



Growing Number of Canadians Vulnerable to Losing the Right to Decide

In 2019, IRIS completed a study on how people with developmental, cognitive, and psychosocial disabilities lose the right to decide in their lives, and what can be done to address this growing problem.

What We Know

- More than 50,000 Canadians are currently under guardianship, a system that takes away their power, choice, and control over their own lives.
- 880,000 to 1 million Canadians with disabilities need decision-making assistance from others. They are vulnerable to losing this power, and far too many do.
- Many lose their right to decide when they are involuntarily admitted and treated in mental health facilities, or because adult protection services, doctors, judges, or financial institutions question their capacity.
- A growing group of Canadians—those who do not have, or who lose, the cognitive abilities usually associated with exercising the right to decide—are at risk of being denied this right.
- Canada's population is aging, and with that process often comes cognitive decline. The proportion of Canadians with developmental and mental health disabilities is therefore increasing every year.

Landon Webb's story is a terrifying one. At a time in his life when most young adults are anticipating independence, in whatever form that takes for them, he could not even access the internet. The more he struggled against the restraints on his liberties the tighter they got.... Once he was declared incompetent it seemed as though everything he said and did to assert that he was competent was further proof of his incompetence.
– Justice Campbell in *Webb v. Webb*, 2016 Nova Scotia Supreme Court 180

How Do People Become Vulnerable to Losing the Right to Decide?

- By being placed under guardianship and substitute decision-making.
- By not being provided needed decision-making assistance.
- By being denied equal respect and value in Canadian society, based on their intellectual, cognitive, or psychosocial disabilities.

What you can do

- **Change minds—yours, and others.** Everyone has intentions, a will, and unique preferences. As long as a person has support to interpret and translate

...human will—that instinctive and inherently human imperative, that sense of being, that thing that tells us we are here, that we can feel. I honestly don't think it has anything to do with intellect. Ian has it! It is what makes him stop, suddenly, and listen to the sounds of the birds or of the wind blowing through the trees... it is certainly the thing that has prompted him on a couple of occasions when Fred [her husband and Ian's father] had been in intensive care to gently reach out and stroke Fred's arm... And if we take the trouble to get to know people who do not communicate in typical ways, we become very conscious of it.

– Audrey Cole, Ian's mother



their intentions into decisions and actions, they can maintain control over their lives. Certain cognitive abilities are not necessary. Equal respect and value for a person's will and preferences are essential. Help change your own mind about these facts, and others', too.

- **Know your rights:** Every adult has the right to make decisions about their life, health care, finances, and property, as well as a right to the supports and accommodations they need to make those decisions.
 - These rights are protected under the *Canadian Charter of Rights and Freedoms*, which protects the right to liberty (section 7) and to equality without discrimination based on mental or physical disability (section 15).
 - These rights are also protected under the United Nations *Convention on the Rights of Persons with Disabilities* (Article 12, the right to exercise legal capacity on an equal basis with others) and provincial/territorial human rights acts.
- **Join with others in your community** to support people to make their own decisions. Self-advocates, families and community agencies and leaders can implement initiatives to show how people with even significant disabilities can be supported to direct their own lives.
- **Call on your provincial or territorial government** to introduce supported decision-making for all. Some promising measures are already in place in laws and policies in Canada. However, legal regimes in this country still largely remove the right to decide for people based on their mental disability. There is an urgent need to close this legal gap.

"I have never felt so disempowered, so hopeless, helpless, and suicidal as I did then. Every single feeling, experience, or thought I have that my psychiatrist does not like—no matter how valid, healthy or normal it is—is rendered completely and utterly irrelevant. I do not matter."

– Ontario Human Rights Commission,
Minds that Matter (p. 23)

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