

“WHY I COULD NOT SLEEP”
OR
WHERE HAS JUSTICE
GONE?



UN Open-Ended Working Group on
Ageing

4th Session – August 2013

Panel 4:

Discrimination and Access to Work

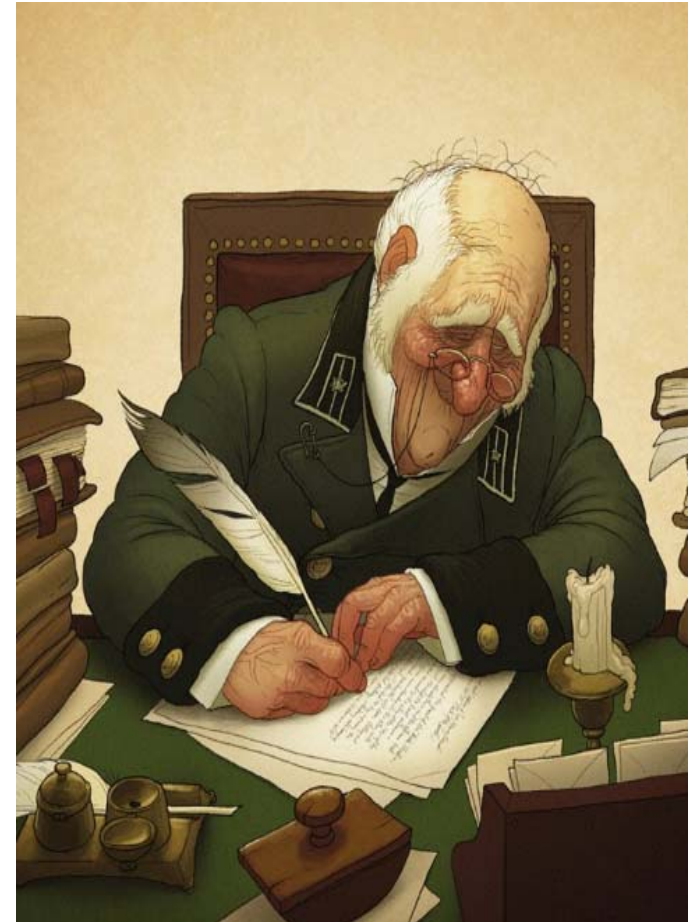
Prof. Israel (Issi) Doron

Head of the Department of Gerontology

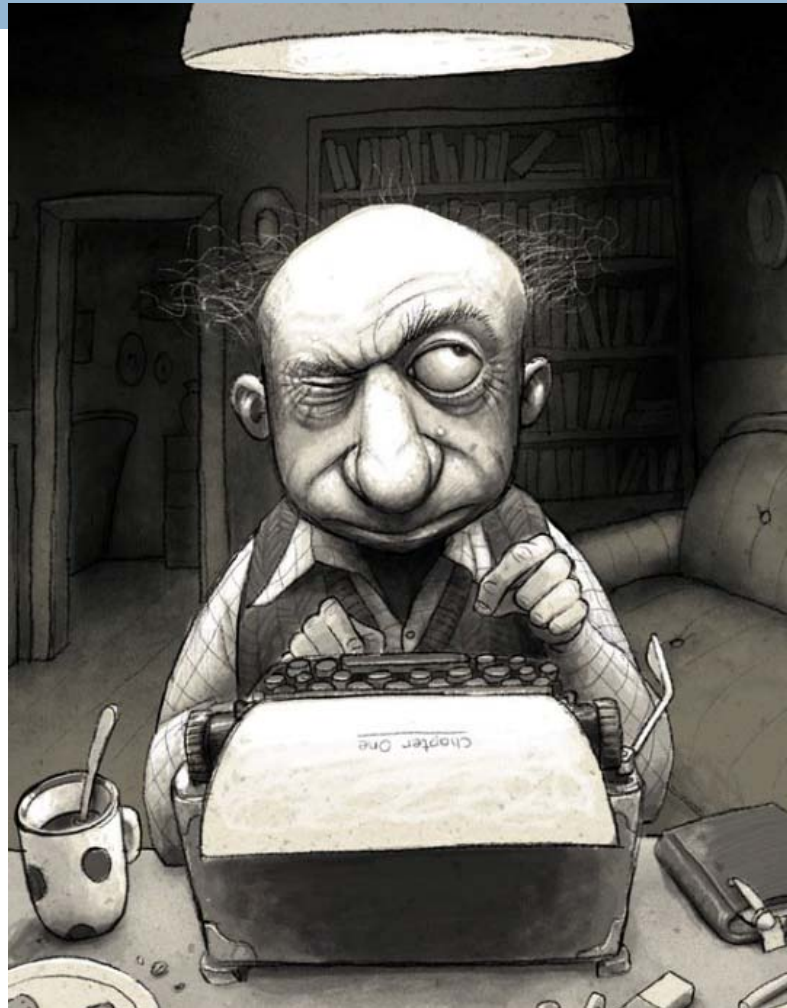
University of Haifa, Haifa, ISRAEL

Every body is talking about a ? what

- Apologies
 - ▣ My English
- My thank you
 - ▣ UNDESA People
 - ▣ Israel MoFA
 - ▣ LSE Israel
- My personal bias
- Why I didn't get any sleep:
SOME THING IS MISSING
- In this presentation I would like to try an answer this question.



Preliminary note 1: Introductory Quiz

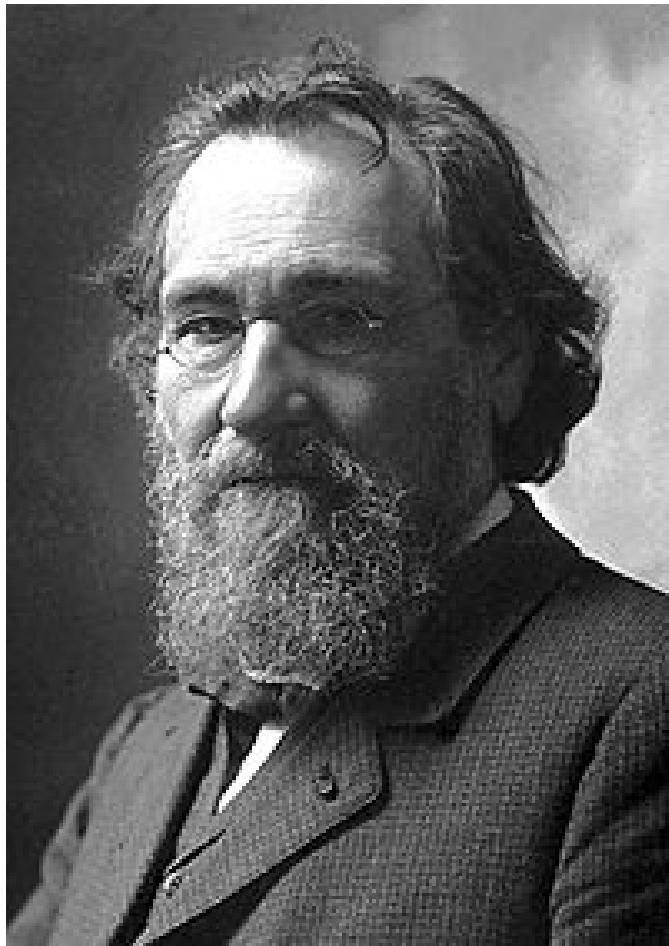


Question 1: Who is this?



- Clue? . .
- This is: GERAS
- One of the bad spirits made by the goddess of night – NYX (who was the opposite of the goddess of youth HEBE)
- How is he characterized

Intro - Question 2: Who is this?



- Clue?
- This is Ilya Ilyich Mechnikov;
- Russian biologist; Nobel Prize recipient of 1908;
- He coined the term “gerontology” 1903;

Intro - Question 3: Who is this?




- Clue?
- Dr. Robert Butler
- The first to coin the term Ageism in 1969

Last Question: What is common to ALL existing binding UN HR conventions?



- “**Age**” does not appear as one of the unique categories of anti-discrimination;
- No mention of “ageism”
- You need to “construct” or “interpret” the text in order to apply human rights to older persons

What can we learn at this preliminary stage?



- While the concept of “ageism” is relatively new, the Invisibility of older persons and their negative stereotypicalization - is old and is deeply rooted in human history and society.

Preliminary note 2: Is there a “need” for a new HR convention?




The “Normative” Need?

- I believe we are beyond this question.
- Ample evidence has been submitted and provided regarding the “normative” need for a convention.
- 3 Examples:
 - ▣ *UN Expert Group on Rights of Older Persons* (Bonn: UN 2009).
 - ▣ *HelpAge International Briefing Paper* (1st OEWG) (2011)
 - ▣ Fredvang, M., & Biggs, S. (2012). *The Rights of Older Persons: Protection and Gaps Under Human Rights Law*. Melbourne, AU: The Centre for Public Policy (4th OEWG).

The Empirical Need?


- In recent year, ample empirical data has been collected and published in support of the need for a convention:
- 3 Examples:
 - ▣ Agewell Foundation: *Study on Perceptions towards Human Rights of Older Persons* (Submitted to the 4th OEWG: 2013);
 - ▣ *Fact or Fiction? Stereotypes of Older Australians – Research Report*. Sydney, AU: Australian Human Rights Commission.
 - ▣ Doron, I. **(in press)** *Older Europeans and the European Court of Justice. Age & Ageing;*

What can we learn from this preliminary stage?



- I would assert that as of today, there is sufficient evidence, both normative and empirical, to support a clear and convincing argument that there is a real – and urgent – need for a new ICROP.
- I would like to further argue that declarations which claim that “there is not enough evidence” or that “there is only an implimentation gap” - are not based on evidence but serve as text which hides, in my view, a clear sub-text. But what is this sub-text – this is what I was looking for and could not get to sleep.....

my key point. what is missing?
Why didn't I have sleep?? I think I
found it:



**SOCIAL
JUSTICE**

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OK

Open-ended Working Group on Ageing
Second working session
New York, 1-4 August 2011

Report of the Open-ended Working Group on Ageing

Rapporteur: Léo Faber (Luxembourg)

I. Organization of the session

A. Opening and duration of the session

1. The Open-ended Working Group on Ageing held its second working session, consisting of seven meetings, at United Nations Headquarters from 1 to 4 August 2011.
2. The session was opened by the Chair of the Working Group, Jorge Argüello

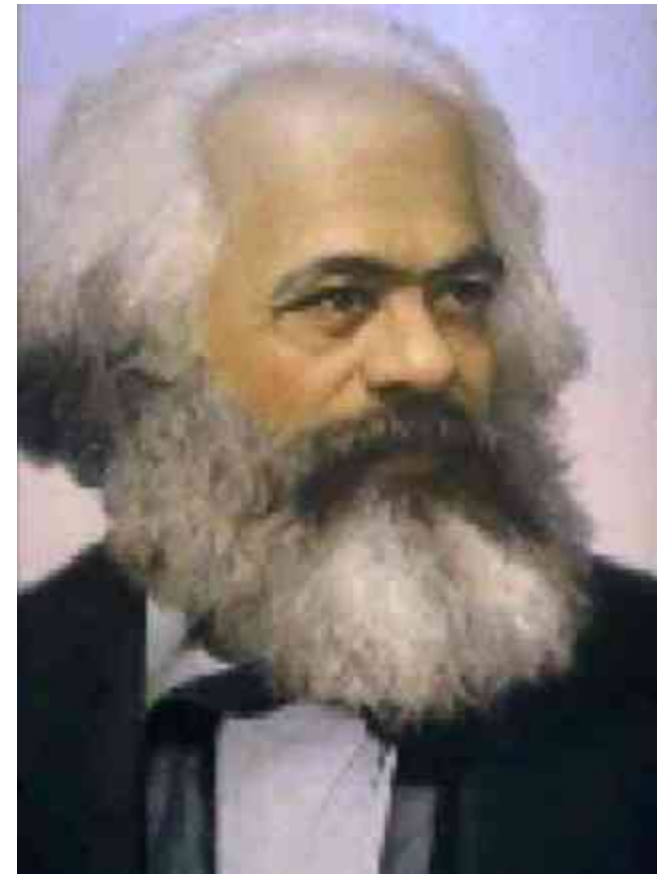
iviy argument. SOCIAL JUSTICE IS a Crucial Element for the OEWG and the ICROP



- The “classical” political discussion around “social justice”: distribution
- The “alternative” political discussion around “social justice”: recognition
 - ▣ **From Redistribution to Recognition?
Dilemmas of Justice in a
“Postsocialist” Age.** Justice Interruptus. Routledge 1997;

Part 1: The distinction between “different” kinds of injustice

- *Prof. Fraser distinguishes between two different kinds of social injustices:*
- *The first is the “**Socio-Economic**” ***injustice****
- *Examples are:*
- **Exploitation** (having the fruits of one’s labour appropriated for the benefit of others).
- **Marginalisation** (being confined to undesirable or poorly paid work or being denied access to income-generating labour altogether),
- **Deprivation** (being denied an adequate material standard of living).



Part 1 – cont.: The Second Kind of Injustice

- *The second type of injustice is **cultural or symbolic**.*
- Here injustice is rooted in social patterns of representation, interpretation, and communication.
- *Examples include:*
- **Cultural domination** (being subjected to patterns of interpretation and communication that are associated with another culture and are alien and/or hostile to one's own);
- **Nonrecognition** (being rendered invisible by means of the authoritative representational, communicative, and interpretative practices of one's culture);
- *Humiliation & Disrespect* (being routinely maligned or

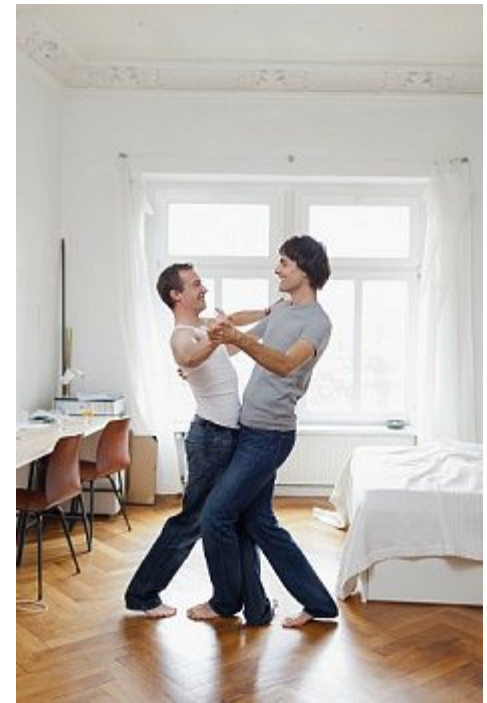
Part 2: The Different Kinds of Social Collectivities

- Prof. Fraser now moves from the injustice spectrum to the social collectivities spectrum
- On the socio-economic injustice side one can find **“Exploited Collectives”**
- The classic example: The Working Class
- The body of persons in a capitalist society who must sell their labour power under arrangements that authorise the capitalist class to appropriate surplus productivity for its



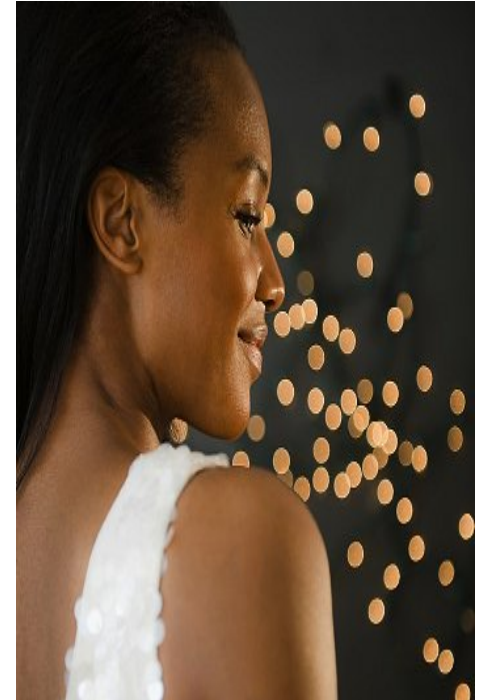
Part 2 – cont.: Despised Collectives

- As opposed to “exploited collectivities” there are **Despised Collectivities**.
- The sources of this status stems not from economic distribution , but rather from cultural misrecognition
 - ▣ Example: Homosexuals. Their mode of collectivity is that of a despised sexuality, rooted in the cultural-valuational structure of society. From this perspective, the injustice they suffer is quintessentially a matter of recognition.



Part 2 – cont.: On Bivalent Collectivities

- While some groups are “exploited” and other are “despised” some social groups are subject to both kinds of injustice. They are the “Bivalent Collectivities”.
- They are differentiated as collectivities by virtue of *both* the political-economic structure *and* the cultural-valuational structure of society.
- Examples: Gender
 - Gender structures the fundamental division between paid “productive” labour and unpaid “reproductive” and domestic labour, assigning women primary responsibility for the latter.
 - A major feature of gender injustice is androcentrism: the authoritative construction of



Part 3: The Question of “Remedy”

- Prof. Fraser moves now and distinguishes between two broad approaches to remedying injustice that cut across the redistribution-recognition divide.
- ***Affirmation:***
 - Affirmative remedies for injustice mean remedies aimed at correcting inequitable outcomes of social arrangements without disturbing the underlying framework that generates them.
- ***Transformation:***
 - transformative remedies, in contrast, mean remedies aimed at correcting inequitable outcomes precisely by



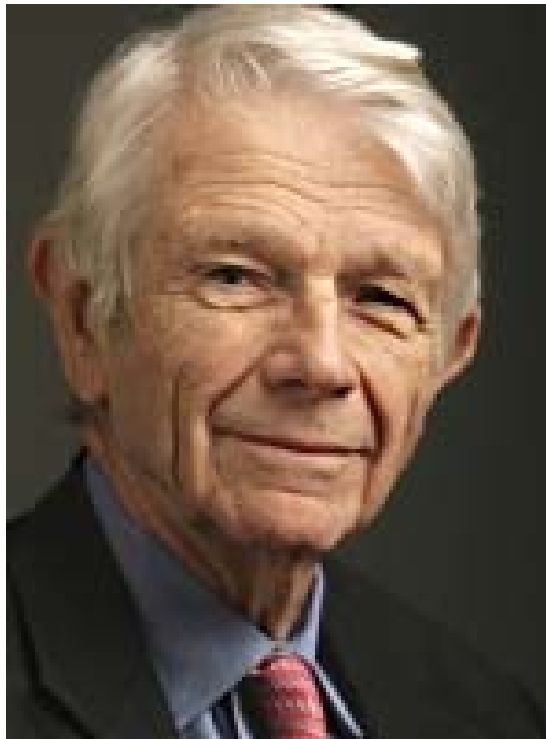
So, where is all this going: Applying Fraser's Model on Older Persons



- Are older persons subject to socio economic injustice ?
- I would like to argue: Yes.
 - ▣ Currently, over half of older people worldwide - 342 million - lack income security and, unless action is taken to improve the situation, it is estimated that, by 2050, more than 1.2 billion older people will be without access to secure incomes (UNDESA, 2007).

Do older persons suffer from recognition injustice?

- Are older persons subject to cultural or symbolic injustice?
- Once again, I would argue: Yes.



- Ageism can be seen as a process of systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish this for skin color and gender. Old people are categorized as senile, rigid in thought and manner, old-fashioned in morality and skills [...]
Ageism allows the younger generations to see older people as different from themselves, thus they subtly cease to identify with their elders as human beings

THE CERTAINTY OF AGEISM. THE Cultural and Symbolic Recognition Injustice

- Ageism – the humiliation of the “elder identity” - is a key material element of any future ICROP:
 - ▣ It is unique to older persons;
 - ▣ It is universal and exists in all societies;
 - ▣ It is manifested in all fields of life;
 - ▣ It is rooted in culture;
 - ▣ It is internalized by older persons;
 - ▣ It will not “vanish” by itself.



The Consequences of Ageism – Empirical Evidence:

- **Health services**
 - **Medical treatments**
- **Social Services**
 - **Guardianship**
- **Economy**
 - **Invisibility of contribution**
- **Intergenerational relationships**
 - **“Burden” on adult children**
- **The arts**
 - **Ageist advertisements/movies**
- **....everywhere....**

Is there ageism in oncology?

(PMID:12669497)

[Abstract](#) [Citations](#) [BioEntities](#) [Related Articles](#)

Austin D, Russell EM

Department of Public Health, Medical School, University of Aberdeen.

Scottish Medical Journal [2003, 48(1):17-20]

Type: Journal Article, Research Support, Non-U.S. Gov't

Abstract

[Highlight Terms](#)

[Diseases\(3\)](#)

OBJECTIVE: To use routine data to explore age-related decision making in the hospital management of colorectal cancer.

DESIGN: Retrospective analysis of linked Scottish cancer registry and hospital discharge data for colorectal cancer.

SETTING: All Scottish general hospitals.

PARTICIPANTS: All patients on the Scottish colorectal cancer registry 1992-6 (n = 15,299).

MAIN RESULTS: Histological verification was used to indicate the "gold standard" of investigation. Definitive surgery and chemotherapy were used as indicators of treatment received. After adjusting for demographic factors, tumour sub-site, co-morbidity and route of first admission, increasing age was associated with markedly decreased rates of histological verification, surgery and chemotherapy. It is still not possible to be sure whether there is ageism in the management of older patients with colorectal cancer. However, the rate of histological verification fell markedly with increasing age, making it questionable whether decisions to treat were based on best clinical practice at the time. Differences observed between this study and clinical trial data may represent the margin of ageism between everyday clinical practice and controlled conditions.

CONCLUSIONS: The value of this analysis lies in the fact that the data come from routine clinical practice rather than special studies. The improved content of Scottish cancer register and the ability to link it to hospital care provides a useful baseline for monitoring adherence to clinical guidelines.

Ageism and the Implication of Discrimination in Employment

- There is ample empirical evidence of a reality of age discrimination in employment:

- The ESS Survey: (Van den Heuvel, W. J., & Van Santvoort, M. M. (2011). Experienced discrimination amongst European Old Citizens. *European Journal of Ageing*, 8, 291-299.

לוח 2: שיעור מחפשי העבודה, שחשו אפליה מצד מעסיקים בתהליך חיפוש

עבודה, לפי אוכלוסיות, באחוזים מהקבוצה

הרקע לתחושת האפליה	באחוזים מהאוכלוסיה
נשים	19.7
אימהות לילדים עד גיל 6	16.7
מבוגרים מעל גיל 45	48.0
ערבים	29.0
חרדים ודתיים	11.5
מחפשי עבודה ממוצא מזרחי	6.1
עולים מבריה"מ לשעבר מ-1990 ואילך	3.2
משרתים במילואים	0.0
הרגשת אפליה לפחות באחת מהסיבות	
מכלל מחפשי העבודה	36.6

מקור: סקר מיוחד, מינהל מחקר וכלכלה, משרד התמי"ת

Connecting theory to the reality

- It is clear that older persons are a **“bivalent group”** :
- They are subject to re-distributional injustice;
- But even more importantly, they are subject to cultural injustice.
- This means they need remedies both on the re-distribution and the recognition fields of justice.



Back to my original question: What is missing????

- I would argue that what is missing today is not only social justice, but the “Transformation” element of the remedy;
- The problem today in the field of rights of older persons is not “enforceability gap”, or “implementation gap”, or “legal construction gap”.
- I would argue that the key problem today is that there is a “SOCIAL JUSTICE GAP”



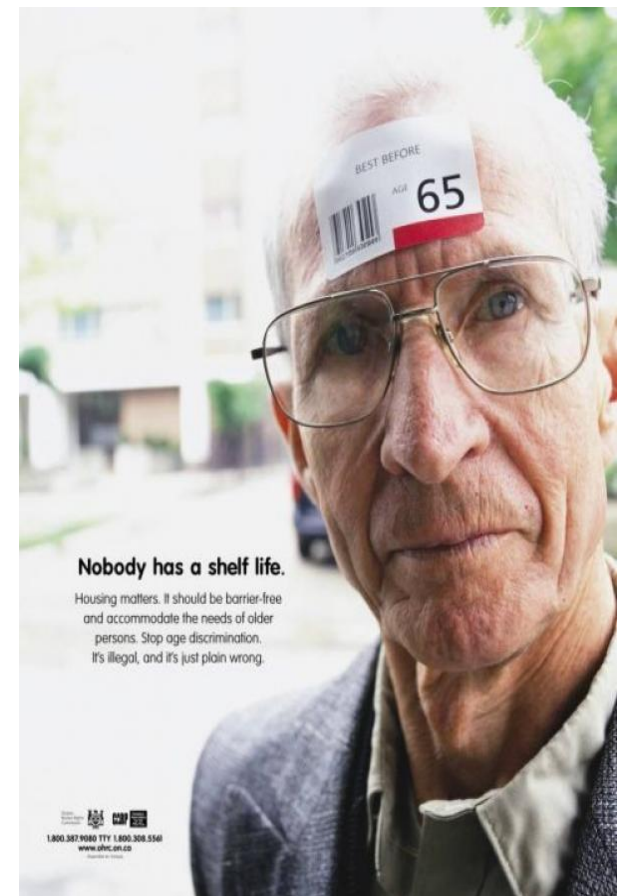
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- If we really care for older persons we need to start thinking in terms of adopting a social-justice, political-identity discourse that addresses the needs of older persons for cultural-identity social justice.
- Understanding this point reveals why MIPAA is insufficient: from a social justice perspective – MIPAA does not transform our social construction of old age. On the contrary: it allows governments to affirm their existing ignorance to the symbolic injustice older persons experience on their daily lives.
- In the specific context of this panel - the best anti-age discrimination employment laws will not succeed in changing reality if we do not change the “social mind set” about aging and about older persons.

Final Thoughts

- The roots of “Human Rights” are embedded in the search for “Justice” – in general, and “Social Justice” – in specific.
- Older persons, world wide, are now demanding social justice: not only on socio-economic, but more importantly, cultural and symbolic.
- As long as there is no ICROP – older persons will not enjoy social justice.
- Hence, the true goal of this OEWG meeting, in my view, is to “re-connect” the fundamental understanding that human rights are about social justice; and social justice for older persons is about having a specific and unique HR



Thank you very much.
Prof. Israel (Issi) Doron

