

Transforming the Disabling/Maddening State:
Capacity and decision-making

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About the Project

Transforming the Disabling/Maddening State: Capacity and decision making.

The contents of this Pressbook complement a global conversation between activists, legal scholars and students from Colombia, Scotland and Canada about the 'right to decide'. It will explore questions about how to enact Article 12 of the UNCRPD through local advocacy and activism, regional legal and policy change and international information sharing to transform understandings of capacity and the social and material impact they have on disabled and mad people's lives.

How to Use This Pressbook

This Pressbook has been developed as a platform for hosting information shared during the Transforming the Disabling/Maddening State: Capacity and decision making global classroom.

There are three chapters, one for each speaker. As you make your way through the chapters, you will find additional resources and interactive activities. There are opportunities to reflect, respond and save your answers at the end of each chapter.

Accessibility Statement

General Project Statement on Accessibility

This book was designed with accessibility in mind so that it can be accessed by the widest possible audience, including those who use assistive technologies. The web version of this book has been designed to meet the [Web Content Accessibility Guidelines 2.0, level AA](#).

While we aim to ensure that this book is as accessible as possible, we may not always get it right. There may be some supplementary third-party materials, or content not created by the authors of this book, which are not fully accessible. This may include videos that do not have closed captioning or accurate closed captioning, inaccessible PDFs, etc.

If you are having problems accessing any content within the book, please contact: eignagni@ryerson.ca. Please let us know which page you are having difficulty with and include which browser, operating system, and assistive technology you are using.

In General Terms:

Access is **collectively** and **interdependently** created as students, guests, and faculty are invited to share what they need for an accessible learning environment. As such, access is understood to be an interdependent practice that is created by all those who access a resource.

Negotiation and **flexibility** are crucial to access and accommodation, as it is understood that our bodies and minds are dynamic and that what we may need in terms of access can change over time and with circumstance and context.

Access is always **intersectional**. As part of our commitments to

honour the recommendation from the Truth and Reconciliation Commission, we work to unsettle access and the course content. In conversations about access, we consider how access often privileges the white-settler colonial practice of seeking equal access to all spaces. This unsettling is a key component of disability studies but one that requires critical reflection.

This Pressbook has made every effort to follow principles of **universal design in learning** within the contents (e.g. lecture transcripts, open-captioned videos, image descriptions). While these practices are logistical, they work symbolically for students, serving as an invitation for those who may have few opportunities to witness accessible curriculum design.

Background Information - What is Article 12?

The United Nations Convention on the Rights of Persons with Disabilities (CRPD; 2006) was a watershed moment for the rights of disabled and mad individuals globally. Its paradigm-shifting Article 12 affirms their rights to be recognized as persons before the law and to enjoy legal capacity on an equal basis with others. Legal capacity, also known as the right to decide, is the right to exercise choice and control in decision-making and to have one's will and preferences recognized in decision-making frameworks. Revoking legal capacity via guardianship appointments or the imposition of substitute decision-making deprives individuals of decision-making authority, often leading to detention, institutionalization, and/or forced treatment. In contrast to substitute decision-making, supported decision-making is a promising framework being mobilized globally to ensure the right to decide, in which individuals are supported in making decisions that are aligned with their will and preferences. However, despite its promise, implementing this framework is challenging because of inconsistent guidelines and regulations within and between nations. As research indicates, implementation of Article 12 will require strengthening local knowledges with practical tools, resources, and processes to help individuals and communities in enacting supported decision-making. The article also specifies that states are responsible for ensuring access to such support, but lacks guidance on how support measures are to be enacted and implemented in specific contexts. In the absence of guidance and evidence about what types of decision-making supports people need or 'what works', supported decision-making tools, frameworks, policies, and processes are being created and implemented in an ad hoc manner in many countries. While it is likely that these initiatives aim to be responsive

to local realities and needs, their effectiveness and potential transferability to other jurisdictions and/or different sectors (e.g., health, finance, etc.) is unclear.

To read Article 12, visit [the United Nations Convention on the Rights of Persons with Disabilities website.](#)

MAIN BODY

Final Questions to Consider and Group Reflections

After watching the videos, reading the transcripts, and reflecting on your own experiences surrounding Article 12 and decision-making, spend some time considering these final questions posed during the global classroom.



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://pressbooks.library.torontomu.ca/capacitydecisionmaking/?p=159#h5p-8>

Here are some responses from the groups present at the conference.



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://pressbooks.library.torontomu.ca/capacitydecisionmaking/?p=159#h5p-9>

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