



# Ageism and the Justice System

- » Is the Justice System Ageist?
- » What is Ageism?
- » The social construction of age in the law: age distinctions, age discrimination, uneven application of a law, language used in judgments
- » Institutional aspects of the justice system and age: public legal education, the cost of litigation, community services



“The most advanced justice system in the world is a failure if it does not provide justice to the people it is meant to serve.”





**IGNORE THIS POSTER.  
IT'S GOT GREY HAIR.**



## What is ageism?

1. The social construction of age, including incorrect assumptions and stereotypes about older persons.
2. The tendency to structure society based on an assumption that everyone is young, thereby failing to respond appropriately to the real needs of older persons





## Age Distinctions in the Law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

*(Gosselin v. Quebec (Attorney General))*





## Age Discrimination and the Law

*Justices of the Peace in Ontario v. Ontario (Attorney General):*

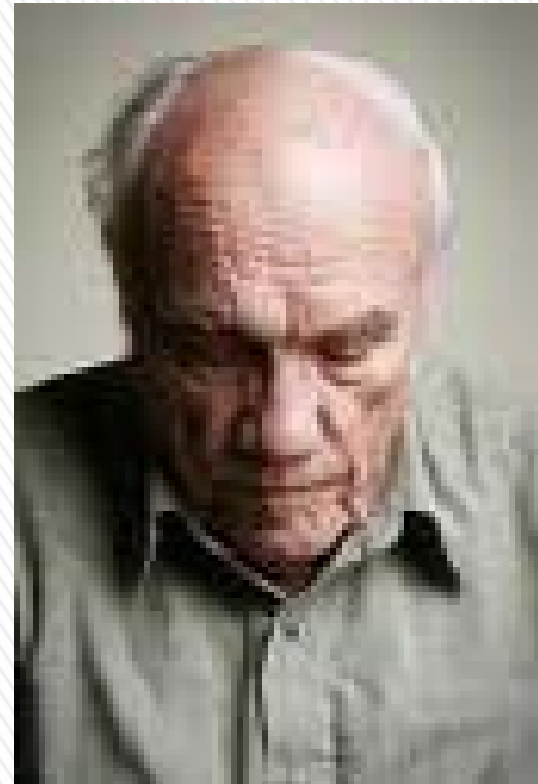
Mandatory Retirement provision was discrimination because

- (a) reinforced pre-existing ageist stereotypes;
- (b) was inconsistent with the actual needs, capabilities and circumstances of the applicants;
- (c) the ameliorative purpose did not make it any less discriminatory; and
- (d) the fundamental dignity of the applicants was at stake.



- A law that is age-neutral on its face may be ageist in practice
- “Age Based Lens”:
- Does the legislation include or refer to, explicitly or implicitly, ageist stereotypes and/or paternalistic attitudes?
- Are there sufficient mechanisms provided for by the legislation to prevent or protect against the legislation being implemented in an ageist manner (including the acting-out of individual ageism, given the prevalence of ageist attitudes?)
- Does the legislation respond appropriately to the real needs of older persons as a group (understanding that older adults are extremely diverse), recognizing that older adults generally are situated differently from younger people and have different needs?

## Uneven Application of a Law





## The Language of Judgments

“People over 65 are not a homogenous group. The experiences of people in their senior years vary with available resources, quality of health, and degree of integration into social and family networks. The senior years are experienced differently by different segments of the population, based on age category, urban/rural residence, and gender, as well as culture and race.”







## Public Legal Education

- High school or lower level of literacy
- Consider various ways of making information available to account for those who are not computer literate or those who do not read



» Average after tax income of older adults \$42,800 (couples); \$20,200 (single males); \$18,200 (single females)



# Costs of Litigation >

## Community Services

- » Coordination of levels of government
- » Transportation services
- » Advocacy services
- » Cuts to legal aid





Conclusion

