system barriers: Exploring the gap. *Social Science & Medicine*, 238, 112521. <https://doi.org/10.1016/j.socscimed.2019.112521>
- Lochner, T. (2005). The Americans with Disabilities Act and courthouse access. *The Justice System Journal*, 26(1), 105–108. <https://www.jstor.org/stable/27977220>
- Meikle, D., & Battaglia, J. (2021). Invisible disabilities in access to justice: Current challenges and future directions. *Canadian Disability Studies Journal*, 9(1), 87–106.
- Missouri Statewide Independent Living Council. (2023). *Exploring misperceptions, pay gaps, and lingering disparities during National Disability Employment Awareness Month*. <https://www.misilc.org/shining-a-light-blog/exploring-misperceptions-pay-gaps-and-lingering-disparities-during-national-disability-employment-awareness-month>
- Murphy v. United Parcel Service, Inc., 527 U.S. 516 (1999).
- Naqui, Q. (2023, July 26). *Advancing equal access to justice for Americans with disabilities: Moving toward closing the justice gap*. U.S. Department of Justice. <https://www.justice.gov/archives/atj/blog/advancing-equal-access-justice-americans-disabilities-moving-towards-closing-justice-gap>
- New York State Courts. (2023). *ADA accommodation request process*. <https://ww2.nycourts.gov/ada-accommodation-request-process-32956>
- Onley, D. C. (2019). *Third review of the Accessibility for Ontarians with Disabilities Act, 2005*. Government of Ontario. <https://www.ontario.ca/page/third-review-accessibility-ontarians-disabilities-act>

Ontario Human Rights Code, R.S.O. 1990, c. H.19, s. 17(2).

Ontario Superior Court of Justice. (2017). *Making Ontario's courts fully accessible to persons with disabilities*.

<https://www.ontariocourts.ca/scj/news/publications/reports-courts-disabilities>

People v. Tapley, 2020 IL App (2d) 190137.

Pew Charitable Trusts. (2023). *How civil courts are failing disabled litigants*.

<https://www.pewtrusts.org/en/research-and-analysis/articles/2023/06/15/how-civil-courts-are-failing-disabled-litigants>

Provincial Court of British Columbia. (2025). *Accessibility and accommodation in BC courts*. <https://www.provincialcourt.bc.ca/accessibility>

Provincial Court of British Columbia. (2025). *Accessibility and assistance at the courthouse*. <https://www.provincialcourt.bc.ca/navigating-court-case/information-all-types-cases/accessibility-assistance>

Reed v. Illinois, No. 13-2346 (7th Cir. 2015).

Rickard, E., & Rosenthal, R. (2024). *How to make courts accessible to users with disabilities and limited English proficiency*. <https://www.pewtrusts.org>

Saunders, S. (2021). The ADA doesn't cover everything. *Accessibility.com*.
<https://www.accessibility.com/blog/the-ada-doesnt-cover-everything>

Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999).

Tennessee v. Lane, 541 U.S. 509 (2004).

Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002).

United Nations. (2006). *Convention on the Rights of Persons with Disabilities*.

<https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

U.S. Access Board. (2020). *Designing accessible courthouses*. [https://www.access-](https://www.access-board.gov/ada/additional-resources/designing-accessible-courthouses.html)

[board.gov/ada/additional-resources/designing-accessible-courthouses.html](https://www.access-board.gov/ada/additional-resources/designing-accessible-courthouses.html)

United States Department of Justice. (2020). *ADA Title II enforcement actions in courts*.

<https://www.justice.gov>

Vehmas, S., & Watson, N. (2014). Moral wrongs, disadvantages, and disability: A critique of critical disability studies. *Disability & Society*, 29(4), 638–650.

<https://doi.org/10.1080/09687599.2013.831751>

Washington State Administrative Office of the Courts. (2022). *Ensuring equal access for people with disabilities: A guide for courts*. <https://www.courts.wa.gov>

Wasserman, D., & Aas, S. (2022). Disability: Definitions, models, experience. In E. N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Fall 2022 Edition).

<https://plato.stanford.edu/entries/disability/>

Women’s Legal Education and Action Fund (LEAF), DisAbled Women’s Network Canada (DAWN), & ARCH Disability Law Centre. (2020). *Joint intervention: R v. Slatter*.

<https://www.leaf.ca>