



Communication Disabilities Access Canada

Supplemental Resources

Session 3: Legal Context: Capacity, Decision-Making and Communication Disabilities

Cases

Starson v. Swayze, [2003] 1 S.C.R. 722 (Supreme Court of Canada)

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2064/index.do>

Eldridge v. British Columbia (Attorney General), [1997] 3 SCR 624 (Supreme Court of Canada)

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1552/index.do>

Equality and Accessibility – Legal Sources

Convention on the Rights of Persons with Disabilities – Full Text

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html#Fulltext>

Canadian Charter of Rights and Freedoms – Full Text

<https://laws-lois.justice.gc.ca/eng/const/page-15.html>

Secondary Sources

Canadian Human Rights Commission, in collaboration with the Canadian Association of Statutory Human Rights Agencies, “The Rights of Persons with Disabilities to Equality and Non-Discrimination: Monitoring the Implementation of the UN Convention on the Rights of Persons with Disabilities in Canada”

<https://www.chrc-ccdp.gc.ca/eng/content/rights-persons-disabilities-equality-and-non-discrimination>

Barnett, L, Nicol, J & Walker, J., “An Examination of the Duty to Accommodate in the Canadian Human Rights Context,” Library of Parliament, Background Paper, Publication No. 2012-01-E, January, 2012.

https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201201E

ARCH Disability Law Centre, “Fact Sheet – The Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol”, November, 2019.

<https://archdisabilitylaw.ca/resource/factsheet-the-crpd-and-the-optional-protocol/>

Decision-Making in Canada – Legal Sources

D’Arcy J. Hiltz, Anita Szigeti & Ruby Dhand, *Halsbury’s Laws of Canada – Mental Health*, 2019 Reissue (Lexis Nexis: Toronto)

Legislation in Canada which contains formal legal recognition of a role for supports in decision-making

British Columbia

Representation Agreement Act, R.S.B.C. 1996, Chapter 405

http://www.bclaws.ca/civix/document/id/complete/statreg/96405_01

Alberta

Adult Guardianship and Trusteeship Act, S.A. 2008, Chapter A-4.2

<http://www.qp.alberta.ca/documents/Acts/A04P2.pdf>

Saskatchewan

The Adult Guardianship and Co-decision-making Act, S.S. 2000, c. A-5.3

<https://publications.saskatchewan.ca/#/products/392>

Manitoba

The Vulnerable Persons Living with a Mental Disability Act, C.C.S.M. c. V90

<https://web2.gov.mb.ca/laws/statutes/ccsm/v090e.php>

Yukon

The Adult Protection and Decision Making Act being Schedule A to the *Decision Making Support and Protection to Adults Act*, S.Y. 2003, c. 21.

<http://www.gov.yk.ca/legislation/acts/dmspa.pdf>

Secondary Sources on Laws which recognize Supports for Decision-Making

Lana Kerzner, “Paving the way to Full Realization of the CRPD’s Rights to Legal Capacity and Supported Decision-Making: A Canadian Perspective”, Prepared for a Symposium at the University of British Columbia, In *From the Margins: New Foundations for Personhood and Legal Capacity in the 21st Century*, April, 2011.

http://cic.arts.ubc.ca/files/2014/07/In_From_The_Margins_Paper-Lana_Kerzner-FINAL-April_22_2011_2_.pdf

Krista James and Laura Watts, Canadian Centre for Elder Law, “Understanding the Lived Experiences of Supported Decision-Making in Canada”, prepared for the Law Commission of Ontario, March 2014

<https://www.lco-cdo.org/wp-content/uploads/2014/03/capacity-guardianship-commissioned-paper-ccel.pdf>

Lana Kerzner, “Supported Decision-Making Innovations: The Canadian Experience” in *Disability Law and Policy: An Analysis of the UN Convention*, Charles O’Mahony and Gerard Quinn, eds (Dublin: Clarus Press Ltd, 2017).