



© SENIORS FOR SOCIAL ACTION ONTARIO

EXPERTS FROM ACROSS THE WORLD WEIGH IN ON AGEISM AND ABLEISM AND THE HARMFULNESS OF SEGREGATION, EXCLUSION, AND INSTITUTIONALIZATION FOR OLDER ADULTS AND PEOPLE WITH DISABILITIES

September 3, 2021

“Home is where we form our sense of self – the very stuff of our identity. We do so in close association with others. Home is also the material expression of self – a sort of scaffolding that holds us together. In our homes we see ourselves reflected back – even in the small things like a flower vase or a family picture. It is quintessentially private. And yet home is also public. Our front doors beckon others in. Outside, we engage with the community – neighbours, shopkeepers, bus drivers. They are part of who we are. Living life my way and in the community is the very essence of independent living. And home is a crucial enabler for this to happen. And home is exactly what is denied to large segments of the population.” (Professor Gerard Quinn

United Nations Special Rapporteur on the Rights of Persons with Disabilities; Chair, Leeds University Centre for Disability Studies; UK Affiliated Chair, Raoul Wallenberg Institute, University of Lund, Sweden) Pg. 1 <https://www.lse.ac.uk/cpec/assets/documents/CPEC-Covid-Desinstitutionalisation.pdf>

“The deprivation of liberty on the basis of disability is a human rights violation on a massive global scale.... Persons with disabilities also face other forms of deprivation of liberty that are disability-specific. The most common include involuntary hospitalization in mental health facilities, placement in institutions, internment in forensic psychiatric wards, forced treatment in “prayer camps” and home confinement. All these forms share common characteristics and justifications that stem from the medical model of disability, which suggests the need for “specialized care” in specialized institutions, rather than in the community. The reality is that people in these situations and settings become extremely vulnerable to sexual and physical violence, sterilization, human trafficking, and many other forms of torture and abuse.... Without legal avenues to challenge their situation, persons with disabilities deprived of their liberty become invisible and forgotten by the wider community. Indeed, due to the mistaken belief that those practices are well intentioned and beneficial, their situation and well-being is hardly monitored by national preventive mechanisms or human rights institutions.” (Office of the High Commissioner, United Nations

<https://www.ohchr.org/en/issues/disability/srdisabilities/pages/libertyandsecurity.aspx>)

“Millions of older people around the globe experience human rights violations every year, ranging from age-based discrimination and social and political exclusion, to abuses in nursing facilities, neglect in refugee camps, and barriers to healthcare and other essential services. Most of these abuses go undocumented and those responsible not held to

account. Covid-19 has exposed the dangerous price of ignoring the rights of older people.” (Human Rights Watch, 2021 – 70+ nations <https://www.hrw.org/topic/rights-older-people>)

“Throughout the world, large numbers of older persons face challenges such as discrimination, poverty and abuse that severely restrict their human rights and their contribution to society. The world has not been quick to respond: a lack of political will and the prioritisation of the special rights of other disadvantaged groups have often been at the expense of the case for older people. Although concerns involving the ageing population are not new, they have traditionally been seen as problems requiring solutions that are functional, piecemeal and reactive.” (The Centre For Public Policy, Australia – Pg. 5 <https://social.un.org/ageing-working-group/documents/fourth/Rightsolderpersons.pdf>)

“The perception of old age as a social problem rests upon the assumption that older persons are in some way separate from those who are not yet old—that the aged and the non-aged are two different categories of human beings. Older persons are seen as segregated from society, producing a gap that must be bridged, while at the same time recognising the particular needs and contribution of this group.... Where services exist, they are often of lower quality and inadequately funded, partly as a result of the perceived ‘burden’ older people come to represent. That older persons are assumed to be economically non-productive legitimises and reinforces their marginality.” (The Centre For Public Policy, Australia – Pg. 6 <https://social.un.org/ageing-working-group/documents/fourth/Rightsolderpersons.pdf>)

“Discrimination underpins many human rights violations faced by older people. Despite this, age discrimination has been ignored by nearly every human rights instrument to date. Age is a social construct as much as it is a numerical category. Stereotypes and negative attitudes can manifest themselves through exclusion, marginalisation, isolation, and abuse in many forms. Structural barriers and legal barriers to older people’s enjoyment of equal rights are reinforced by these patterns. The discrimination and mistreatment older people face is something that affects every aspect of their lives and requires greater clarification in international human rights standards.” (Help Age International, United Kingdom Pg. 8 <https://www.helpage.org/silo/files/international-human-rights-law-and-older-people-gaps-fragments-and-loopholes.pdf>)

“Around the world, older persons with disabilities face discriminatory laws, denial of legal capacity and institutionalization. These are human rights violations at a massive scale, which are however regarded as normal social practices due to deeply-rooted stigma and social misperceptions. Their normalization fuels a circle of discrimination and exclusion in which hundreds of millions of people in a vulnerable situation are entrapped. Being old and with a disability often results in discrimination and specific human rights violations. This is due to the combined effect of ageism and ableism: two common forms of social bias that

see older persons and persons with disabilities as naturally deserving less rights and agency. At the intersection of these and multiple other forms of discrimination based on gender, ethnicity and other factors, older persons with disabilities are among the most marginalized in the world. They are often denied their autonomy, and their role in the community is dismissed as irrelevant and burdensome.” (Office of the High Commissioner, United Nations, July 17, 2019

<https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/SupportingTheAutonomyOlderPersons.aspx>)

SSAO EFFORTS TO SECURE THE HUMAN RIGHTS OF OLDER ADULTS AND PEOPLE WITH DISABILITIES

Seniors for Social Action Ontario (SSAO) has requested from the Ontario Human Rights Commission, an inquiry into the mass institutionalization of older adults as a human rights violation. This has been denied largely on the grounds that the Ontario Human Rights Commission says that it lacks the resources to conduct such an inquiry.

This means that 22 years after the *Olmstead* decision by the United States Supreme Court in *Olmstead v. L.C.* (1999) “that unjustified segregation of persons with disabilities constitutes discrimination in violation of title II of the Americans with Disabilities Act” and that “public entities must provide community-based services to persons with disabilities when (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity” (United States Department of Justice, Civil Rights Division, https://www.ada.gov/olmstead/olmstead_about.htm) older adults with disabilities living in Ontario still have no options to remain in their own homes and communities except an unreliable and grossly underfunded Home Care system.

The Ontario Human Rights Commission claims to lack the resources to examine why this is so, and whether or not the absence of community resources as a reasonable accommodation to avoid institutionalization, which is the most restrictive alternative for delivering long term care, constitutes a violation of their human rights.