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BC government continues to block Charter challenge to outdated Mental Health Act by appealing to the Supreme Court of Canada

For immediate release

Vancouver, BC

The Supreme Court of Canada announced that it will hear an appeal by the BC government seeking to block a Charter challenge to British Columbia's outdated *Mental Health Act* and related laws. The Council of Canadians with Disabilities (CCD) began a Charter challenge to the BC mental health laws that take away any right for those detained in hospital, or living in the community on leave, to give or refuse consent to psychiatric treatment or to use a trusted friend or family member to help make treatment decisions. Rather than fixing the underlying problems with BC's mental health laws, the government continues to argue that CCD has no standing (legal right) to bring the case forward.

In the decision the government is now challenging, the BC Court of Appeal refused to throw out CCD's case, citing the importance of grassroots organizations that stand up for the legal rights of people who face barriers accessing the justice system. However, to avoid dealing with the myriad of problems with BC's mental health laws, the government has taken its fight to block the case all the way to the Supreme Court of Canada.

"We are disappointed that the BC government continues to fight a community group standing up for people's rights instead of fixing the problems with BC's outdated mental health laws" says Kevin Love, a lawyer with the Community Legal Assistance Society. "Access to justice is a huge problem right now. It's hard for marginalized people living with mental health conditions to endure years of litigation, especially when the government is fighting you tooth and nail. Unless community organizations can take important issues forward, unconstitutional laws may never get reviewed."

The Community Legal Assistance Society (CLAS) and the law firm McCarthy Tétrault are representing CCD in the Charter challenge to the "deemed consent" provisions contained in the Mental Health Act, the Representation Agreement Act, and the Health Care (Consent) and Care Facility (Admission) Act. Deemed consent means that people who are involuntarily detained under BC's Mental Health Act, or released from hospital on leave, currently have no right to give or refuse consent to any psychiatric treatment. They are legally 'deemed' to consent to all psychiatric treatment and can be forcibly administered medications and electroconvulsive therapy, even when they are mentally capable of making their own treatment decisions. The law also deprives detained individuals of the right to a substitute decision maker, like a representative or family member, to give or refuse consent on their behalf.

“We’re appalled that the BC government is doing everything it can to prevent this case from getting to trial,” says Melanie Benard of CCD. “In the meantime, people’s rights are being violated. BC is the only jurisdiction in Canada that still uses a ‘deemed consent’ model. The province’s outdated laws violate the Canadian Charter and the UN Convention on the Rights of Persons with Disabilities. CCD is eager to have its day in court and we hope the government won’t prevent that.”

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About:

The **Community Legal Assistance Society (CLAS)** has been providing free legal services to marginalized British Columbians since 1971 in the areas of mental health, human rights, housing, income security, and workers’ rights. We have assisted tens of thousands of British Columbians over the years through law reform, test case litigation, systemic advocacy, delivery of public legal education, summary advice, workshops and representation of clients before administrative tribunals and the courts.

The **Council of Canadians with Disabilities (CCD)** is a national human rights organization of people with disabilities working for an inclusive and accessible Canada. Founded in 1976, CCD consists of nine provincial member groups, seven national disability organizations and one affiliate member. Its mandate includes law reform, policy development, and test case litigation in support of persons with disabilities.