



AN OPEN LETTER TO THE CHIEF COMMISSIONER OF THE ONTARIO HUMAN RIGHTS COMMISSION

August 25, 2022.

Chief Commissioner Patricia DeGuire,
Ontario Human Rights Commission,
180 Dundas Street West, 9th Floor
Toronto, ON M7A 2G5

Dear Ms DeGuire,

For too long, ageism has been seen as a lesser form of discrimination. Society's grandparents and great grandparents have been pushed to the margins of society and shown, in word and deed, that they do not matter. The strong message – they are old and will die soon anyway – ever present.

Older adults are the only group in society besides prisoners who are still mass institutionalized in a socially acceptable act of systemic marginalization. They are shipped to long-term care facilities en masse – out of sight, out of mind - irrespective of how they might feel at being treated this way.

Catherine Frazee, a former Chief Commissioner of the Ontario Human Rights Commission put it succinctly in a recent joint publication of Seniors for Social Action Ontario and Community Living Ontario:

“An institution is neither a home nor a place of care. An institution is a closed system where problems of human deprivation and indignity are quietly managed, where societal failings are hidden, and where people individually, or, as we now know, by tens of thousands, can die without triggering alarm.”

4500 or more dead in Ontario's long-term care institutions due to COVID – one of the highest death rates of all OECD countries. 22,000 of just over 70,000 residents die in these facilities every year according to testimony of former Deputy Minister of Long-Term Care, Richard Steele, to the COVID-19 Long Term Care Commission. Are we to believe that all those deaths were due to natural causes?

Horrendous conditions have been detailed including documentation from Canada's military that some residents were left to die of dehydration and malnutrition, lying in soiled sheets during the pandemic.

Apart from initial outrage, none of this has triggered alarm in either the general public or in governments at all levels.

This is how little their lives mattered.

The people who worked hard, paid their taxes, raised their children, helped with their grandchildren, gave countless hours to their communities in volunteer work, and were law abiding were tossed to the scrap heap of society and left to die there – often alone – as loved ones were barred from being with them. They can still be barred through the use of trespass orders if they advocate too vigorously for them.

Now, in a blatant act of discrimination against the most vulnerable people in society – alternate level of care (ALC) patients - most of them older, are labelled “bed blockers”. They are targeted for removal of their rights by the provincial government using Bill 7, so that they can be more easily institutionalized – excluded, and segregated from the rest of society for the crime of growing old and becoming frail. They currently have nowhere to go thanks to the absence of services and supports for them in the community.

It does not have to be this way.

At the most vulnerable time in their lives they are being forced to live with others not of their choosing, in facilities with codes on the doors so that they cannot escape, subject to abuse, neglect, and “unexplained falls” and without adequate care plans as documented in numerous inspection reports.

People with dementia are subjected to locked wards – incarcerated without due process. Many could be cared for in fully staffed homes in neighborhoods, in higher staff to resident ratios than are found in facilities, where acting out behavior is much less likely to occur than in frightening, over-controlled locked environments. The Ontario government had the option of funding these, but opted instead to fund institutions rather than these more humane alternatives.

Thousands of complaints a month come in to the Inspection Branch according to testimony by its own managers to the COVID-19 Long Term Care Commission, and those are from the people who have the capacity and ability to complain. Many more do not.

The government of Ontario has awarded thousands of beds, on 30 year contracts, to companies with the worst track records that have class action lawsuits filed against them from families and friends of the dead. A major corporation that has thousands of beds in Ontario was investigated by the U.S. Department of Justice and made to pay millions in damages to several states. It also had its facilities taken over in Saskatchewan so that it no longer operates in that province. And it had to be taken over by hospitals here in Ontario during the pandemic. It also managed a facility in which conditions were so horrendous that the military had to be called in, later documenting

terrible conditions there. Nevertheless it has received hundreds more beds from the provincial government and has faced no publicly reported consequences as occurred in other jurisdictions.

These are the institutions into which the Ontario government now wishes to admit people under Bill 7, without their consent, in order to fill the beds. These are the institutions to whom the government wants hospital placement coordinators to send ALC patients' personal health records, also without their consent.

Older adults and people with disabilities who are unfortunate enough to end up in hospital are left with nowhere to go because of the absence of in-home and community-based residential support services. These would allow them to return to their own homes or communities, instead of being forced to live in these institutions. 85% of these facilities remain out of compliance with the law according to the CBC, operated by corporations that have had to leave other jurisdictions because of substandard care.

The Ontario government has used \$6 billion of taxpayers' funds to build institutions where no one wants to live or work. In the recent election it has said it will invest only \$1 billion in Home Care primarily because other parties stated that is where they would invest. There continues to be no publicly reported plan for how even that amount will be spent. This government has announced six times as much funding to institutionalize people in the most restrictive alternative than it has announced for in-home and community residential support – the least restrictive alternatives that older adults and people with disabilities say they want. If it wants to empty hospital beds, perhaps it should release that funding to its High Intensity Supports at Home program to allow people to go home with adequate support. Or release it to its Family Managed Care Program removing the current accessibility barriers for people with dementia and their families.

If all of this is not ageism and ableism we, at Seniors for Social Action Ontario (SSAO), are unsure of what else to call it.

Previous attempts by SSAO to ask the Ontario Human Rights Commission to conduct a public inquiry into the mass institutionalization of older adults have failed. While agreeing that there are human rights concerns, the Commission has stated that it lacks the resources to conduct the inquiry.

What other group in society is subjected to this kind of treatment? If 4500 members of any other devalued and marginalized group in society was essentially left to die, arbitrarily subjected to mass institutionalization that amounts to incarceration without due process, and had its rights to refuse consent, as well as protection of its personal health information rescinded by the government, would it be told by the Commission that it lacked the resources to systemically inquire into the situation?

This is systemic discrimination. It is not discrimination that can be handled one tragedy at a time by tribunals.

Seniors for Social Action Ontario is asking that the Commission address this. Ageism is no longer a “lesser form of discrimination” if it ever was. It is a form of discrimination that affects tens of thousands of older adults in this province - one that is immediately targeting at least 1300 ALC patients and removing their fundamental rights under Bill 7 – rights enjoyed by every other person and group in society.

Canada is a signatory to the U.N. Convention on the Rights of Persons with Disabilities. Human rights do not come with an expiry date because the disabled person is over 65. Rights under the Convention include the right to choose where one lives and with whom and not to be arbitrarily deprived of that right, and to receive services and supports in the community to promote their inclusion.

The Disability Rights Coalition and the Dalhousie Legal Clinic have already successfully brought a human rights case in Nova Scotia where that government was found to have systemically discriminated against people with disabilities by depriving them of reasonable accommodation in denying necessary community supports and services to prevent their unjustifiable institutionalization. Must this precedent now be re-adjudicated in Ontario?

Seniors for Social Action Ontario is asking that the Commission formally issue a public statement concerning the Ontario government’s Bill 7, and its human rights implications.

Seniors for Social Action Ontario is also, again, asking that the Commission conduct a public inquiry into the mass institutionalization of older adults and persons with disabilities in this province.

Please take these actions. People with disabilities of all ages – young and old - are in jeopardy now. Older adults and people with disabilities are losing the rights enjoyed by every other citizen now. And over 70,000 of them are currently excluded from their communities and segregated in institutions that continue to be out of compliance with legislated requirements. In a civilized society this should not be allowed to continue.

We need the help of the Ontario Human Rights Commission. Please act.

Yours truly,

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