

THE LAW'S RESPONSE TO AN AGING POPULATION

**Remarks of the Right Honourable Beverley McLachlin, P.C.
Chief Justice of Canada**

World Elder Abuse Awareness Day 2008

**Ottawa, Ontario
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It is an honour to be here today to speak on the occasion of World Elder Abuse Awareness Day. C'est un honneur pour moi de prendre la parole devant vous aujourd'hui à l'occasion de la Journée internationale de sensibilisation aux abus envers les aînés. Older people make up an increasing segment of our society. My focus today is the law's response to our aging population. The law alone cannot solve the problems of an aging population, or solve the problem of elder abuse. Government, non-governmental organizations, and the community must also respond to ensure our society treats older citizens fairly and compassionately. But the law is an essential piece of the puzzle.

INTRODUCTION: DEFINING THE PROBLEM

To put the matter in focus let me ask you to reflect with me on some of the calls for assistance that a lawyer might receive from an elder.

FINAL AS DELIVERED

The phone rings in a lawyer's office. A woman in her 80s is on the line, clearly distraught. A few months ago, the woman had a mild stroke that involved some memory impairment. Now, she has recovered, only to find that a family member who holds power of attorney has sold her house and put her in a nursing home. "I don't want to be here," says the woman. "What can I do?"

A 70-year-old man wants to take action against his former employer, who let him go because of his age. "I want to work", he says. "Can you help me?"

Une femme âgée, devenue vulnérable en raison de problèmes de santé physique et mentale, souhaite déshériter son fils, qui la visite rarement, et lui substituer un bénévole attentionné qui lui apporte ses repas à la maison. « Je désire faire un nouveau testament », dit-elle, « voudriez-vous le rédiger? »

More and more, lawyers can expect to field calls like these, as waves of baby boomers enter their senior years. And all of us, as family members, friends, and ourselves as we age, are likely to encounter similar issues.

The statistics are staggering. In 2006, for the first time in Canada's history, the number of seniors, aged 65 years and over, surpassed the 4-million mark.¹ This is nearly four times as many

¹ Statistics Canada, *Portrait of the Canadian Population in 2006, by Age and Sex, 2006 Census* (Ottawa: Statistics Canada, 2007), online: Statistics Canada <<http://www12.statcan.ca/english/census06/analysis/agesex/pdf/97-551-XIE2006001.pdf>>.

seniors as in the 1956 census,² and an increase of almost 12 percent over the previous five years.³ The 65-and-over population now makes up a record 13.7 percent of our total population.⁴ This means that one out of every seven Canadians is presently a senior citizen. The 2006 Census also enumerated more than 1.1 million aged 80 years and over; a 25 percent increase since 2001.⁵ Canada's older population will only get larger. If current trends continue, a low fertility rate and an increase in life expectancy will mean that by 2031, more than one quarter of the entire Canadian population will be over 65.⁶

The changes occurring in Canada are part of a larger worldwide phenomenon. The United Nations has referred to this trend as “unprecedented, a process without parallel in the history of humanity.”⁷ It declared 1999 the International Year of Older Persons, with the purpose of fostering international awareness of the importance of the senior's role in society and the need for intergenerational respect and support. More recently, the *Political Declaration and Madrid International Plan of Action on Ageing* adopted at the Second World Assembly on Ageing in April 2002 marked a turning point in how the world addresses the key challenge of building a society for

² 1956 was the first quinquennial census.

³ Statistics Canada, *Portrait of the Canadian Population in 2006, by Age and Sex, 2006 Census* (Ottawa: Statistics Canada, 2007), online: Statistics Canada <<http://www12.statcan.ca/english/census06/analysis/agesex/pdf/97-551-XIE2006001.pdf>>.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Statistics Canada “Population Projections” *The Daily* (December 15, 2005), online: Statistics Canada <<http://www.statcan.ca/Daily/English/051215/d051215b.htm>>.

⁷ Department of Economic and Social Affairs – Population Division, *World Population Ageing 2007* (New York: United Nations, 2007) at xxvi, online: United Nations <<http://www.un.org/esa/population/publications/WPA2007/wpp2007.htm>>.

all ages.⁸ It represents the first time governments have adopted a comprehensive approach linking questions of ageing to other frameworks for social and economic development and human rights, most notably those agreed to at the United Nations conferences and summits of the 1990s.

The surge of attention that the ageing of our population is provoking, is an acknowledgment of the fact that its impacts will be profound, with major consequences and implications for all facets of life. La vague d'intérêt que soulève le vieillissement de notre population témoigne des répercussions profondes et importantes que ce phénomène aura sur toutes les facettes de la vie. Sur le plan financier, le vieillissement de la population aura une incidence sur la croissance économique, l'épargne, l'investissement, la consommation, le marché du travail, les pensions, la fiscalité et les transferts intergénérationnels. In the social sphere, population ageing influences family composition and living arrangements, housing demand, migration trends, epidemiology and the need for health care services. In the political arena, population ageing may shape voting patterns and political representation.

Today, as you might expect, my focus will be on the impact of Canada's aging population on the law and vice versa. First, how will the law work to protect and assist the aging and the aged? Comment le droit permettra-t-il de protéger et d'assister la population vieillissante et les personnes âgées? Second, how will the legal profession, the mediator of legal change, respond the special challenges presented by this emerging demographic phenomenon? Comment la profession juridique,

⁸ Second World Assembly on Ageing, *Report of the Second World Assembly on Ageing*, Doc. A/CONF.197/9 (Madrid: 8-12 April 2002), online: United Nations <<http://daccessdds.un.org/doc/UNDOC/GEN/N02/397/51/PDF/N0239751.pdf?OpenElement>>.

qui agit comme médiateur de l'évolution du droit, relèvera-t-elle les défis particuliers posés par ce phénomène démographique nouveau? In the next few minutes, I will offer tentative thoughts on these difficult questions – questions that we all will be forced to face head on in the years to come.

HOW WILL THE LAW WORK TO PROTECT AND ASSIST THE AGING POPULATION?

Most Canadians would agree that every person in our society, regardless of age, is entitled to three things: to live with dignity; to live in security; and to live as an autonomous human being. These values are enshrined in our constitution and reflected in the complex matrix of our social laws and practices. Not every person in fact enjoys dignity, security and autonomy. But to the extent they do not, we tend to regard this as failure to achieve what we should.

The law has a vital role to play in ensuring that people, as they age, continue to live in dignity, security and autonomy. As people age, their dignity, security and autonomy, taken for granted in youth, may be threatened, by discrimination, by abuse, and by difficulty in accessing basic care and services. The three values of dignity, security and autonomy thus find their counterparts in three needs: the need to be protected from discrimination; the need to be protected from abuse; and the need to receive appropriate care and services. In the next few minutes, I want to focus on how the law can help ensure that these needs are met.

But before doing so, it's important to ensure that we clear away the remnants of stereotypical thinking that might otherwise cloud our view of the needs and rights of the older segment of the population.

Our society has a tendency to think of elderly people as less vital and less important than younger people. They've had their day. Their life-forces are waning. They're on the way out. Pick your cliché, and then examine the attitudes that underlie it. We live in a society that prizes youth. Our newspapers, magazines and television screens brandish the culture of youth. We all want to be young and will do virtually anything to stay young, or to try to stay young. The message is that youth is good; age is not so good. The elderly are human beings, yes, but diminished human beings. L'âgisme — attitude qui consiste à percevoir les aînés de façon négative, c'est-à-dire comme des personnes dépendantes, vulnérables et incapables de prendre les décisions les concernant ou de contribuer utilement à la collectivité — est un phénomène omniprésent dans notre société. Cette attitude est non seulement injustifiée sur le plan moral, mais également erronée sur le plan juridique. Elle n'est pas non plus inévitable; en effet, de nombreuses cultures ont de tout temps vénéré et respecté les personnes âgées.

It is important to understand that ageism is our particular cultural default zone. First, understanding this helps to explain some of the wrongs that are committed against the aged and aging that I will be discussing. Second, even if we are among the majority who would never consciously do wrong to an old person, the cultural warp in favour of youth may lead us astray. Unless we acknowledge our society's cultural bias for youth, and guard against the stereotypes and

prejudices it induces, it may unconsciously skew our view of the moral and legal entitlements of the aging population. We must constantly remind ourselves that the elderly are worthy human beings endowed with the full measure of human dignity, for however long they may live and in whatever state they may find themselves.

Against this background, let me return to the three needs – dare I say entitlements? – of the elderly that I referred to earlier. The first special need that arises as we age is connected to the fundamental value of human dignity: it is protection from discrimination. The cultural bias of our society in favour of youth, fosters conscious and unconscious discrimination against the elderly. Discrimination, under Canadian law, is an adverse distinction made on the basis of age that denies the full human dignity of a person. Because of a person's age they don't get something, or get to do something, that others get or get to do. Or, because of their age, they are asked to bear a burden that others are not. The *Charter of Rights and Freedoms* and provincial human rights codes protect people against distinctions of this sort when they constitute a denial of human dignity and are not shown to be justified by a greater public good – something difficult in respect of a measure that treats one person as less worthy than another.

Discrimination against elders may take many forms. I am not giving a judgment today and my list should not be taken as a prediction of how courts will view a particular situation. Suffice it to say that claims for age-based discrimination may arise in many contexts – in the employment context, with respect to mandatory retirement rules; in the driving context, with respect to age-based licence restrictions; and in the social services context, with respect to equal access to care and

treatment, to mention only three. Some of these matters have already been before the courts. For example, in 1990, the Supreme Court of Canada upheld the constitutionality of mandatory retirement rules in the public sector, on the ground that this was justified in order to permit younger people to enter the work force.⁹ But with the change in demographics, the greater need may be for older people to *stay* in the work force. I cannot predict how the law will respond, but it seems unlikely that the matter will not be revisited, not least by legislatures concerned to encourage older people to stay in the work force as long as they are willing and able to contribute to Canada's economy and productivity.

The second need that may become acute as we age, is connected to the fundamental value of security: it is the need to be protected from abuse. In 2002, the World Health Organization defined abuse and neglect of older adults as “single or repeated acts, or lack of appropriate action, occurring within a relationship where there is an expectation of trust, which causes harm or distress to an older person.” It will be apparent that elder abuse is related to elder discrimination – it is the extreme manifestation of discriminatory attitudes that deny the human dignity of aging people.

Like other forms of abuse in our society, elder abuse may be expressed in physical, emotional or financial abuse, the restriction or denial of rights, and active or passive neglect. Because of a higher incidence of disabilities, poor health, and financial and emotional dependency, seniors are particularly vulnerable to abuse and exploitation. Sadly, elder abuse is a fact of life and thus constitutes a central concern of elder law.

⁹ *McKinney v. University of Guelph*, [1990] 3 S.C.R. 229; *Harrison v. University of British Columbia*, [1990] 3 S.C.R. 451; *Stoffman v. Vancouver General Hospital*, [1990] 3 S.C.R. 483.

Providing accurate, current information on the prevalence of elder abuse is a challenge, due to lack of research and lack of consensus on what constitutes abuse. On the best information available, between 4 percent and 7 per cent of Canadian seniors have suffered some form of physical, emotional or financial abuse or neglect. However, as is the case with any abuse, it is often a hidden problem that many feel uncomfortable reporting. It is therefore likely that the reported cases represent only the tip of the iceberg.

Il est évident toutefois que les abus envers les aînés peuvent avoir des effets dévastateurs. Ils peuvent causer des problèmes de santé mentale et physique, provoquer des dépressions ou même conduire au suicide. Ces abus ont de lourdes conséquences sur notre structure sociale et sur nos systèmes de santé et de justice.

Our criminal justice system provides a partial solution. Abuse of another is in many cases a crime, for example physical or sexual assault, threats, theft, fraud, or misappropriation of funds by a person in a position of trust. Yet, there is often a marked lack of interest in advancing or protecting the rights of the elderly, due to the stereotypes of ageism. If this apathy can be surmounted, difficulties in gathering evidence and proving the instances of abuse beyond a reasonable doubt may intervene. In a recent case before the Supreme Court of Canada, *R. v. Khelawon*, five elderly residents of a retirement home told various people that they had been assaulted by the manager of the home. By the time of trial, two and a half years later, four of the complainants had died, and the fifth was no longer competent to testify. The Supreme Court upheld the acquittal of the defendant

on the basis that the hearsay statements provided by the complainants could not safely be received in evidence.

Even where prosecution is a realistic possibility, some question its utility as a response to elder abuse. The Manitoba Law Reform Commission found that while the *Criminal Code* may be a powerful weapon against abuse, it is too blunt an instrument to be effective. The criminal law does not always address the complexities of intimate relationships. Given that in 90 percent of abuse cases the perpetrators are spouses or relatives, a victim may avoid initiating prosecution because of fear of rejection by other family members, loss of care, or being left alone. The intimacy of the abuser-victim relationship and the accommodation of abusive behaviour over time may obscure the criminality of the conduct, and physical retaliation against a complaining elder is a real possibility. Similar problems beset the pursuit of civil remedies. Often, the elderly are hampered in their access to the legal system because they do not recognize their rights, or are unable to navigate the impediments the legal culture has placed between them and justice.

What then can the law do to remedy elder abuse? First, it can attempt to minimize the barriers to criminal and civil prosecution, as was done a few decades ago in the case of child abuse. Changes in the law and education — which I will speak of in greater detail in a moment, may alleviate barriers. Second, lawyers and jurists can work with others to inform the public about the prevalence and illegality of elder abuse. Our society once swept child abuse under the rug. It must not permit the same thing to happen in the case of elder abuse. The abuse of a vulnerable person is a moral and legal wrong, whatever the age of the victim.

The third need of growing numbers of older people is connected with the values of independence and autonomy. It refers to the need for appropriate care and services. Elderly people, like all of us, require a suitable home, good medical care, transportation and access to shopping and entertainment. The front line on these issues lies with government and various professionals. Yet the law has a role to play. Lawyers and courts may be called upon to pursue claims that the needs of older people are not being met, in breach of legislation or the constitution.¹⁰ Elder cases will form an increasingly high component of disability law cases. The Supreme Court of Canada decision in *Eldridge*¹¹, held that a province must provide the services of an interpreter for the deaf so that they can access medical treatment in the same way as non-disabled people. While the plaintiffs in *Eldridge* were young, the same principle may apply to people who, because of age-related disabilities, find themselves unable to fully access the medical system.

Let me summarize. Different stages of life are characterized by different needs. The last stage of life is no exception. Among the needs that are critical at this stage are the need to be protected from discrimination, the need to be protected from abuse, and the need for appropriate care and services. The law can play a vital role in meeting these needs. Permettez-moi de résumer. Les besoins des gens diffèrent selon les périodes de la vie. La dernière étape de la vie ne fait pas exception. Parmi les besoins qui sont cruciaux à ce stade, il y a le besoin de protection contre la discrimination, le besoin de protection contre les abus et le besoin de soins et de services appropriés. Le droit peut jouer un rôle essentiel à cet égard. Cela m'amène à la prochaine question : Que peut

¹⁰ See *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791, 2005 SCC 35.

¹¹ *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624.

faire la profession juridique pour faire en sorte que le droit relève ce défi? This brings me to the next question: how can the legal profession ensure the law meets this challenge?

HOW CAN THE LEGAL PROFESSION MEET THE CHALLENGE OF ELDER LAW?

More and more, as they respond to the needs that I have outlined, lawyers will find themselves practising what is referred to as elder law. How can the legal profession best respond to the special challenges presented by our rapidly aging population?

The first thing the profession can do, in my opinion, is to recognize the importance of elder law and the unique challenges it poses to those who practice it. These challenges suggest that there may be merit in recognizing elder law as a specialty worthy of special study and support.

Other countries are already doing this. In the United States, the notion of elder law has firmly taken root since the introduction in 1965 of *The Older Americans Act*¹². It is currently one of the fastest-growing areas of law. Approximately 25 state bar associations now include elder law sections or committees, which are engaged in a variety of tasks including information-sharing and support for members, education and training of the legal community, consumer education and advocacy. The National Academy of Elder Attorneys, started in 1988, now boasts more than 5,000 members.

¹² *The Public Health and Welfare, Programs for Older Americans*, U.S.C. Title 42, chapter 35 (1965). The Act led to the creation of a network of legal services for older adults to monitor the actions of the state, local and federal agencies as they administered programs designed to benefit older adults. As a result, the American elder law literature has tended to focus not on relationships, but more on older adults as recipients of program benefits.

In Canada, the term “elder law” may not yet be familiar, but that is changing, thanks to the efforts of organizations such as the Advocacy Centre for the Elderly, the Canadian Centre for Elder Law Studies, and the Canadian Bar Association which recognized elder law as a new practice area and created, in 2002, the national elder law section.

What is elder law? In its broadest form, elder law refers both to a loosely defined group of legal issues and to a unique multidisciplinary approach that recognizes the connections among the legal, social and health needs of older persons and their families. Its practice includes providing advice on a range of questions, including: the preparation of wills and powers of attorney; the rights of nursing home residents and quality of long-term care; elder abuse and exploitation; age and disability discrimination in employment and housing; divorce, marriage and common law unions; health care directives; estate planning; probate applications; personal and property guardianship applications; capacity issues; human rights and agedness issues; adult protection legislation; and financial abuse. Elder law, like family law, is not a narrow specialty. Yet like family law, it will benefit from specialization and the in-depth understanding and competence this promotes.

The practice of elder law is demanding. Elder law lawyers are expected to bring to their practice more than just legal expertise. In order to properly serve their clients’ interests, they must understand how to counsel older people, understand the ageing process, and be familiar with the network of ageing services available to meet their clients’ needs. D’abord et avant tout, ces avocats doivent être capables de résoudre les questions juridiques et éthiques particulières qui sont susceptibles de se poser lorsqu’ils représentent des aînés.

One such issue is the problem of family intervention. A lawyer owes a duty of complete loyalty to her client, to the exclusion of all others. This duty may be challenged when family members become involved in the legal concerns of the older person. The lawyer must avoid taking instructions from, or giving advice to, these family members, and ensure that her client's intentions are truly her own. This may require meeting with the client alone and probing into her instructions, especially if there is any indication that the client may be in a vulnerable position or open to undue influence. That is not to say the family should never be involved. But if so, the lawyer must be satisfied that what the family member says his mother or father wants, is truly what they desire.

A related issue concerns the client's mental capacity. Cognitive decline affects many seniors. Often it is a slow and gradual process. In the early stages, people can successfully manage their affairs and instruct a lawyer. But as the decline progresses, clients may begin to lose their reasoning and memory skills. Eventually, they may reach a stage where they are no longer competent to give instructions. Lawyers practising elder law need to be particularly aware of the red flags that may signal a lack of competence, such as relatives insisting on being present to clarify your client's wishes, contradictory statements from one visit to the next, and requests for things that are inappropriate or impossible.

In addition to dealing with the special problems inherent in elder law, lawyers in this practice may find it necessary to adapt the way they practice, to the reality of their clients' lives. For example, hospital calls, currently viewed by many lawyers as exceptional, may become an integral part of elder law practice. To take another example, elder law lawyers may find it necessary to

coordinate their work with that of other professionals to a degree uncommon in other areas of practice, working closely with doctors, social workers, and care providers to help their clients live as well and as independently as possible.

The special challenges of practising elder law argue in favour of specialized study and practice. Against this, however, the Law Commission of Canada in 1999 worried that a separate area of law and legal practice for the elderly may inadvertently promote the pernicious belief that older persons are less capable, less deserving of respect, and less needful of independence and autonomy.¹³ Accepting this concern, it seems to me that if elder law is founded on the inclusionary value of respect for the full humanity of those with special needs, it can have the opposite effect. It can help reverse ageist stereotypes rather than perpetuating them, while better meeting the special needs of the aging.¹⁴

The second thing lawyers can do to ensure that the profession meets the needs of the elderly is to promote and assist in drafting legislation to palliate some of the disadvantages that may come the way of the aging and aged. The age of retirement is largely in the hands of individual employers, Parliament and the legislatures; as the law stands presently, mandatory retirement is permissible but not required. Other forms of discrimination against the elderly – from impediments to transport, to barriers to equal access, to social and medical services – may similarly be amenable to alleviation through legislation and regulation. Several jurisdictions in Canada have already enacted legislation

¹³ Marie Beaulieu & Charmaine Spencer, *Older Adult's Personal Relationships and the Law in Canada: Legal, Psycho-social and Ethical Aspects* (Ottawa: Law Commission of Canada, 1999) at 14.

¹⁴ *Ibid.*

to protect older adults who are victims of physical or sexual abuse, mental cruelty or inadequate care or attention, and to better coordinate legal, health and social service interventions. Detractors call this a “child welfare model” and complain that it fails to respect the independence of older adults and will inevitably infantilise them. While this is a danger, again I am not so pessimistic. We have a strong record in Canada of assisting people where they need special assistance, while maintaining their independence and human dignity to the greatest extent possible.

A third way in which the legal profession can ensure that it is meeting the needs of the senior sector of the population is by educating the public and the elderly population itself, on the rights of the elderly and the appropriateness of seeking legal redress for the wrongs that have been done to them.

I earlier spoke of the culture of youth that dominates our society and of the social stereotype of older people as less worthy than their younger peers. Lawyers and judges, in their work and in their dealings with the public, should take care that their acts and words send the opposite message – the message that all human beings are inherently worthy and possessed of human dignity, the elderly no less than others.

Educating our elders in their rights is also important. Il est également important d’informer les aînés de leurs droits. Many baby boomers now entering senior ranks may be fully attuned to the fact that they possess legal rights, and fully aware of how to assert those rights. However, many older seniors are the products of an era that pre-dated individual rights and freedoms. The generation

that lived through the Great Depression and the Second World War grew up with an ethos of self-sufficiency and personal responsibility.¹⁵ Many elders have led their lives without contemplating the notion that they may have personal rights that may be asserted and protected by the legal system. Indeed, they may view the need to have recourse to the law as a mark of personal failure.¹⁶ Yet they should not, for that reason, be denied the protection of the law.

Yet another factor impeding access to justice for the elderly may be a view of the law as foreign and inaccessible. Exercising their legal rights may mean being confronted by a confusing legalistic culture with its own formalities and language.¹⁷ The lawyer may speak of issues and in terms which the elderly client finds hard to understand. This can interfere with the free flow of information and the ability of the elderly individual to clearly tell their story, state their needs and understand the counsel that the lawyer may provide.

Once the consultation has taken place, a sensitive lawyer can alleviate many of the elder person's concerns. But what of those in need of legal services who never consult a lawyer about their problems because of ignorance, fear and anxiety? The answer it seems to me, lies in public information and education — information that sends the message that the law is there to assist and protect our society's senior citizens.

¹⁵ Marie Beaulieu & Charmaine Spencer, *Older Adult's Personal Relationships and the Law in Canada: Legal, Psycho-social and Ethical Aspects* (Ottawa: Law Commission of Canada, 1999) at 22.

¹⁶ Marie Beaulieu & Charmaine Spencer, *Older Adult's Personal Relationships and the Law in Canada: Legal, Psycho-social and Ethical Aspects* (Ottawa: Law Commission of Canada, 1999) at 29.

¹⁷ Steven Keith Berenson, "Can We Talk: Impediments to Intergenerational Communication and Practice in Law School Elder Law Clinics" (1998) 6(2) *Elder L. J.* 185 at 194-8.

A number of such initiatives have already been introduced at the community, provincial and federal levels. In Ontario, the Advocacy Centre for the Elderly, a legal clinic funded by Legal Aid Ontario, provides a range of legal services, including telephone advice and information, representation before courts and tribunals, public legal education services, community development projects, and law reform activities, to low-income seniors. The Canadian Centre for Elder Law Studies, which is sponsoring this conference, provides important research, law reform and education relating to legal issues of interest to older adults. The Canadian Bar Association elder law section offers an opportunity to engage in informed dialogue on case law and legislation affecting this emerging area of practice. Finally, the idea emerging in some provinces of “hubs”, where citizens can come to learn where they can go to solve their particular legal problem, may well prove to be of great assistance to the elderly.

I return to the question I posed earlier: how will the legal profession meet the challenge of elder law? The answer, I have suggested, lies in professionalizing and deepening the study and practice of elder law; in promoting necessary legislative change; and in communication and education efforts to reduce the barriers that impede understanding and access by the elderly to the legal system. If profession does these things, it will go a long way to ensuring that it meets the legal needs of our aging population and that the rights of this important segment of our population are fully protected.

CONCLUSION

Allow me to conclude. Every person, regardless of age, is entitled to live in dignity, free from discrimination and abuse. Every person, regardless of age, is entitled to live in security. And every person, regardless of age, is entitled to make their own choices and to remain autonomous and independent to the maximum degree possible. Chacun – indépendamment de son âge – a le droit de vivre dans la dignité et de ne pas être victime de discrimination et d’abus. Chacun – indépendamment de son âge – a le droit de vivre en sécurité. Enfin, chacun – indépendamment de son âge – a le droit de faire ses propres choix et de conserver le plus grand degré possible d’autonomie et d’indépendance. The law has an important role to play in ensuring that the fundamental principles of dignity, security and autonomy are translated into the reality of the lives of our elder citizens.

In embracing this task, let us take courage from the words of Betty Friedan, who, having helped to spur the women’s revolution, turned next to the situation of elders. Friedman wrote: “Ageing is not ‘lost youth’ but a new stage of opportunity and strength.”¹⁸

Our elders will not be able to realize the opportunities that this special phase of life presents, nor will they be capable of pursuing those opportunities with strength, without the aid of the law. It is our responsibility to ensure that the law will be there when they need it. Il nous incombe donc de faire en sorte que le droit leur vienne en aide lorsqu’ils auront besoin d’y recourir.

Merci de votre attention. Thank you for your attention.

¹⁸ Betty Friedan, “How to Live Longer, Better, Wiser” *Parade Magazine* (20 Mar 1994) 4.