

Ageism: it is real and it is wrong

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The Law Commission of Ontario has put forward a plan to combat discrimination against the elderly, such as these residents at a Quebec seniors home. Ryan Remiorz/CP

The term ageism makes politicians, bureaucrats and lawyers uncomfortable.

Some think it's a fabricated word designed to give legitimacy to the complaints of an aggrieved minority. Others admit discrimination against the elderly exists, but they don't know how to define it, measure it or codify it in law.

They didn't like sexism or racism either, but driven by public pressure they developed laws and guidelines that could be applied.

Now the Law Commission of Ontario is attempting to do the same for ageism: turn it into an injustice that can be recognized, documented and remedied.

Last week it published a draft report designed to help lawmakers identify and take action against policies and practices that discriminate on the basis of age. Until November, it will hold public consultations for the next three months to make sure nothing is missing or misconceived. A final draft will be released in early 2012.

“With the aging of Canada’s population, it is increasingly important that we have sound legal and policy approaches to issues affecting older Canadians,” said Patricia Hughes, executive director of the provincial advisory agency. “While pioneering work has been done in this area, there has not yet been a comprehensive, coherent and principled approach developed for this area of the law.”

The carefully researched policy paper won’t win over skeptics. But it will address the concern that ageism is too amorphous to be judged or prevented.

It begins by pointing out both Canada’s Charter of Rights and the Ontario Human Rights Code explicitly prohibit age-based discrimination. It then shows the gap between the legislation and the reality: Caregivers routinely assume seniors can’t make their own decisions. Policymakers don’t bother to consult them on issues affecting them. Health-care and social service providers withhold supports to which are entitled. People patronize them, ignore them or exclude them the life of the community.

To move toward equality for older Canadians, the commission says, all laws should reflect these principles:

- Respect for the dignity of the individual.
- The presumption of ability, not disability.
- The right to be included in community affairs.
- Freedom from abuse or exploitation.

For laws already on the books, it offers policymakers a series of tests to apply: Are they rooted in stereotypes or shaped by unfair assumptions? Are they based on outdated medical knowledge or societal perceptions? Do they contain age-based eligibility criteria that ignore an individual’s actual ability? Do they authorize public officials to take away the autonomy of older adults without their input or consent? Do they sideswipe older people while attempting to accomplish other purposes?

If so they need to be amended or replaced.

Where new laws are required, it proposes a rigorous research, drafting and implementation process. First use the best medical and sociological information available. Given the dearth of data in this field, seek out the views of seniors themselves. They know what works and what doesn’t.

Second, recognize the differing needs and experiences of Canadians. Women, for instance, live longer than men and left financial matters to their husbands; aboriginal people are scarred by residential schools and historic prejudices; rural residents lack access to supports and services; aging gays and lesbians re-encounter barriers they thought they had toppled; and most members of racialized communities have never known equality.

Third, ask why there is a need to treat older adults differently from the rest of the population. If not, don't proceed. If there is, isolate the problem and develop a targeted solution.

Fourth, ensure that those implementing the law are properly trained and capable of explaining how the rules will change. Telling older people to go to a website for details, for instance, is not helpful. Neither is giving them hand-outs they can't read (for reasons of language or literacy).

The commission recognizes that the province is financially constrained. It suggests that the legal reforms be put in place progressively, but the guiding principles be followed now.

Ageism is real, it says. It can't be ignored or wished away. It must become intolerable and illegal.

Carol Goar's column appears Monday, Wednesday and Friday.