

Canadian Conference on Elder Law



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“Identifying elements of an Anti-Ageist Approach to the Law”

Being Human, Human Rights and the
Agency of Older Adults.

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Human Rights

- ▶ Human Rights – heart of our community values.
- ▶ The concepts of equality, dignity, and respect
- ▶ Help us determine what is right
- ▶ They are indivisible – equal for all

Human Rights

- ▶ Shared same entitlements and responsibilities.
- ▶ If Rights are not equal, they are not rights.
- ▶ Human Rights protect individuals or groups from the danger of democracy

Human Agency:

- ⦿ Agency is critical to being human: it is the **right to act on one's own behalf.**
- ⦿ Human Rights protect **agency** of the individual
- ⦿ Human Rights must defend/restore agency of the defenseless to defend themselves.

Ageism

- ▶ Discrimination based on age/prejudice against the elderly.
- ▶ Ageism stereotypes, marginalizes, segregates, isolates leading to invisibility.
- ▶ Ageism reduces/restricts the “humanness” of the elderly.

Ageism

- ▶ The courts recognize the rights claims challenging racism, sexism, homophobia while reluctant to challenge ageism.
- ▶ The legal justification – they are acting in the best interest of the older person.
- ▶ Agency denied is denial of full humanity.

Ageism, Agency and Human Rights

- ▶ Prohibiting the elderly from knowingly taking chosen risks.
- ▶ Systemic ageism in public policy
- ▶ Systemic ageism in natural disasters

Ageism, Agency and Human Rights

- ▶ The age bias in healthcare – access issues
- ▶ Policy, programs and practices based on stereotypes of the “older person”.
- ▶ The discriminatory treatment on the basis of age by health care facilities – Advanced Care Planning

Ageism, Agency and Human Rights

- ▶ The assumption that depression is part of ageing and thus failing to treat it.
- ▶ The intent of the law and its processes that inhibit the capacity/ability of older persons to act on their own behalf.

Ageism, Agency and Human Rights

- ▶ The growing institutionalization of older people.
- ▶ The deliberate(?) public failure to tackle high suicide rates among elderly men.
- ▶ Cost-benefit analysis based on remaining years to be lived or future productivity –

Strategies for an Anti-Ageist Approach to the Law

- ▶ 1. Consistently challenge ageist stereotypes whenever and wherever they occur.
- ▶ 2. Educate older people and society at large about their own biases/prejudices
- ▶ 3. Actively publicize the contributions to society made by older persons.

Strategies for an Anti-Ageist Approach to the Law

- ▶ 4. Require education modules for professional certification to practice, hold positions of authority.
- ▶ 5. Require inclusion of modules on the contributions of the elderly throughout the primary and secondary schools.

Strategies toward an Anti-Ageist Approach to the Law

- ▶ 6. Legally challenge ageist language, policy, programs and practices
- ▶ 7. Look critically at the intent of law and practices/processes to ensure outcomes reflective of the agency/needs of older persons.

Strategies toward an Anti-Ageist Approach to the Law”

- ▶ 8. Ensure the rights of older people to participate in policy decision-making that affects them.
- ▶ 9. Increase research into the issues and needs of older persons.
- ▶ 10. Inform the older population about the legal, economic issues likely to confront them as they age.

Strategies toward an Anti- Ageist Approach to the Law”

- ▶ 11. Acknowledge the gender factor in ageing.

I could continue but won't!

Thank you for your patience