

October 31st, 2017

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Subject: Claim of Recognition and Notice of Understanding: drivers licenses, vehicle licenses, renewals and age-triggered testing, Ontario and gross violations of Health Care Consent Act

1. It is the State Party's position that I am an officer of Canada (resident), an incorporated inhabitant, and a subject of Her Majesty. As a result of your Party's actions in designating me a class of persons without my knowledge or consent, and subsequently seeking to apply your corporate acts, regulations and rules against me without justification, your State Party has engaged in multiple gross violations of my fundamental human rights. Its persistent threats to interfere with my life, liberty, security of person, means of subsistence, travel and movement and privacy, as well as my right to freely dispose of my wealth and resources for my own ends, continue through a combination of enactments entitled *Canada Transportation Act, 1996 (CTA)* and the *Highway Traffic Act, 1990 (HTA)*, even though I am a competent, law-biding private-person carrier.
2. It is your State Party's position that private/natural person operators of non-commercial personal motor vehicles can be designated into arbitrary 'homogenous' classes of 'carriers' by the federal Minister of Transport, then subjected to arbitrary and unjustified provincial regulations under the *HTA*, and violations of the *Health Care Consent Act* and the *Privacy Act*.

3. It is my position that the State Party has engaged in repeated prima facie acts of discrimination, defamation, forced disposition of monies/servitude, violations of my right to life, liberty and security of person and acts aimed at the destruction of my fundamental rights and freedoms. Despite undertaking legal obligations to refrain from doing so, the State Party players, including the Courts, have systematically and unlawfully converted my fundamental rights as enumerated in the *International Covenant on Civil and Political Rights (ICCPR)* and the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* to 'privileges'. It has failed to investigate violations and to provide effective remedy. The privatization actions of the State Party have allowed service providers to reduce my life to that of 'mere' 'commodity'.

4. I understand that I have the right to designation as a 'class of person' and equally, a right to refuse to be classed a 'subject of Her Majesty', or a 'driver for the purposes of government enactments'. My official statement to this effect is on record with the Registrar General, Ministry of Government and Consumer Services, Toronto, Ontario. A right does not impose any obligation on me, and cannot be limited by the State Party in the absence of a pressing and substantial concern to ensure I do no harm to another. Therefore, I have an inalienable right to refuse the role of a juridical personality, in this case subject, motor vehicle driver, senior driver, carrier, and whatever other designations the State Party has forced on me as an operation of law aimed at the extraction of my wealth and resources and forced into fraudulent 'cognitive testing'.

Universal Declaration of Human Rights (UDHR)

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

International Covenant on Civil and Political Rights (ICCPR)

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Constitution Act, 1982

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:
(d) freedom of association.

15.(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Thomson Newspapers Ltd v. Canada at pg. 1004:

*'...**everyone has the right to life, liberty and security of person**' serves to underline the human element involved; **only human beings can enjoy these rights**. 'Everyone' then, must be read in light of the rest of the section and defined to exclude corporations and other artificial entities incapable of enjoying life, liberty or security of the person and **include only human beings**.'*

5. It is my understanding that everyone whose State Party has signed the legally-binding *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* in 1976, have the natural right to do anything that does not coercively harm others and the natural right to be free from coercive harm, without being forced to pay to exercise their rights.

Universal Declaration of Human Rights (UDHR)

Preamble

Whereas recognition of the **inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,**

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which **human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,**

International Covenant on Civil and Political Rights (ICCPR)

Preamble

Recognizing that **these rights derive from the inherent dignity of the human person,**

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free **human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created** whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Article 2.2

Where not already provided for by existing legislative or other measures, **each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.**

Article 5

1. **Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation** to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Preamble

Recognizing that these **rights derive from the inherent dignity of the human person,**

Recognizing that, **in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.**

Constitution Act, 1982 and Canadian Charter of Rights and Freedoms

1. The Canadian Charter of Rights and Freedoms **guarantees** the rights and freedoms set out in it **subject only to such reasonable limits prescribed by law as can be demonstrably justified** in a free and democratic society.

Fundamental freedoms

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination.....

Other rights and freedoms not affected by Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Legislative powers not extended

31. Nothing in this Charter extends the legislative powers of any body or authority.

32. (1) This Charter applies

(a) **to the Parliament and government of Canada** in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) **to the legislatures and governments of each province** in respect of all matters within the authority of the legislature of each province.

52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1999 (DRR)

Article 2

1. Each State has a **prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms**, inter alia , by adopting such steps as may be necessary **to create all conditions necessary** in the social, economic, political and other fields, as well as the legal guarantees required **to ensure that all persons** under its jurisdiction, individually and in association with others, **are able to enjoy all those rights and freedoms in practice**.

2. Each State **shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed**.

Article 19

Nothing in the present Declaration **shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and** freedoms referred to in the present Declaration.

6. It is my understanding that in the absence of evidence that I pose a serious risk of harm to others when I operate my personal motor vehicle, I have the right to be free from arbitrary State Party interference in my life, coercion, constructive possession of my vehicle and the forced disposition of my monies and time, other than that required to prove I can drive safely. I have the right to the protection of the *Health Care Consent Act*.

Universal Declaration of Human Rights (UDHR)

Article 4

No one shall be held in slavery or **servitude**; slavery and the slave trade shall be prohibited in all their forms.

International Covenant on Civil and Political Rights (ICCPR) and
International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 3

The States Parties to the present Covenant undertake to **ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights** set forth in the present Covenant.

International Covenant on Civil and Political Rights (ICCPR)

Article 8

2. **No one shall be held in servitude**.

BLACK'S LAW, various editions -- DEFINITION of ARBITRARY:

- Without adequate determining principle
- Not rational
- Absolute in power
- Not based in Common Law
- Not found in nature of things (Common Law)

7. I understand that there is no provision of any international law to which Canada is a signatory that considers incorporating me into a class of persons to create profiteering opportunities for multi-national corporations, a remotely acceptable incursion into my life. It is my understanding that violations of a Canadian's rights and freedoms by proxy is not lawful action. **The common law principle that ignorance of the law is not a defence** is specifically set out in s. 81 of the *Provincial Offences Act, R.S.O. 1990* which governs regulatory trials and proceedings in Ontario. It **applies equally to State Party players**, such as the Minister of Transportation of Ontario who is presently engaging in the destruction of rights and freedoms by proxy. (Bonnie and Allen Dobbs, Serco and DriveABLE) and the Minister of Health who has failed to intervene to stop medical doctors from acting as contractors for the Ministry of Transport to often secretly 'cognitive test' seniors without their knowledge or consent.
8. It is my understanding that all Ministers, as members of the Executive Council of the State Party, have a **legal obligation to justify their actions** (*ICCPR Article 5*). It has been pointed out for several years to the State Party by myself and other individuals that its representatives are repeatedly violating human rights.

Zingre v. The Queen et al., [1981] 2 SCR 392 (Supreme Court of Canada)

"Thus, ministers, agencies and administrative tribunals would have to be able to justify their actions by pointing to specific legislative authority in the same way that any citizen would have to be prepared to show that his or her acts were lawful. It is a recognized principle of international customary law that a state may not invoke the provisions of its internal law as justification for its failure to perform its international obligations."

9. It is my understanding that training in the observance and protection of individual human rights was not provided to Ministry of Transportation of Ontario administrators or enforcers as required by Canada's International law obligations. The same 'officers' of the State Party that failed to teach me my fundamental human rights are the same 'officers' responsible for creating the rules and regulations that violate individual rights. In fact, it is clear that the singular objective of the Ministry of Transportation of Ontario is to enforce compliance with the *HTA* without a single mention of the superiority of the *Constitution Act, 1982*.

Universal Declaration of Human Rights (UDHR)

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

International Covenant on Civil and Political Rights (ICCPR)

Article 15: State has the legal responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible to enforce enactments are educated.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 13

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (DRR)

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

10. Your State Party is presuming that the enactments titled the *Canada Transportation Act, 1996 (CTA)* and the *Highway Traffic Act of Ontario (HTA)* conform to international law and by default respect the rights and freedoms enumerated in those laws.

R v. HAPE

Since it is a well-established principle of statutory interpretation that legislation will be presumed to conform to international law, in interpreting the scope of application of the Charter, a court should seek to ensure compliance with Canada's binding obligations under international law where the express words are capable of supporting such a construction. Perhaps this presumption is what permits some Courts to minimize the protections the Charter was to in fact protect.

(53) One final general principle bears on the resolution of the legal issues in this appeal. It is a well-established principle of statutory interpretation that legislation will be presumed to conform to

international law. *The presumption of conformity is based on the rule of judicial policy that, as a matter of law, courts will strive to avoid constructions of domestic law pursuant to which the state would be in violation of its international obligations.*

Nemeth v. Canada (Justice), 2010 SCC 56, [2010] 3 S.C.R. 281

340 I also accept, of course, that, where possible, statutes should be interpreted in a way which makes their provisions consistent with Canada's international treaty obligations and principles of international law. As LeBel J. noted in R. v. Hape, 2007 SCC 26, [2007] 2 S.C.R. 292, at para. 53, it is presumed that the legislature acts in compliance with Canada's obligations as a signatory of international treaties and as a member of the international community as well as in conformity with the values and principles of customary and conventional international law:

11. The State Party's presumption that these statutory instruments conform to international law is incorrect. The fact of the matter is that in truth, the definition of 'carrier' in the CTA and sections 31(a) 5(a), 5(d), 7.02(1), 31(5)(b) and s.14 of the Regulations 340/94, of the HTA, as well as s. 10 of *Municipal Act, 2001* Regulation 333/07, violate several of my fundamental rights and freedoms contrary to the principles of justice.

Canada Transportation Act, 1996

carrier means a person who is engaged in the transport of goods or passengers by any means of transport under the legislative authority of Parliament;

Divito v. Canada (Public Safety and Emergency Preparedness), 2013 SCC 47, [2.0131 3 S.C.R. 157

22 – Canada's international obligations and relevant principles of international law are also instructive in defining the right: *Slaight Communications Inc. v. Davidson, [1989] 1 S.C.R. 1038; United States v. Burns, 2001 SCC 7, [2,00] 1 S.C.R. 283; Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General), 2004 SCC 4, [2004] 1 S.C.R. 76; R. v. Hape, 2007 SCC 26, [2007] 2 S.C.R. 292. In Reference re Public Service Employee Relations Act (Alta.), [1987] 1 S.C.R. 313, Dickson C.J., dissenting, described the template for considering the international legal context as follows: The content of Canada's international human rights is, in my view an important indicia of the meaning of "the full benefit of the Charter's protection" I believe that the Charter should generally be presumed to provide protection at least as great as that afforded by similar provisions in international human rights documents which Canada has ratified. [p. 349]*

12. It is my understanding that the *Constitution Act, 1867* clearly enumerates that the federal Parliament of Canada can make laws in regards to **Trade and Commerce**, and that the provincial legislature can make regulations respecting **licensing as a means of raising revenue for the corporate Province** (not for multinational corporations) and **to regulate Civil and Property** matters within its borders. **The stated purpose for HTA licensing scheme therefore is to raise revenue, not to regulate transportation and carriers. Its other purpose is to ensure personal protection of other users of the highway system.**

Constitution Act, 1867-1982

Legislative Authority of Parliament of Canada

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, **to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces**; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

2. **The Regulation of Trade and Commerce.**

EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

9. Shop, Saloon, Tavern, Auctioneer, **and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.**

13. **Property and Civil Rights in the Province.**

13. It is my understanding that after the signing of the ICCPR and the ICESCR in 1976, no private-person / natural person could be forced to participate in such revenue-generating schemes, nor could they be forced to accept interference with their private property, such as their private motor vehicle, once proven safe.

International Covenant on Social and Political Rights

Article 1

2. **All peoples may, for their own ends, freely dispose of their natural wealth and resources** without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Article 9

1. **Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty** except on such grounds and in accordance with such procedure as are established by law.

14. It is my understanding that the State Party's Parliament has enacted the CTA to regulate Trade and Commerce **specifically for the purpose of 'transportation' of goods and persons for economic (commercial) growth throughout the territory.** It does not directly contain any provisions that allow for the regulation of private non-commercial drivers and non-commercial vehicles.

Canada Transportation Act, 1996 (CTA)

Application generally

3 This Act **applies in respect of transportation matters** under the legislative authority of Parliament.

National Transportation Policy

5 It is declared that a **competitive, economic and efficient national transportation system** that meets the highest practicable safety and security standards and contributes to a sustainable environment and makes the best use of all modes of transportation at the lowest total cost **is essential to** serve the needs of its users, **advance the well-being of Canadians and enable competitiveness and economic growth in both urban and rural areas throughout Canada**. Those objectives are most likely to be achieved when

(a) **competition and market forces, both within and among the various modes of transportation, are the prime agents in providing viable and effective transportation services;**

(b) **regulation and strategic public intervention** are used to achieve economic, safety, security, environmental or social outcomes that cannot be achieved satisfactorily by competition and market forces and **do not unduly favour, or reduce the inherent advantages of, any particular mode of transportation;**

(c) rates and conditions do not constitute an undue obstacle to the movement of traffic within Canada or to the export of goods from Canada;

(d) **the transportation system is accessible without undue obstacle to the mobility of persons, including persons with disabilities;** and

Interpretation

6 In this Act,

carrier means **a person who is engaged in the transport of goods or passengers by any means of transport** under the legislative authority of Parliament; (transporteur)

goods includes rolling stock and mail;

Motor Vehicle Safety Act, 1993 (Canada)

passenger car means a **vehicle having a designated seating capacity of 10 or less, but does not include** an all-terrain vehicle, a competition vehicle, a low-speed vehicle, a multi-purpose passenger vehicle, an antique reproduction vehicle, **a motorcycle, a truck, a trailer**, a vehicle imported temporarily for special purposes or a three-wheeled vehicle; (voiture de tourisme)

vehicle means **any vehicle that is capable of being driven or drawn on roads by any means other than muscular power exclusively**, but does not include any vehicle designed to run exclusively on rails.

Black's Law Dictionary Definitions

'transport' vb. **To carry or convey (a thing) from one place to another.**

'Transportation' The **removal of goods or persons** from one place to another, **by a carrier.**

15. It is clear that every driver, no matter the means of transport he/she uses, is subject to the CTA since 1996 and is designated a 'carrier'. It is my position that the State Party failed to protect the fundamental right of human beings on its territory that existed long prior to the enactment of the CTA, and which included the right to travel in their private passenger vehicles. **The State Party failed to ensure that the definition of 'carrier' specifically excluded non-commercial private drivers as long as the private-person / natural person proved competent to drive the vehicle. The legal meaning of 'transportation' in combination with the broad definition of the term 'carrier' has been relied upon by the province to generate revenue, originally for the province, but now for multinational profiteers.**

Professor Ruth Sullivan, in *Sullivan and Dreidger on the Construction of Statutes*, Fourth Edition, (Markham and Vancouver: Butterworths Canada Ltd., 2002)

Professor Sullivan discusses the "central problem" of determining what is a vested (or accrued) right (at p. 570):

*"The Court must decide **whether the particular interest or expectation for which protection is being sought is sufficiently important to be recognized as a right and sufficiently defined and in the control of the claimant to be recognized as vested or accrued.***

*Some vested rights are easily recognized. Property rights, contractual rights, and rights to damages or other common law remedies are well established categories. So are defences and immunities from suit [footnote omitted]. **For the most part, these are "private law" rights with a respectable common law pedigree; their importance is taken for granted. Moreover, it usually is possible to identify a specific point at which these rights arise and can be said to "belong" to a claimant....***

16. The *Constitution Act 1867* clearly states that **licensing by the provinces is to be for the purpose of generating revenue for the province and not for regulation of transportation for trade and commerce purposes, which is the sole purview of the Parliament of Canada.** Yet, Ontario is regulating private non-commercial carriers and requiring private vehicle registration also for the stated purpose of meeting Ontario's **transportation** needs, which includes the regulation of highway traffic for **economic reasons**. This would naturally include 'globalization reasons'.

Ontario Ministry of Transportation website, August 30th, 2017

The Ministry of Transportation strives to be a world leader in **moving people and goods safely, efficiently and sustainably to support a globally competitive economy** and a high quality of life.

Ontario's regulations respecting 'transportation' can be found in the *Highway Traffic Act*. This act deals with vehicle licensing and classification, traffic offences, the administration of loads and **other transport-related issues**.

17. In fact, the province of Ontario has inserted itself into federal jurisdiction, renamed carriers 'drivers' and subjected private-persons to the *Highway Traffic Act of Ontario, 1990* purporting **to promote a global economic agenda**, which the natural/private person cannot lawfully be forced to participate in. **The 'safety' of the public is clearly incidental to the true objectives of the Ministry--economic development and revenue generation for multi-national service providers**, neither goal of which is binding on the private-person/natural person.
18. The mechanical safety of all means of transport, including motor vehicles, is clearly a responsibility of the federal government under the *CTA* and thus claims that provincial vehicle registration is required to ensure 'mechanical safety' of privately-owned vehicles is deliberate misrepresentation. **Provincial vehicle permits** are not remotely associated to safety, but are a means of revenue-generation, an activity a private-person/natural person is free to not participate in pursuant to *ICCPR Articles 1.2, 8.2 and 9*. In addition, police officers are not mechanics.
19. The provincial licensing and permitting schemes, therefore, are not rationally connected to one of the stated purposes of the *HTA* -- safety of the vehicle, economic development of the corporation, civil rights or property rights. The province does not meet the test for reasonableness and justification in *R. v. Oakes*. It's means however, are connected solely to the raising of revenue for the province and now for multi-national service providers that have full control of driver licenses and examination centres. The government is to be providing such services at cost, yet the profit that privatization has created for multi-nationals is obscene and under normal circumstances would be deemed 'taxation' (Financial Administration Act s 19(2)).
20. The provincial licensing and permitting schemes do not accommodate those carriers who, once they have proven themselves competent to drive and their vehicle safe, choose not to dispose of their monies annually for driver license renewal and vehicle permit renewals by exercising their rights under *ICCPR Articles 1.2 and 22 and ICESCR Article 8*. Instead, the State Party takes actions aimed directly at the destruction of those rights, forcing association with ethically bankrupt for-profit corporations, disposal of wealth and resources and by taking constructive possession of motor vehicles.
21. It is my position that particularly s. 31(5)(b) and Regulation 340/94(s. 14) of the *HTA* have **no important purpose**, since there is no 'pressing and substantial' issue of public safety when the vast majority of carriers are driving competently, safely and abiding by rules-of-the-road. With the reliance of the State Party on privatization of services, every excuse for incursion is now permitted under the umbrella of 'driving is a privilege'. To have the privilege conferred requires me to submit to financial, psychological and mental abuse of State Party providers, as well as a waiving of all rights and freedoms.

22. It is my position that the 'objectives' of s. 31(5)(b) and regulation 340/94 (s.14) of the *HTA* are exceptionally objectionable, vague, overbroad, are illogical and without merit, and have no justification, since accidents rates have decreased substantially over the decades despite the fact that hundreds of thousands of drivers are driving without driver's licenses and the *HTA* is targeting the safest of drivers. Ever-expanding, forced-designations of 'classes of drivers' provide for unlimited discrimination against millions of innocent drivers.
23. It is my understanding that no one can be held criminally responsible for violating any statute that violates human rights or fails to provide a measure the people can use to protect those rights. **There must exist proven and substantial justification to impose limitations on freedoms in order to 'protect the public'**. Moreover, no sanction on a motorist can be imposed without incorporating the *Criminal Code* safeguards that require justification for the deprivation of basic rights under the *Charter* and International Law.

R. v. Eldorado Nuclear Ltd.; R. v. Uranium Canada Ltd., [1983] 2 SCR 551, 1983 CanLII 34 (SCC)

"Where the only source of the unlawfulness is a statute, however, the analysis is entirely different. Reference to a statute is necessary for criminal responsibility in Canada, apart from contempt of court, because s. 8 of the Criminal Code precludes any conviction for an offence at common law. If a person commits an act prohibited by statute, and the Attorney General seeks to prosecute for violation of that statute, the preliminary question that must be asked is whether that person is bound by the statute. If not, the person simply does not commit a violation of the statute. The situation is not that the person is immune from prosecution even though there has been an unlawful act; rather, that there has been no unlawful act under the statute."

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24. I have a right, pursuant to *ICCPR Article 22* (guaranteed by the *Constitution*) to associate with the State Party and its contractors, thereby agreeing to be subjected to its enactments, **or to remain free of such designation and association altogether.** Without my consent or knowledge, the State Party has sold off my right to my control of my life, to exercise my freedoms and liberties as I so choose, and to render non-existent my security of person, even after I have proven competency to drive my vehicle.

International Covenant on Civil and Political Rights

Article 22

1. **Everyone shall have the right to freedom of association with others,** including the right to form and join trade unions for the protection of his interests.

Canadian Charter of Rights and Freedoms

Fundamental freedoms

2. Everyone has the following fundamental freedoms:

(d) freedom of association.

25. It is my understanding that there is no constitutional provision or operation of human rights law that authorizes the State Party to force men and women who own and use a motor vehicle for their own personal use to obtain a vehicle registration permit under the penalty of law. One's motor vehicle is their personal property and they have a right to own it alone, without interference, as long as they have insurance coverage when driving on a highway. However, once forced to register such a possession, it becomes controlled by the State Party and the legitimate owner has only qualified use; that qualification attached to paying annual fees that do not benefit the carrier/driver and which violate international law...and which bears no association to 'safety'.

Universal Declaration of Human Rights (UDHR)

Article 17

1. **Everyone has the right to own property alone** as well as in association with others.
2. **No one shall be arbitrarily deprived of his property.**

International Covenant on Economic, Social and Cultural Rights

Article 1

2. **All peoples may, for their own ends, freely dispose of their natural wealth and resources** without prejudice to any obligations arising out of international economic co-operation, based upon the principle

of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Highway Traffic Act, 1990

Suspension or cancellation of licence or permit

1 (2) Where in this Act the Minister, a provincial judge, a justice of the peace or other official is authorized or directed to suspend or cancel the licence or permit of any person, and the person is the holder of both a licence and a permit issued under this Act, every such authority extends to both licence and permit and every such direction may in the discretion of the Minister, provincial judge, justice of the peace or other official be made to apply to both licence and permit.

(9) Validation of a permit may be refused where the permit holder is indebted to the Minister of Finance in respect of a vehicle-related fee or tax or in respect of a penalty imposed under this Act.

Property of the Crown

12 (2) Every number plate is the property of the Crown and shall be returned to the Ministry when required by the Ministry.

Ahenakew v. Mackay, 2003 CanLII 7266 (ON SC)

“Further, if a political party chooses to register under the Act, it is acknowledged in law and it becomes entitled to certain benefits and to regulation under the Act. This regulation extended to matters of substance, and one of the consequences of registration was that the assets of the party acquired a public dimension, and in some circumstances must be paid over to the Receiver General.”

Black’s Law Dictionary, 9th edition

‘**license**’, 1. A permission, usu. revocable, to commit some act that would otherwise be unlawful; esp., an agreement (not amounting to a lease or profit aprendre) that it is lawful for the licensee to enter the licensor’s land to do some act that would otherwise be illegal, such as hunting game. See SERVITUDE (1). 2. The certificate or document evidencing such permission.

‘**record**’ To deposit (an original or authentic official copy of a document) with an authority.

‘**register**’ 1. To enter in a public registry. 2. To enroll formally. To make a record of.

‘**legal servitude**’ Civil law. A limitation that the law imposes on the use of an estate for the benefit of the general public or of a particular person or persons.

Black’s Law Dictionary, 5th Edition

‘**Right**’: With respect to the ownership of external objects of property, rights may be classed as absolute and qualified. An absolute right gives to the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only.

VIOLATIONS OF SECTIONS 7, 8, 9 AND 11 OF CHARTER

26. It is my understanding that I have a right to my life, my liberty and the security of my person. Any actions taken by State Party players aimed at harming my life and/or my physical and psychological health once I have proven competency to drive, through actions that limit my mobility and travelling, thereby creating fear and want, are forbidden by law. Such rights are protected under s.7 of the *Charter*. Section 26 of the *Constitution Act, 1982* does not deny the rights enumerated in the *ICCPR* and *ICESCR* on the subject of fear and want. The courts have explained the meaning of 'security of person' as a term that refers to physical and psychological well being.

International Covenant on Civil and Political Rights (ICCPR) and
International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 6

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 9

1. ***Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.***

27. If one's life is shortened as a consequence of arbitrary State Party actions, such as suspension of one's driver's license for refusing to undergo or failing a discredited, discriminatory, age-based 'cognitive impairment' test, then certainly the right to life (a full life) is violated and should be protected by s.7 of the *Charter* and if not s.7 then s. 26.

Government of Canada, National Seniors Council 60-page 'Report on the Social Isolation of Seniors, 2013-2014' Pages 7-9:

- ***Furthermore, there is a substantial amount of evidence that describes the relationship between health and social isolation. A senior's social network can positively influence good health behaviours such as successful smoking cessation or remaining active.***
- ***Conversely, socially isolated seniors are more at risk of negative health behaviours including drinking, smoking, being sedentary and not eating well; have a higher likelihood of falls; and, have a four-to-five times greater risk of hospitalization. Research also indicates that social isolation is a predictor of mortality from coronary heart disease/stroke.***
- ***Social isolation also affects the psychological and cognitive health of seniors. It is associated with higher levels of depression and suicide.***

28. Likewise, the Courts have explained the meaning of ‘liberty’ as regards the right to drive one’s motor vehicle and this right should be denied **only if one proves** incompetent or dangerous. One Court notes that **independence matters**—it can be **inherently personal**. Therefore, regardless that the courts seem inconsistent on where in the *Charter* a right should be protected (whether s. 7, s. 8 or another section) it must nonetheless be protected to preserve life.

R. v. Robson (1985), 1985 CanLII 108 (BC CA), 19 C.C.C. (3d) 137 (B.C.C.A.)

"Liberty" under the Charter cannot be taken to create an absolute right to drive. Age, infirmity and other impediments may restrict the granting of drivers' licences. However, once the licence is granted there becomes attached to it the general liberty to employ one's skill and ability — in this case the ability to drive. Accordingly, such liberty constitutes a right under the Charter and a person cannot be deprived of it except in accordance with the principles of fundamental justice."

R. v. Clay, [2003] 3 SCR 735, 2003 SCC 75 (CanLII)

"The liberty right within s. 7 of the Charter touches the core of what it means to be an autonomous human being blessed with dignity and independence in matters that can properly be characterized as fundamentally or inherently personal."

Horsefield v. Ontario (Registrar of Motor Vehicles), 1997 CanLII 12171 (ON SC)

"In our highly mobile and mechanized society communities are so geographically separated and the people so demographically scattered that entitlement to legally drive a motor vehicle can be more properly characterized as a necessity than a luxury. The mobility of the citizenry has taken on the quality of an essential "need" in this large province. ...to deprive a citizen of his or her entitlement to drive is often to inflict serious hardship on the individual and also on the family. In many instances being able to drive assumes such a position of importance that it traverses all aspects of life;"

Blencoe v. B.C. (Human Rights Commission), 2000

"The liberty interest protected by s. 7 is no longer restricted to mere freedom from physical restraint. "Liberty" is engaged where state compulsions or prohibitions affect important and fundamental life choices. The s. 7 liberty interest protects an individual's personal autonomy. In our free and democratic society, individuals are entitled to make decisions of fundamental importance free from state interference. Such personal autonomy, however, is not synonymous with unconstrained freedom. "

29. Loss of a driver’s license as a senior would affect my ‘liberty’ and therefore would offend s.7, 8, 9 of the *Charter*. My core choices in life, from residences to where to access food, social interaction, employment and medical attention are central to my security of person, life and liberty and would be practically non-existent if unable to drive my vehicle. Such restrictions to my normal way of living would naturally force me to sell my property and move into shelter that would cause me fear and want, such as a senior’s home. Yet, I have done nothing wrong but age. While suspensions for having violated s. 220-221, 236, 249, 252, 253-255 of the *Criminal Code of Canada* have time-limited

penalties, suspension of senior driver's licenses for discredited and manufactured 'cognitive impairments' have no end points, even if the senior's doctor tries to rectify the matter with the MOT and/or the senior cannot afford the equally discredited re-testing.

Horsefield v. Ontario (Registrar of Motor Vehicles), 1997 CanLII 12171 (ON SC)

"A driver's licence properly obtained and validly held, entitling a person to drive about by means of a motor vehicle on the public thoroughfares can be characterized in modern society as a major component of the liberty known as freedom of movement. When one considers the vastness of Ontario, it is little wonder that the automobile of the 20th century has been compared to the steam locomotive of the 19th century. Where the railway created a sense of nation, the automobile reduced the nation to a comprehensible and experiential unit. The driving public can now render viable even those areas of the province which would be otherwise inaccessible. In our highly mobile and mechanized society communities are so geographically separated and the people so demographically scattered that entitlement to legally drive a motor vehicle can be more properly characterized as a necessity than a luxury. The mobility of the citizenry has taken on the quality of an essential "need" in this large province. ...to deprive a citizen of his or her entitlement to drive is often to inflict serious hardship on the individual and also on the family. In many instances being able to drive assumes such a position of importance that it traverses all aspects of life; whether it be the need to travel long distances to obtain the basic necessities of life; or the requirement to travel to sustain the existence of the social and family network; or the necessity to meet the medical needs of the individual or family, such as check-ups, follow-ups or treatments; or whether it facilitates the fulfilment of the educational needs of the individual."

R. v. Rowland (1984), [1984 CanLII 1200 \(AB QB\)](#), 13 C.C.C. (3d) 367 at pp. 374-75, 33 Alta. L.R. (2d) 252 (Q.B.)

"In the context of today's society it, I believe, is unrealistic to say that an individual's entitlement to a motor vehicle operators license, and consequently his right to move freely on public highways, is a privilege. In my view every individual has a right to use public highways, and consequently to an operators license, subject only to the right of the legislature to pass laws or regulations in the interest of public safety for the purpose of controlling the use of public highways and the fitness and competence of those individuals who use them."

R. v. Robson (1985), 1985 CanLII 108 (BC CA), 19 C.C.C. (3d) 137 (B.C.C.A.)

"Liberty" under the Charter cannot be taken to create an absolute right to drive. Age, infirmity and other impediments may restrict the granting of drivers' licences. However, once the licence is granted there becomes attached to it the general liberty to employ one's skill and ability — in this case the ability to drive. Accordingly, such liberty constitutes a right under the Charter and a person cannot be deprived of it except in accordance with the principles of fundamental justice."

30. It is my understanding that the right to security of the person consists of rights to privacy of the body, health and psychological integrity of an individual [Hogg, Peter W., *Constitutional Law of Canada 2003*, pg 981]. This right is to protect me from significant government-inflicted harm (stress) to my mental state.

Blencoe v. B.C. (Human Rights Commission), 2000

“The right to security of the person guaranteed by s. 7 protects the psychological integrity of an individual. However, in order for this right to be triggered, the psychological harm must result from the actions of the state and it must be serious.”

Dickson C.J.C. in Morgentaler at page 465 (C.C.C.):

“The case-law leads me to the conclusion that state interference with bodily integrity and serious state-imposed psychological stress, at least in the criminal law context, constitute a breach of security of the person.”

31. It is my understanding that the **Government of Canada itself has identified serious physical and psychological effects of sudden life changes caused by loss of driver’s license.** The arbitrary and summary suspension of senior driver’s licenses based on outcomes of discredited ‘cognitive tests’ and prejudice have a direct effect on the ‘security of person’ of every driver.

Government of Canada, National Seniors Council 60-page ‘Report on the Social Isolation of Seniors, 2013-2014’ Pages 7-9:

‘Critical life transitions such as retirement, death of a spouse, or losing a driver’s license further increase the risk of becoming socially isolated.

Conversely, socially isolated seniors are more at risk of negative health behaviours including drinking, smoking, being sedentary and not eating well; have a higher likelihood of falls; and, have a four-to-five times greater risk of hospitalization.

Research also indicates that social isolation is a predictor of mortality from coronary heart disease/stroke.

Social isolation also affects the psychological and cognitive health of seniors. It is associated with higher levels of depression and suicide.’

32. The limitations imposed by the impugned provisions and regulations of the HTA on free travel and self-determination of seniors in particular, have fully abridged the right to life, liberty and security of person, including those of myself, since the exercise of our freedoms and rights have not interfered with the rights and freedoms of others. Such limitations when fully considered by a competent court cannot be saved by s.1 of the Charter.

Universal Declaration of Human Rights (UDHR)

Article 29

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

International Covenant on Civil and Political Rights (ICCPR) Article 1 and International Covenant on Economic, Social and Cultural Rights Article 1

Article 1

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

33. It is the State Party's legal responsibility to ensure that seniors are provided adequate standards of living with ever-IMPROVING conditions. The State Party has failed in this obligation and in fact is hypocritical...on one hand funding ways to keep seniors from becoming isolated and on the other hand creating entirely unnecessary situations that place seniors in isolated situations without accommodation and then into poverty.

Universal Declaration of Human Rights (UDHR)**Article 25**

1. Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

International Covenant on Economic, Social and Cultural Rights (ICESCR)**Article 11**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:
(a) To take part in cultural life;

International Covenant on Economic, Social and Cultural Rights**Article 11**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Government of Canada, National Seniors Council 60-page 'Report on the Social Isolation of Seniors, 2013-2014'

- **The social isolation of seniors can cause communities to suffer a lack of social cohesion, higher social costs, and the loss of an unquantifiable wealth of experience that older adults bring to our families, neighbourhoods and communities.**
- **Socially isolated seniors are less able to participate and contribute to their communities. Yet seniors benefit from volunteering and participating in their communities due to a sense of satisfaction and efficacy, and communities benefit from the services and social capital seniors are providing. A decrease in contributions by seniors is a significant loss to organizations, communities and society at large.**
- **Social isolation can result in reduced social skills. For example, seniors "who develop depression, social anxiety, loneliness, alcoholism, and schizophrenia tend to become socially isolated and uncomfortable around other people.**
- **Social isolation is considered a risk factor for elder abuse, including financial abuse, and may increase fear of crime and theft; thus making seniors even less likely to participate in social activities.**
- **Furthermore, there is a substantial amount of evidence that describes the relationship between health and social isolation. A senior's social network can positively influence good health behaviours such as successful smoking cessation or remaining active.**
- **Conversely, socially isolated seniors are more at risk of negative health behaviours including drinking, smoking, being sedentary and not eating well; have a higher likelihood of falls; and, have a four-to-five times greater risk of hospitalization. Research also indicates that social isolation is a predictor of mortality from coronary heart disease/stroke.**
- **Social isolation also affects the psychological and cognitive health of seniors. It is associated with higher levels of depression and suicide.**
- **Critical life transitions such as retirement, death of a spouse, or losing a driver's license further increase the risk of becoming socially isolated**
- **The more risk factors seniors face, the more likely they are to be isolated.**
...some of the most common risk factors are as follows:
 - **fear, stigma or ageist attitudes (internal and external) that prevent seniors from accessing community services/programs or being socially active in their community;**
 - **lack of accessible and affordable transportation options was mentioned in all regional roundtables as one of the most important issues;**
 - **life transitions (death of a spouse, move to long term care facilities or other residence, loss of driver's licence, etc.).**

34. It is my position that massive life-threatening consequences can befall those deprived of their driver's licenses, particularly if on the basis of 'opinion' and not an on-road test,

fairly-conducted by conflict-free examiners. This violates the right to life and security of person by placing the victim in dire straits at a time when the State Party has admitted the victim would likely be more physically fragile. Causing fear in the population is a gross violation of human rights -- prolonged periods of anxiety and stress have psychologically-damaging effects.

CBC Report: Seniors who give up driving may show health decline: The Canadian Press, February 3^d, 2016:

“The review of 16 published studies found that seniors tended to show poorer health after they stopped driving—particularly in terms of depression.”

“Dr. Guohua Li, Director of the Center for Injury Epidemiology and Prevention at Columbia, University Medical Center, New York City: older adults who stop driving can feel socially isolated, which could feed depression. They may also become less physically active, which can exacerbate physical health conditions.”

“The review, published online recently in the Journal of the American Geriatrics Society, looked at 16 studies that compared older adults who’d stopped driving with those still on the road. Five studies focused on depression symptoms. Overall, older adults were twice as likely to see worsening depression when they stopped driving. “Driving cessation was most strongly associated with the risk of depression”, Li said. “But the health effects were actually broader than that.”

“Those who gave up driving were also more likely to die over the next three to five years, compared to their peers who kept driving.”

“But there are options other than taking their keys away – at least immediately.”

TheStar: Streets more dangerous for Toronto seniors, Alex Ballingall, Dec 12/2016

“That report [Coroner’s Report 2012] found that 36 per cent of pedestrians killed in Ontario in 2010 were seniors, even though they account for just 13 per cent of the provincial population.”

35. For those living in a rural environment and/or in private dwellings, which is the case for a significant portion of the 65+ population, the loss of the right to drive can affect all areas of an individual’s life. **Census results for 2011 show that women are disproportionately affected by actions against senior drivers.** For those for whom losing their driver’s license is on the basis of unsubstantiated opinion of profiteers such as the Dobbs and Serco, the injustice can only compound the harm. Studies have clearly shown that losing one’s driver’s license and right to drive is a significant factor in isolation and poverty of seniors.

Statistics Canada: 2011 Census: Living arrangements of Seniors

- Population aged 65 and over: 4,945,000
- Seniors living in private dwellings: 4,551,905 (92.1% of senior population)
- Seniors living alone: 24.6%
- Women 2x as likely to live alone (31.55%) than men after 65 years

Ontario Road Safety Annual Report 2014 (ORSAR)

Table 2.17

Driver Population by Age Group (Ontario only): 65+ : 1,382,691

- % total of Senior Driving Population resident in Ontario: 32%
- Year after year, senior involvement in accidents (not at-fault and at-fault, including pedestrian and sitting in a parked car) decreased significantly, while the number of licensed senior drivers increased.

Ontario's Trillium Foundation: Ontario's Aging Population, Stacey McDonald 1/2/2011

"According to the 2006 Census, remote rural areas had a much higher proportion of people aged 65 and over (16.1%) than metropolitan areas (13.2%) or rural areas close to urban centres (13.9%)."

As of 2006, Ontario's oldest rural community is Perth with 28 percent of its residents aged 65 and over (Statistics Canada).

Seniors experienced the greatest rate of growth in poverty as a result of the recent economic downturn. After a continuous decline in the number of seniors living in poverty since the mid-1970s, in 2008 the number grew to 250,000 seniors, up from 204,000 in 2007 – a nearly 25 percent increase. **Women represented the majority of the increase of seniors living in poverty, accounting for 80 percent of the increase in seniors' poverty (Friesen, 2010).**

For many seniors, the loss of a license signifies the loss of independence and for many seniors, especially those living outside of urban centres, losing the ability to drive would mean losing their autonomy and compromising their quality of life. This loss of independence can lead to isolation and an increase in elder abuse.

One step towards combating ageism is reforming policies that rely on age to determine eligibility. Rather than questioning the driving ability of individuals based on their age, driving ability could be assessed periodically over one's life. Declining driving ability is based on advancing medical conditions that affect driving. **A medical condition that adversely affects driving ability can happen at any age. Focussing on age alone will not help make roads safer; effective programs to screen and test medically impaired drivers of all ages will."**

36. My understanding is that limitations on my rights and freedoms can be imposed only if they are within the parameters set by international law and **SOLELY where MY actions pose a PROVEN AND CLEAR risk of harm to others, ie proportional and justified.** A carrier (driver) with medical conditions of any age, but proven competent by an on-road driving test is not incompetent and should not be abused and harassed by MOT on the pretext that their age poses a risk to the public. The MOT is to ensure that drivers on the roadways are likely to drive safely; the standard is not that only perfect human beings driving perfectly are permitted to drive their vehicles.

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC) (known as 'Grismer' case)

[28] Common sense and experience tell us that driver's licences should only be issued to those who can demonstrate a reasonable degree of ability and safety in driving.

37. It is also clear in *R. v. Oakes* that there must be proportionality of objective to consequence of implementing infringing legislation against millions of people, in this case motorists. When profiteers are threatening drivers with license suspensions if they do not attend at 'memory clinics' where 'testing' designed to fail at least 50% of those taking the tests is hardly proportional.

R.v. Oakes

*"The **required proportionality**, in turn, normally **comprises three aspects**: the **restrictive measures must be carefully designed to achieve the objective in question or be rationally connected to that objective**; They must be such as to **minimize the infringement of the right in question and their effects must not infringe on individual or collective rights to such an extent that the legislative objective, however important, is rights**. The Court held that the nature of the proportionality test might vary depending on the circumstances. Both in its development of the standard of proof and in its description of the criteria which include the proportionality requirement, the Court has been careful to avoid setting strict and rigid standards. The Court held that the nature of the proportionality test might vary depending on the circumstances.*

*In order to succeed, the **Respondent must demonstrate, on a "balance of probabilities", that s. 189a (1) complies with the proportionality test set out above.***

38. It is in evidence that most accidents are caused by weather, road conditions, drinking and driving, and distracted driving, none of which driver license and vehicle permit renewal can impact. **There is no testing of driving ability during annual renewal, and no inspection of the motor vehicle, only a forced exchange of money.** Regulations mandating annual license renewal cannot accomplish any claimed objectives because once a driver has proven competency, they can only become more competent with age and experience and can only become a 'pressing and important' concern to the public when they choose to drive unsafely.

39. I understand that the question as to whether legislation or regulation is a **reasonable impairment** has been decided by the Supreme Court. There is no evidence that (a) the license renewal system must discriminate on basis of age or medical condition(s), or (b) the extortion of monies annually for driver license and vehicle permit renewals are associated with 'safety'. Therefore, the license and permit renewal systems are not reasonable. **The legislative purpose of the HTA is met when the individual proves competency.** Moreover, an unlicensed driver may well be as competent and free of demerit points and at-fault accidents as a licensed driver, **but denied a license for 'administrative' reasons, such as failure to pay arbitrary fees annually.**

R. v. Ladouceur, [1990] 1 SCR 1257, 1990 CanLII 108 (SCC)

*"It is at this stage that the delicate process of evaluation must be undertaken. **The test to be used in determining whether the legislation in question can be justified was set out by Dickson CJ in R. v. Oakes , supra, and again in R. v. Edwards Books and Art Ltd. , 1986 CanLII 12 (SCC) , [1986] 2 SCR 713 , at pp. 768 and 769** , as follows:*

*"To establish that a restriction is reasonable and that its justification can be demonstrated in a free and democratic society, **two requirements must be met. First, the legislative objective which the restriction seeks to promote must be sufficiently important to justify the abolition of a right guaranteed by the Constitution. It must relate to "urgent and real concerns". Second, the means chosen to achieve these objectives must be proportional or appropriate for these purposes.**"*

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC) (known as 'Grismer' case)

[31] First, a standard that excludes members of a particular group on impressionistic assumptions is generally suspect. ... Second, evidence that a particular group is being treated more harshly than others without apparent justification may indicate that the standard applied to that group is not reasonably necessary.

40. It is my position that it is patently immoral and unscrupulous for State Party to use statistics that do not differentiate between at-fault from other accidents, or that does not first rely on driving record evidence.

International Organization for Standardization (ISO)

Proportionality - avoiding 'one size fits all' solutions

Proportionality is a **fundamental attribute of modern risk management**. But what do we mean by proportionate? Put simply, **we should target our efforts and resources into those facilities, and hazards, where the risk is greatest and not expend unwarranted levels of effort where risks are low.**

The ISO identifies the following principles of risk management:

Risk management should:

- **create value** – resources expended to mitigate risk should be less than the consequence of inaction
- be an integral part of organizational processes
- be part of decision making process
- **explicitly address uncertainty and assumptions**
- **be a systematic and structured process**
- **be based on the best available information**
- **be tailorable**
- **take human factors into account**
- **be transparent and inclusive**
- be dynamic, iterative and responsive to change
- be capable of continual improvement and enhancement
- **be continually or periodically re-assessed**

THE LANGUAGE OF RISK, by Dorothy Nelkin, Sage Publications, 1985, p.16 *“Concerns about risk may depend less on the nature of the danger than on the observer’s political and cultural biases. The concepts of accountability, responsibility, and liability that pervade debates about risk are in effect political statements expressing points of tension and value conflicts in a given society.”*

41. It is impossible for any legitimate State Party enactment or regulation to be valid with regard to testing for driving ability when it relies on in-office testing devoid of conflict-free on-road examination. Yet, senior carriers/drivers (and not senior MPPs, Senators, physicians, dentists or other persons) are subjected to such humiliation, regardless that the driver may have decades of problem-free driving to their credit.

Ontario Ministry of Transportation website, August 2017:

“...the screening exercise consists of two assessments of a person’s cognitive capabilities relevant to driving. Each of the assessments taps into a different type of ability:

clock drawing: *measures a driver’s capacity to recognize and organize information (visuospatial ability)*

letter cancellation: *measures a driver’s capacity to coordinate thinking with doing (psychomotor speed)*

42. It is my understanding that ‘justification’ for an incursion on fundamental rights and freedoms cannot be flimsy and definitely not arbitrarily determined by a service provider who operates in a gross conflict of interest. A hunt for ‘cognitively and medically impaired’ drivers among those who have shown competency and good driving records is no more acceptable or ‘pressing a concern’, then police carding of black people.

R. v. Stengler, 2003 SKPC 119 (CanLII)

*“Is Section 24 of the Act saved by Section 1 of the Charter, notwithstanding its violation of Sections 8 and 9 of the Charter? In Ladouceur, supra, Cory, J. stated **the test for justification of such violations** as follows:*

*[26] P41 The crux of the issue is whether the truly random routine check can be **“reasonably and demonstrably justified in a free and democratic society”**. It is at this stage that the delicate balancing process must be undertaken. **The test to be used to determine whether the law in question can be justified was set forth by Dickson C.J. in R. v. Oakes, supra, and was restated by him in [page1279] R. v. Edwards Books and Art Ltd., 1986 CanLII 12 (SCC), [1986] 2 S.C.R. 713, at pp. 768-69, in these words:***

Two requirements must be satisfied to establish that a limit is reasonable and demonstrably justified in a free and democratic society. First, the **legislative objective which the limitation is designed to promote must be of sufficient importance to warrant overriding a constitutional right**. It must bear on a **“pressing and substantial concern”**. Second, **the means chosen to attain those objectives must be**

proportional or appropriate to the ends. The **proportionality** requirement, in turn, normally **has three aspects: the limiting measures must be carefully designed, or rationally connected, to the objective; they must impair the right as little as possible; and their effects must not so severely trench on individual or group rights that the legislative objective, albeit important, is nevertheless outweighed by the abridgement of rights.** The Court stated that the nature of the proportionality test would vary depending on the circumstances. Both in articulating the standard of proof and in describing the criteria comprising the proportionality requirement the Court has been careful to avoid the rigid and inflexible standards.

In order to succeed the respondent must show on a "preponderance of probabilities" that the proportionality test set out above has been met by s. 189a(1)."

43. It is my understanding that the Registrar of Motor Vehicles (Serco) has so expanded its excuses for abridging the rights of senior drivers, that an opinion about their 'cognitive and emotional' state is enough to cause a senior with a clean record to be abused by the system. The State Party as been permitted to create a 'strawman'—the 'dangerous demented senior' and then further permitted under vague legislation of Section 50(1) of the HTA, to hunt for that driver and then put that senior through all manner of 'testing' when that senior has done nothing wrong but 'potentially' have a cognitive impairment. An example of this is described in *7970 v. Registrar of Motor Vehicles, 2013 CanLII 24104 (ON LAT)*, where the victim was put through an appeal before they could get back to their lives.

Highway Traffic Act, O.Reg. 340/94, Section 14:

14. (1) An applicant for or a holder of a driver's licence must not,

(a) suffer from any mental, emotional, nervous or physical condition or disability likely to significantly interfere with his or her ability to drive a motor vehicle of the applicable class safely; or

(b) be addicted to the use of alcohol or a drug to an extent likely to significantly interfere with his or her ability to drive a motor vehicle safely. O. Reg. 453/10, s. 1.

(2) In determining whether an applicant for or a holder of a driver's licence of any class meets the qualifications described in subsection (1), the Minister,

(a) may take into consideration the relevant medical standards for applicants or holders of that class of driver's licence set out in the CCMTA Medical Standards for Drivers; and

(b) may require the applicant or holder to provide evidence satisfactory to the Minister that he or she is able to drive a motor vehicle of the applicable class safely, including,

(i) any reports of examinations under section 15, and

(ii) any additional medical information. O. Reg. 453/10, s. 1.

44. It is fact that cognitive impairments are not scientifically associated with the ability to drive safely. Neither are emotional states such as grief, sadness, nervousness and

depression. Whether or not a person is an addict is irrelevant. What is relevant is that they do not drive while under the influence and that they drive safely. Since virtually all psychiatric medications are 'addictive', and millions of Canadians are prescribed these drugs for years, it is absurd that those with addictions be automatically targeted as of higher risk and that such vague risk is improperly linked to a presumption of wrongdoing that requires intervention of the Ministry of Transportation. The word 'likely' leaves the door open to guilt by opinion.

45. It is my understanding that the courts have clarified that the only legitimate reasons that police have to stop any motorist are to confirm mechanical fitness of the vehicle and to check sobriety, competency (license) and insurance. Motorists can be detained ONLY with just cause and cannot be forced to attend a police station for medical issues, medical conditions, cognitive assessments, emotional issues or because of age. Yet, senior drivers of all ages, most with excellent driving records, are forced to attend their doctor's office for just such reasons, without just cause and based entirely on service provider opinions that ageing results in 'dangerous drivers' or that an emotional or mental issue would cause them to become an undue risk and of pressing concern to others. Refusing to be subjected to such violations results in the immediate loss of driver's license and cannot be saved by s.1 of the *Charter*.
46. The State Party's actions in interfering with my rights to travel, to transport myself and my family and belongings, to freely dispose of my wealth and resources, to be free of forced medical examination, secret testing, and losses of my liberty and security of person based on the opinions of self-appointed 'experts of risk and experimentation' results in fear, want and a severely decreased enjoyment of life in violation of the *UDHR Article 30, ICCPR Article 1 and 5, ICESCR Article 1, 4 and 5*, all of which are guaranteed by the *Constitution Act, 1982, sections 7, 8, 9, 12, 15, 24 and 26*. The consequences of an unrestrained *HTA* enactment are disproportionate in that they can severely affect the rest of my entire life. Rarely are those with convictions for criminal activity so thoroughly and permanently affected, even with just cause.
47. **It is my position that a much narrower law applied to ALL carriers equally, focused on 'on-road' driving testing and rules-of-the-road knowledge in order to prove competency and willingness to drive a personal motor vehicle safely is all that is required to meet the objective of 'public safety'. If one's driving record becomes evidence that intervention by the State is required, the proof of continuing competency must be an equally valid objective on-road and knowledge examination by conflict-free examiners.**
48. Most motorists want to be safe and 'arrive alive'. Everyone can agree that **ALL drivers equally, must undergo a driving test to prove competency to drive a motor vehicle on the highways**. However, it is my position that instead of ensuring that

licensing involved actions solely directed to the confirmation of an individual's skill and willingness to drive safely, the State Party has utilized the HTA to facilitate the abridgement of most other individual rights and freedoms, thereby placing all Canadians in servitude to profiteers. **Where the loss of a driver's license has catastrophic consequences for most people, it is a gross failure of the State Party's legal obligations to leave anyone without a driver's license who can be accommodated with remedial and educational programs and/or a gradual de-licensing process.**

International Covenant on Economic, Social and Cultural Rights

Article 11

1. The States Parties to the present Covenant recognize **the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right**, recognizing to this effect the essential importance of international co-operation based on free consent.

Article 12

1. The **States Parties** to the present Covenant **recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.**
2. **The steps to be taken by the States Parties** to the present Covenant **to achieve the full realization of this right** shall include those necessary for

(a) Constructive Possession of Property – s. 7 Charter Violation

49. I understand that I have a right to be free of **arbitrary deprivation of my property** through State Party actions, such as denial of the right to own my vehicle alone if I do not agree to pay an annual vehicle permit fee and install a licence plate owned by the Queen on my personal vehicle, neither requirement being remotely connected to safety of the public. Those rights have been enumerated in *UDHR, Article 17* and *ICCPR, Article 1*.

Black's Law Dictionary:

Property: *The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this Code, the thing of which there may be ownership is called "property."*

Criminal Code of Canada

property includes

(a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods,

50. It is my position that annual vehicle permit renewals can be demonstrated to have even less relationship to accident rates and safety than annual driver license renewal, and is

merely an enactment to enable State-sponsored, almost permanent **constructive possession of private property**.

Black's Law Dictionary, 9th Edition

constructive, Legally imputed; **existing by virtue of legal fiction though not existing in fact**

possession, **The fact of having or holding property in one's power; the exercise of dominion over property. 2. The right under which one may exercise control over something to the exclusion of all others; the continuing exercise of a claim to the exclusive use of a material object.**

constructive possession. 1. **Control or dominion over a property without actual possession or custody of it. - Also termed effective possession** 2. Civil law. **Possession by operation of law** of an entirety by virtue of corporeal possession of a part.

(b) Search of 'mind' – s.8 Charter Violation

51. It is my position that the provincial government is using its authority to suspend driver licenses as a means to force discredited medical 'assessments' on 'carriers', and to seize their driver's licenses if they refuse, when in fact medical assessments and tools are the purview of Health Canada. The matter of cognition screening tools, if they were regulated, would be a federal responsibility, just as are transportation and carriers.
52. The provincial government has expanded its authority to suspend driver's licenses under section 41 of the *HTA*, which contains nothing about suspending drivers licenses for failure to undergo discredited in-office cognition tests or on 'suspicion' of cognitive impairment. By using s. 31(5)(b) and Regulation 340/94 s. 14 of the *HTA* to force mass medical screening on seniors targeted at ever-younger ages, the Ministry is doing indirectly what it cannot do directly. It is detaining the driver and seizing their driver's license without just and probable cause, something police cannot do. It is using the threat of such punishment to force drivers to accept violations of the *Health Care Consent Act*.

Colourability Doctrine

Professor Hogg, in *Constitutional Law of Canada*, 4th ed. (Toronto: Carswell 1997) at 392, "[t]he 'colourability' doctrine is involved when **a statute bears the formal trappings of a matter within jurisdiction but in reality is addressed to matter outside jurisdiction.**"

Another way of **describing the "colourability" doctrine is that a legislative body cannot do indirectly what it cannot do directly:** see Hogg, *Constitutional Law of Canada*, *supra*, at 394.

53. This action offends the *Charter* rights of all individuals subjected to discredited medical examinations, particularly when there was no just cause to force them to do so in the first place. These forced mental and emotional tests are 'searchs' without a warrant and without just and probable cause in violation of s.8 of the *Charter*. Taking control of the driver's license and preventing a person from driving is 'seizure' and also a violation of s.8 of the *Charter* when done without probable and just cause.

Constitution Act, 1982

Search or seizure

8. Everyone has the right to be secure against unreasonable search or seizure.

(c) Detention - s. 9 and s. 11 Charter Violations

54. Since random detention for the purposes of hunting down unlicensed drivers was considered by the Courts in *R. v. Ladouceur (1990)* a violation of the s.9 of the *Charter*, then so too must forcing licensed senior drivers to attend a doctor's office for an unjust reason such as 'age', or 'medically at risk', possible cognitive impairment or emotional state, which are not legislated as 'just causes' for detention of any kind by a police officer. Just as the driver who refuses to go to the police station when demanded to do so can expect serious consequences, so too a senior driver who refuses to submit to unjustified forced attendance at a doctor's office only to be subjected to discredited 'cognitive testing' without his knowledge or consent.

55. Recently, the violation of human rights has expanded to where 'cognition' testing is given without full disclosure to senior drivers who attend a clinic or doctor's office for a mild physical issue. The clinic or doctor then forces the unsuspecting driver to allow themselves to be subjected to even more unreliable, discredited 'testing' at a privately-owned driver centre such as DriveABLE, even though there is no just and reasonable cause for the senior to be targeted by the doctor or clinic in the first place.

56. While the courts made it clear that the public would not tolerate pedestrians being yanked off the streets without just cause, it seems that yanking seniors from their homes, businesses and activities to be detained at a doctor's office every two years and subjected to demeaning 'cognitive testing' on the basis that ageing is a disability, a medical condition and/or automatically makes a driver dangerous, is. This depraved MOT action is also a s.9 *Charter* violation constantly ignored by many courts and Tribunals and the State Party cannot satisfy s.1 of the *Charter* any more than it can justify random police checks for unlicensed drivers.

R. v. Ladouceur, [1990] 1 SCR 1257, 1990 CanLII 108 (SCC)

“In deciding whether the Crown has satisfied the burden of proof of justifying a breach of s. 9, this case must be considered in the context of breaches of s. 9 that have been sanctioned to date in meeting the admittedly important government objective which seeks to rid the highways of dangerous drivers. In this regard, **police officers are entitled to stop motorists at organized check points as part of the R.I.D.E. program to provide a roadside screening test of sobriety, to check for licences, insurance and mechanical fitness.** See *Dedman v. The Queen*, [1985 CanLII 41 \(SCC\)](#), [1985] 2 S.C.R. 2, and *Hufsky*, *supra*. **The organized check point is available, therefore, as a means of detection of the unlicensed driver.** This case may be viewed as the last straw. **If sanctioned, we will be agreeing that a police officer can stop any vehicle at any time, in any place, without having any reason to do so. For the motorist, this means a total negation of the freedom from arbitrary detention guaranteed by s. 9 of the Charter.** This is something that would not be tolerated with respect to pedestrians in their use of the public streets and walkways. It is in this light that the efforts of the Crown to discharge its **s. 1 onus must be viewed.**”

(d) ‘Guilty until proven innocent’ - Violation of s. 11 of Charter

57. I understand that as an **equal member** of Canadian society, **I am entitled to be considered innocent until proven guilty if charged with an offence. Until I have created an offence or personally show a clear indication of being of harm to others, I am guaranteed by the Constitution Article 11 to be free of state interference in my life, including my ‘driving and travelling’ life. Yet, seniors are routinely pronounced guilty and subjected to ‘punishment’ on summary decision of clinics, doctors and service provider staff.**

Constitution Act of Canada, 1982

11. Any person charged with an offence has the right

(a) to be informed without unreasonable delay of the specific offence;

(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

58. It is my position that the *Charter* is offended and the actions cannot be saved by s. 1 of the *Charter* when a driver’s license is suspended in a doctor’s office, or subsequently by the Ministry when a driver fails discredited on-line ‘cognitive testing’ given as part of a mass screening for ‘bogey-man’ issues, the existence of which has never been established as linked to driving ability. Or, if not suspended, that the driver be put through the same torment every two years.

VIOLATIONS OF SECTION 12 – CRUEL AND UNUSUAL PUNISHMENT

Preamble

59. Subjecting ever-younger groups of senior drivers to discredited ‘cognitive testing’ schemes that have nothing remotely to do with driving ability causes much humiliation, distress and fear. The fact that an innocent senior’s life can be up-ended with serious consequences in every area and on every level of their lives if they fail the ‘cognition’ testing, are deemed to be ‘too emotional’ or if they have the ‘appearance’ of a medical condition, is cruel and unusual punishment entirely disproportionate to the crime of having done nothing but age. Attached is the Affidavit of Lea Porter, a recent innocent victim of Ministry of Transportation violations of human rights.

Canadian Constitution Act, 1982

12. **Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.**

(A) DISCREDITING AGE-BASED and AGE-TRIGGERED SCREENING TOOLS FOR DRIVING ABILITY: SIMARD MD, DEM-TECT, MoCA, MMSE, Trail Making, ADReS

60. It is my position that there is no operation of constitutional or international customary law that allows domestic legislators and regulators to (a) install themselves as ‘protectors’ of the individual against that individual’s will, or (b) to create a homogenous class of persons by age or medical condition and then subject them to discriminatory actions by State Party service providers who are, in Ontario, unaccountable, self-auditing, multi-national corporations with scandal-ridden histories and/or discredited testing theories.

61. **There are NO mandatory mass screenings of Canadians for any medical condition, except now for vague cognitive impairment on the pretext it is necessary to ‘protect the public’ and ‘frail’ seniors from themselves.** In defiance of the Supreme Court of Canada’s numerous decisions upholding medical autonomy, the Ministry of Transportation of Ontario is now refusing to issue a driver’s license to anyone who does not agree to subject themselves to a discredited ‘medical test’, regardless that there is no evidence that individual is of any risk to the public or that the ‘tests’ are legitimate. Such mass screenings are known as ‘witch hunts’ and shams and are a direct violation of *ICCPR and ICESCR Articles 5*.

62. It is my understanding that while there are volumes of standards for medical devices, consumer goods, and so on, there are none for ‘screening devices’. It is an entirely

unregulated activity in modern society, but also the most abused as discredited tests of all sorts can be and are put forth to unsuspecting doctors, politicians and legislators as legitimate by those surrounding themselves with academic degrees and connections to Universities and businesses. The government openly employs policy-based ‘evidence’ at the expense of the population, instead of scientific evidence-based policy.

Grismer SCC, McLachlin J

“There was no evidence of a ‘safe or reliable form of testing that can measure the ability to deal with unexpected or exceptional traffic situations”.

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[240] ... The CCMTA acknowledges **there are no reliable formulas to calculate risk as it relates to fitness to drive**

[247] **The CCMTA does not distinguish between the cognitive function required of commercial and non-commercial drivers.** Cognitive impairment can be identified through well-established clinical tests, **but cognitive screening tools do not reliably show whether an individual’s cognitive impairment or dementia poses a risk for adverse driving outcomes.** **Tests used to identify cognitive decline are not good predictors of driving competence, particularly for those whose impairment is less severe.** Further, **test scores are sensitive to language ability and education.** Citing a Canadian Medical Association guide, **the CCMTA accepts that cognitive tests as tools, cannot be used as a single determinant of driving ability.** The CCMTA recommends that abnormalities in test results trigger further in-depth testing of driving ability.

[259] In conclusion, the Tribunal notes that the **CCMTA advises** (page 39 of Exhibit 4) **that functional declines associated with aging are well documented and that in healthy aging drivers, they are unlikely to lead to unsafe declines in driving performance except in the case of extreme old age.**

63. My understanding is that some 6-10 screening tools for cognitive impairment have been used, none with any success in predicting ‘at risk’ senior drivers, most never designed to assess driving ability in anyone. When used for driving, studies show that the MMSE cognitive test has a false positive rate of about 50%, the MoCA has a specificity of about 50%, and a fail on the Trail Making B test could lead to a wrong diagnosis nine out of ten times. The Simard-DriveABLE protocol is so flawed that it doesn't deserve any comment. Researchers have stated that when a test shows that an older driver is safe, the results can be trusted. But, when a test shows that an older driver isn't safe we simply cannot trust the results.

<u>Test</u>	<u>FACTS</u>	<u>Ability to assess driving ability</u>
<u>DEM-TECT</u>	German, utilized to assess mental function	useless

<u>SIMARD MD</u>	DEM-TECT minus 2 components - created and marketed by Bonnie Dobbs	useless
<u>MoCA</u>	Montreal Cognitive Assessment	never designed to test driving ability, high rate of false +ives
<u>SIMARD/MoCA hybrid used in Ontario</u> = DEM-TECT minus two components, then Bonnie Dobbs added clock drawing and letter choosing from MoCA. <u>So useless that the Ministry of Transportation of Ontario had to add a disclaimer</u> , while still allowing seniors to be subjected to this hybrid of useless cognitive tests.		
<u>MMSE</u>	most common	never designed to test fitness to drive, false positive rate 50%
<u>Trail Making Test</u>	US Army created	useless, wrong 9 out of 10 times
<u>ADReS</u>	AMA created to test vision, cognition, & motor/somatosensory functions related to driving	useless

64. It is my understanding that ethical and respected researchers have not found any age-based screening for cognitive impairment reliable to predict ability to drive in traffic, no testing results that co-relate to driving accidents, and no justification to engage in any such discrimination. In all of the recommendations by the Dobbs and business allies, they never try to balance safety with mobility and they never mention the harm and the additional risk that comes from not being able to drive as clearly outlined by Health Canada in their Report on Social Isolation of Seniors – but ethical researchers have.

Research Facilities statements re: Uselessness of Age-based screening

- ✓ **Transportation Research Part F: Traffic Psychology and Behaviour, Vol 5, Iss 4, Dec 2002, Pages 271-274, 'Driver ageing does not cause high accident rates per km, Hakamies-Blomqvist, L. et al ' When the accidents-per-km comparison was made in groups matched for yearly exposure, there is no evidence for higher risk with increasing age....We suggest that the previous perception of an age-related risk increase of accidents per distance driver arises from a failure to control for low mileage bias at all ages.'**
- ✓ **Journal of Transport & Health, Siren, A, Haustein, S 'Driving licences and medical screening in old age: review of literature and European licensing**

policies, (2015)

- ✓ EPPA Professional development – Traffic Psychology, Swerts, J.
‘An article on the results of the empirical part of the latter report [Siren & Meng 2010] by Meng, A and Risser, R., Standing Committee of Traffic Psychology, EFPA and Siren, A, DTU Transport, June 2010: ‘older drivers generally do not have increased accident risk that calls for the society to invest in a costly age-based population screening and second, according to research literature, age-based population screening does not succeed in producing the desired safety benefits.’
- ✓ CMA/CAA Roundtable on Seniors’ Transportation Conference Proceedings Edmonton Seniors Coordinating Council And Alberta Motor Association November 3, 2006 Edmonton, Alberta, Dr. Richard Tay, AMA/CTEP Chair in Road Safety, Department of Civil Engineering and Adjunct Professor in Injury Prevention, Department of Community Health Services at the University of Calgary; Adjunct Professor in Road Safety, School of Psychology and Counselling, Queensland University of Technology “However, until a valid test or battery of tests are developed that can predict crash involvement with sufficient accuracy there is no evidence to support recommendations for further testing and licence restrictions for aging drivers. “it is well documented in the literature that driving performance and driving behaviour are not the same thing.” Importantly, Dr. Tay pointed to the Australian model of licensure to prove that restrictions on aging drivers do little to affect crash rates. In Australia, crash rates are higher in states where restrictions on senior drivers are tougher than in the state of Victoria, where statistics show the opposite effect. Skill and ability are not good indicators of a “safe” driver. Other factors are at play in the licensing/revoking of licences namely, political/social agendas; • Again, from a research perspective, there is not enough data to restrict/prohibit aging driver licensing restrictions; • Driver education and engineering go a long way in allowing aging drivers to drive longer; and • The general conclusion is that age is not an important factor in deciding whether one should get a licence or not.”
- ✓ Canadian Association of Road Safety Professionals, Determining the validity of the AMA guidelines: A retrospective analysis of the ADReS and rate of crash in older drivers, (2012) Woolnough, A., et all. ‘Although limitations are inherent in a retrospective analysis, abnormalities on the subtests comprising the ADReS were not associated with a history of crash.’
- ✓ European Federation of Psychologists Association on Traffic Psychology and Age-based Population Screening for Fitness to Drive explaining how age-based screening does not improve traffic accident statistics.
- ✓ European Transport Safety Council: ‘Medical Screening of Older Drivers: ageist and counter Productive’, Prof. Desmond O’Neill

- ✓ **University of Monash, Victoria Australia, Accident Research Centre:** *sampling of 905 elderly drivers studied over 5-year period, including Canadian information. Conclusion: **“No credible evidence could be found to prove that elderly drivers are any greater risk than any other group, and special programs against the elderly cannot be justified”.***
- ✓ **Monash University Accident Research Centre, Koppel, S:** **Effectiveness of age-based mandatory licensing assessments in reducing older driver crash risk:** *“Overall, **the evidence suggests that age-based mandatory licensing assessments have no positive safety effect in reducing older driver crash risk.** In addition, **research suggests that age-based mandatory assessments may prompt premature driving cessation, which can be associated with a range of negative psychological and health consequences, including loss of independence, increased health programs such as heart disease, stroke and depression, or may force older individuals to shift from driving a vehicle to more high-risk modes of transport,** such as walking.”*
- ✓ **US National Library of Medicine National Institutes of Health:** **‘It is premature to test older drivers with the SIMARD MD, Bedard, M. et al, 2013. “...little empirical evidence is available to justify its use.** *The SIMARD-MD is unlikely to be valuable to clinicians because it lacks sufficient precision to provide clear recommendations about fitness-to-drive. Recommendations based solely on the **SIMARD-MD may place many seniors at risk of losing their transportation mobility or incurring unnecessary stress and costs to prove they are safe to drive. Furthermore, the education bias may create an unwanted structural inequity.**”*
- ✓ **Ross et al (2011), New South Wales, South Australia Victoria:** **‘No direct safety effect was measured.” There was no difference between tested and untested older driving population and they had similar rates of vision and cognitive issues.**
- ✓ **Siren and Meng (2012), Denmark (2003-2008):** **‘Screening [cognitive] had no effect on the safety of older drivers - screening process may have produced a modal shift among older persons from driving to unprotected modes of transportation.”**
- ✓ **Mitchell (2008), Denmark, Finland, France, The Netherlands, Norway, Sweden, UK:** **“Concludes that there is no evidence that any license renewal procedures has an effect on the overall road safety of drivers aged 65+.”**
- ✓ **International Epidemiological Association 2000, Brayne, C. Dufouil, C et al:** **‘Very old drivers: findings from a population cohort of people aged 84 and over. “The conclusion was that older drivers stop driving on their own, and that when we test all older drivers we are testing for those who have already stopped driving. The unfit are almost all not driving. The study goes on to say that the money would be better**

spent on measures to help fit older drivers, since the statistics are about them.”

- ✓ Accident Analysis & Prevention, Vol 38, Issue 3, May 2006, pages 574-578; Older drivers do not have a high crash risk – a replication of low mileage bias. “When the crash rates of drivers of different ages were compared after being matched for yearly driving distance, most drivers aged 75 years and above were indicatively safer than all other drivers.”
- ✓ Ontario Road Safety Reports 2012 compared to 2015: Older driver fatalities went up to 20 in 2015 with cognitive testing and 14 in 2012 without cognitive testing.
- ✓ Reports on research at the University of California Transportation Centre & the University of California Center on Economic Competitiveness: Older Drivers: Should we Test them off the Road? “Studies over several decades have consistently shown that neither age nor the presence of many medical conditions or impairment has a strong relationship to crash rates. Even poor vision – the most common condition older drivers are screened for – has little relationship to crashes among the elderly.”

65. It is my understanding that the Ontario government, particularly in the field of healthcare, adheres to the Knowledge to Action Framework. The Knowledge-to-Action-Framework which was developed in Ontario and is used internationally, provides guidance for **proper knowledge translation, ie. for translating research results into action**. The Knowledge-to-Action Framework is applied almost everywhere from the Canadian Institutes of Health Research to the Centers for Disease Control and Prevention.

66. The Knowledge to Action (K2A) Framework identifies 3 phases (research, translation, and institutionalization) and all decisions point, interact and support structures within the phases that are necessary to move knowledge to sustainable action. **Instead of mere opinion and theory driving public policy, K2A, ensures that action is based on conflict-free knowledge and information.**

67. It is my understanding that by utilizing the Knowledge to Action Framework, top Canadian researchers investigated the use of the Dobbs couple ‘cognitive/dementia’ tests. The Dobbs only study prior to taking their ‘tests’ to market had 120 participants, with many drop-outs. Their study included many identified biases (education, language).

QUOTE: Dr. Michel Bedard, a researcher associated with Candrive, which is funded by the Canadian Institutes of Health Research:

“1) the proportion of people who fail the Simard (and may lose their drivers' licenses automatically) but pass the on-road is 17%
 2) the proportion who pass the Simard but fail the on-road (and really should not be driving) is 14%
 3) the proportion requiring further testing (driveABLE) is 50%
 4) from a statistical point we require a likelihood ratio of at least 5.0 for the tool to be useful - it is only 3.95 here.
 In any other situation **a test with such properties would be discarded quickly.**”

QUOTE: Dr. Jim Langford, from the Monash University Accident Research Centre in an email to statistician researcher :

“The experience which you have described is alas, only too apt an example of what can happen when licensing decisions are based on inadequate and/or unproven assessment tools. **Many of us in the research community have strong misgivings about many aspects of the Simard/DriveAble knot - and I know that Michel has written several papers describing some commonly held concerns.** But unfortunately the procedure allows an easy and convenient strategy for assessing fitness to drive which seems to appeal politically - and probably will lose its appeal only if there is a widespread community-led reaction to **what appear to be some severe injustices.**”

68. Evidence shows that the manner in which the SIMARD MD-DriveABLE protocol came to being, first in B.C, contradicted The Knowledge-to-Action Framework completely. Every logical and widely accepted process outlined by the K2A Framework as necessary to ascertain whether an action, particularly in the field of health, is beneficial and necessary had been ignored by the creators of the SIMARD MD-DEM-TECT tests and the DriveABLE exams foisted on the senior driving public by the Dobbs (and soon to be on commercial drivers). By the time it was brought to Ontario, it was a disgrace; instead of the on-road driving test that all drivers should expect, seniors were subjected to tests involving drawing clocks and finding letters.
69. The SIMARD MD-DriveABLE hybrid protocol was single-sourced from one married couple backed by a venture capital fund. Thus we see the suppression of 2015 and 2016 traffic statistics by the Ministry. Complaints have been suppressed by unaccountable Serco as well. State Party representatives, such as MOT, need to be given authority, but not the authority to deny reality.

(B) DISCREDITING ‘MEDICALLY AT RISK’ AND MASS MEDICAL SCREENING

70. It is my understanding that the State Party has been aware since before the decision in *Grismer BCCA (British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights) (1999), 36 C.H.R.R. D/129 (S.C.C.)*) that licensing authorities were to consider each individual for a driver’s license and renewal on their OWN merits, not on preconceived notions of ‘group’ risk, particularly where there is none established. Instead, the province of Ontario continues to force mass screenings for ‘medical issues’, primarily ‘cognitive impairment’ and bogey-man ‘emotional and mental issues’ using discredited tests.

British Columbia v. Bolster, 2007 BCCA 65 (CanLII)

[140] Before *Grismer BCCA*, the **Superintendent had been ordered several times, by the human rights tribunal and the courts, to consider each individual application for a licence on its merits:** see *Lewis v. British Columbia (Superintendent of Motor Vehicles) (1980), 1980 CanLII 740 (BC SC)*, 18 B.C.L.R. 305 (S.C.) (visual disability); *Hutchison v. British Columbia (Ministry of Solicitor General)*, [1990] B.C.C.H.R.D. No. 15 at para. 22 (insulin-dependent diabetics); *Grismer v. British Columbia (Ministry of Attorney General, Motor Vehicle Branch)*, [1994] B.C.C.H.R.D. No. 38 at para. 115. Similar comments were made in *Hussey v. British Columbia (Ministry of Transportation and Highways)*, [1999] B.C.H.R.T.D. No. 63 at para. 81 (hearing disability), decided after *Grismer BCCA*. While none of these decisions was binding on this Court, it is not reasonable to read *Grismer BCCA* as reversing all of this previous law. Moreover, the **Motor Vehicle Act** and the practices and procedures of the Superintendent always provided for the assessment of fitness for driving by the application of more than a single standard.

[141] **“... The Member found that the Superintendent had not met the burden of proving that a blanket refusal without the possibility of individual accommodation was reasonably necessary under the Act. ...”**

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[134] “... The most recent version of the CCMTA medical standards, August 2013, contemplates the Meiorin and Grismer decisions. **It recognizes that prior versions of the CCMTA medical standards were based on medical conditions and the presumed group characteristics of people with those conditions, rather than on how the condition affected the functions necessary for driving in the individual.** The 2013 version of the CCMTA medical standards uses scientific research to establish driver fitness standards. There is a move now to assess impact of medical conditions on functions necessary to driving.”

[238] The CCMTA does not identify what degree of reduction, loss or difficulty constitutes an impairment. Exhibit 4 recognizes that functional impairments can be mild, moderate or severe. Further, because **the driving environment is complex and continuously changing, the CCMTA states it is difficult to determine the exact level of impairment that would make a person not fit to drive. The ability to compensate for an impairment in driving varies by individual.**

[239] ... At page 153 the CCMTA describes **mild cognitive impairment (MCI) which presents no significant functional impairment and is distinct from mild, moderate and severe dementia** noted at p. 154.

[240] ... The CCMTA acknowledges **there are no reliable formulas to calculate risk as it relates to fitness to drive.**

71. It is my understanding that it is well established by world-renowned researchers that older drivers are assessed an unfair attribution of risk and that the important tenets of medical screening are not fulfilled in the scheme to medically test all older drivers in Ontario. Since 84% of those suffering Alzheimer's are well under 65 years and the American Academy of Neurology released statistics in April 2010 that 76% of dementia sufferers drive safely, any claims by the government and their business allies that seniors pose a 'risk' is a disgrace and deliberate action to ignore the facts to profit from the vulnerable. The media, together with the government, have consistently and falsely claimed that senior drivers are the largest group of dementia sufferers and thus ignore the actual largest group, while also promoting dementia as a death sentence despite 76% of those with dementia and Alzheimers being fully competent and safe drivers.

European Transport Safety Council (ETSC)

Medical Screening of Older Drivers: Counter-productive and ageist, and obscuring the real needs for assessment and rehabilitation services, Prof. Desmond O'Neil, MA, MD, FRCPI, AGSF, FRCP (Glasig)

"There is striking evidence that the perception of older drivers in the media is very negative....."

There are **three important tenets of population screening in public health:**

- **The condition being screen for causes harm**
- **A suitability sensitive and specific instrument exists to screen for the condition**
- **The screening process can be shown to provide an overall benefit in terms of both health and costs.**

A convincing case can be made that none of those conditions can be fulfilled for medical screening of all older drivers."

The American Academy of Neurology, April 12, 2010: AAN Issues Guideline on When People with Alzheimer's Disease Should Stop Driving

"While patients with mild dementia, as a group, are higher-risk drivers, more recent studies report that as many as 76 percent are still able to pass an on-road driving test and can safely drive,"..... "It is important that the decision to stop driving be

directed by a doctor who is trained and experienced in working with people with dementia and their families,”

Alzheimer’s Society of Canada” report of 2014, with statistics that are mirrored by their International Headquarters. “There are **747,000 Canadians living with a cognitive impairment, including dementia and Alzheimer’s** . Out of that number, **only 14.9% are over 65 years of age, while 85.1% with this handicap, are under 65**

72. What is also clear is the State Party players in BC, Alberta and Ontario are willing participants in the attacks on seniors, not only as ageing drivers, but as ‘potential medical risks’ and emotional and mental basket-cases, which they are no more than other drivers with the same conditions that have no correlation to driving ability whatever. The provinces of Saskatchewan and Manitoba have no such discriminatory testing and continue to see very low accident involvements of senior drivers. The new limitations of ‘medical fitness’ and ‘risk to the public’ imposed on drivers are vague and undefined.
73. There can be no justification for subjecting wiser, more experienced, more socially responsible drivers with excellent driving records to costly additional ‘testing’ for vague, undefined, unscientific ‘cognition issues’, once they have proven competency, and particularly since ‘medical conditions’ are not statistically associated to risk of accident and senior drivers are NOT the age group with the highest incidence of cognitive impairment.

Grismer SCC, McLachlin J

“There was no evidence of a ‘safe or reliable form of testing that can measure the ability to deal with unexpected or exceptional traffic situations”.

Medical Illness and fitness to Drive—the doctor’s dilemma – Dr. Chris Simpson

“The limited data we have from police report databases is that less than 1% of all accidents are caused by some sort of medical event behind the wheel. Of those, most were as a result of a sentinel medical event; in other words, they occurred in drivers who would have been previously assessed as having been ‘low risk’ and fit to drive.

Finally, there is a fundamental question of fairness. What is the acceptable risk we should accept? Many of you will be surprised to learn that no one has ever defined this. Clearly, we don’t demand that all drivers should have the same risk...the insurance industry understands this well – they charge higher rates as a result. Why are these drivers at higher risk allowed to drive whereas patients with some medical conditions are not?

Smokers are 1.5 times more likely to be in an MVA than non-smokers are. For migraine sufferers, the number is 2.5. Diabetes makes you 1.8 times more likely. Do you take a tricyclic antidepressant? Your risk is 2.3 times higher than average.

And how about this one: **women with epilepsy are less likely to be in an MVA than men WITHOUT epilepsy.”**

Evaluating the crash and citation rates of Utah drivers licensed with medical conditions, 1992-1996. *Accid Anal Prev* 002;34:237-47, Vernon DD, Diller EM, Cook IJ, Reading JC, Suruda AJ, Dean JM

74. It is my position that s. 31(14) (e) of the *HTA* forces mental examinations on drivers that violate the dignity and liberty of all subjected to them. There is NO scientific support for any mental illness. There is no statistical association between ‘mental illness’, cognitive impairment and traffic accidents. There is no statistical or other evidence of any link between cognitive impairment and driving ability. Yet, s.31 (14) (e) is used to force tens of thousands of ever-younger senior drivers into doctor’s offices for ‘cognitive testing’ or other ‘bogey-man medical tests’, most of whom have had excellent driving records for decades.
75. There is no statistical evidence to link medical conditions and aging to increase in accident involvement or to ability to drive safely. Therefore, forcing senior drivers en masse into doctor’s offices for ‘medical testing’ specifically to assess driving ability when doctors are not trained to assess driving ability in the first place and medical conditions have little effect on ability to drive safely is brutally unjust and a gross waste of OHIP funds. The claim that older drivers are less capable, less knowledgeable and less safe than others is deliberate misrepresentation, defamation of an entire group and discrimination.

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[129] *The parties agree the complainants’ employment was terminated based solely on age. Both complainants were qualified to operate a school bus at the time of employment termination. This is sufficient to establish a prima facie case of refusing to employ or refusing to continue to employ based on age, contrary to section 7 of the Act. In Dickason, supra, Justice Cory for the Supreme Court of Canada stated that “without question, mandatory retirement constitutes prima facie discrimination.” Here, the School Division’s position that age 65 mandatory retirement allows it to offer safer transportation to students, is based on the false premise that older workers are uniformly less capable and safer than younger colleagues. That is, drivers who reach age 65 must necessarily be unsafe because their driving performance will necessarily decline rapidly with age, after age 65.*

[130] **A comparator group is not required in the discrimination analysis:** *Moore v. British Columbia (Education) (2012), 75 C.H.R.R. D/369, 2012 SCC 61 (CanLII) and Lavender Co-operative Housing Assn. v. Ford (2011), 72 C.H.R.R. D/64, 2011 BCCA 114 (CanLII). If such a group were required it would be all Albertans eligible for a Class 2 driver’s license in Alberta.*

76. There are countless legitimate peer-reviewed studies, including the government’s own studies, proving that

(a) seniors have always been and continue to be the safest driving group across the world;

(b) seniors often have the advantage of experience with all sorts of weather, road conditions and classes of vehicles;

(c) seniors show better judgement, have more driving experience and their survival instincts are sharper;

(d) seniors are more law-biding and more likely to report accidents, less like to drink and drive and engage in dangerous driving or engage in distracted driving, show better strategic thinking, wisdom and social responsibility;

(e) thousands of seniors have perfect driving records after decades of driving.

RELIABLE SOURCES THAT IDENTIFY ELDERLY DRIVERS AS THE SAFEST ON THE ROAD:

- **United States Senses Bureau**, Abstract 2012, page 698.
- **Organization For Economic Co-Operation and Development**(Report on Ageing And Transportation 2001, to which Canada was signatory.
- Transport Canada
- Statistics Canada
- Insurance Bureau of Canada
- **ONTARIO MINISTRY OF TRANSPORTATION, Ontario Road Safety Reports (ORSR) 2009-2014 (statistics withheld by government for 2015, 2016)**
- College of Family Physicians of Canada
- Personal Injury Lawyer Statistics (David Hollingsworth)
- **Lakehead University Centre For Research on Safe Driving**
- The Researchers at the **Federal 5-year study of Elderly Drivers**
- The Monash University of Australia, International Accident Research Centre, who have completed **a 5-year study of senior drivers using Canadian content, and concluded that “special targeting of senior drivers cannot be justified”**
- The Census Bureau of the United States, Abstract 2012, page 698, Transportation states **“Accident Rates for Seniors much less than others”**.
- **United States Insurance Institute for Highway Safety**: The most recent 6-year study states, “ *We were wrong in thinking, that the increase in elderly drivers would lead to increase accidents, and we found out the opposite, “ **THAT THE ELDERLY ARE THE SAFEST DRIVERS ON THE ROADS”**”.*
- Association of Retired Person’s of the United States
- **Candrive, the Canadian Governments 5.5 million study of senior drivers confirms that seniors are the safest drivers on the road.**
- **International Re-licensing Models of Older Drivers, 2013 explaining the sheer waste of money because it does not improve road safety, but causes much**

distress, reduced quality of life and even death in those having lost their driver's licenses unjustly

- **British Medical Journal, Martin, A et al, 2005 Feb 12 'Are the media running elderly drivers off the road?: *'Drivers over the age of 65 are the safest drivers of any age group.'***
- **Anti-Discrimination Commissioner, Tasmania 2014: ends all special senior testing**
- **Minister of Health and Aging, South Australia 2014: ends all special senior testing**
- **The Census Bureau of the United States, Abstract 2012, page 698,**
Transportation states "**Accident rates for Seniors much lower than others**".

Centre for Research on Safe Driving, Bedard, M. (2009-2012) "Restricting driving should not be the preferred approach for older drivers. ..."

Ontario Road Safety Annual Report 2011

- The age group with the highest accident rate: 18-54 years.
- Drivers killed, most between 35-64 years of age.
- **Elderly killed as passengers and pedestrians, total of 45**
- The group with the highest Demerit Point Suspensions: 18-54 years of age.
- **Out of a total of 2,195 Suspensions, only 9 were to 65 years and above.**
- *According to Traffic Police, regardless of age, the causes of injury-causing collisions are usually related to , Aggressive Driving, Distracted Driving, Impaired Driving and Unsecured seatbelts.*

Ontario Road Safety Annual Report 2012

- Senior Drivers Fatalities:
- The **number of licensed senior drivers aged 80 and over has increased** four-fold over the past 20 years, from over 71,433 in 1993 to over 270,542 in 2012. **Fatalities among senior drivers age 80 and over decreased** from 23 in 2011 to 14 in 2012.

Ontario Road Safety Annual Report 2013

- **Total number of Suspensions: 1060; # drivers 65+ receiving a suspension: 28**
- **"The casualty rate per 10,000 licensed drivers over age 65 years has decreased by 42 per cent.**
- # Senior Drivers in 2012 = 270,542
- # Senior Drivers in 2013 = 279,793

Noted discrimination in the report: report counts 70 year olds and over, but **those with highest accident rates are left out. Those property damage collisions statistics involving speeding, dangerous driving, distracted driving are not counted.** *"It is worth noting a decision has been made to discontinue counting self-reported, non-priority property damage collisions. Priority property damage collisions will continue to be counted and include the following types of collisions: All those occurring on provincial highways; All those involving*

carrier vehicles; All those involving drivers aged 70 or over; and All those where a driver's condition has been reported as being impaired by drugs or if the driver had a medical/physical disability.”

Ontario Road Safety Annual Report 2014

Senior Drivers **Fatalities among senior drivers age 80 and over decreased from 27 in 2013 to 16 in 2014 – a decrease of 41 per cent.**

Insurance Institute for Highway Safety, Highway Loss Data Institute, Status Report, Vol.45, No 6, June 19 2010: ‘Older driver’s crash rates decline unexpectedly.’

“Trends for older drivers are improving both ways,” McCartt explains. **“Seniors are less likely to get into police-reported crashes in the first place, and they’re less likely to die from their injuries when they do crash.”**

British Medical Journal, Are the media running elderly drivers off the road?, Alan Martin, registrar, Lucy Balding, house officer, Desmond O’Neill, associate professor: BMJ, 2005 Feb 12, 2005; 330(7487)

“Drivers over the age of 65 are the safest drivers of any age group.

Much of the literature on older people's medical fitness to drive concentrates on risk rather than mobility. Might a negative image of elderly drivers in the media be an important factor in shaping public and medical opinion on the issue?

When we excluded brief reports on fatal crashes, **we found the results for opinion or editorial articles to be 15 negative, four positive, and seven balanced.** Headlines included “Keep the over-50s off our M-ways,”

Newspaper reporting of issues relating to older drivers in the United Kingdom and Ireland is largely negative in content **and is at variance with the evidence.** The **potential consequences of such representation are to distort the political and societal context within which doctors practise medicine and promote healthy ageing. The media reflect and shape public opinion.** In particular, the media can influence the public's perception of health related issues.

The second task is for our professional bodies—**doctors, geriatricians, transport planners—to work with journalists and opinion formers to educate them and make them aware that the major concern with transport and health for older people is usually access to transport rather than the imagined threat that older drivers represent to other road users.**

Canadian Medical Association, Medical Illness and fitness to drive – the doctor’s dilemma, Dr. Chris Simpson

“In Canada (Alberta, Nova Scotia and Quebec excepted), provincial legislation is in place requiring us to report patients with medical illnesses that may make them unsafe behind the wheel. Because the operative word in most legislative language is “may” – everyone may be at an increased risk –

the Canadian Medical Association has developed guidelines to aid physicians in this somewhat unpleasant task.

The limited data we have from police report databases is that less than 1% of all accidents are caused by some sort of medical event behind the wheel. Of those, most were as a result of a sentinel medical event; in other words, they occurred in drivers who would have been previously assessed as having been “low-risk” and fit to drive.

Finally, there is a fundamental question of fairness. What is the acceptable risk we should accept? Many of you will be surprised to learn that no one has ever defined this.

Clearly, we don't demand that all drivers should have the same risk – it's well known that 18 year old men and 80 year old women are at higher risk for MVAs – the insurance industry understands this well – they charge higher rates as a result. Why are these drivers at higher risk allowed to drive whereas patients with some medical conditions are not?

Let's make a few comparisons. Smokers are 1.5 times more likely to be in an MVA than non-smokers are. For migraine sufferers, the number is 2.5. Diabetes makes you 1.8 times more likely. Do you take a tricyclic antidepressant? Your risk is 2.3 times higher than average.

And how about this one: **women with epilepsy are less likely to be in an MVA than men without epilepsy.**

Maybe we should suspend the licences of all men!

You can see what I am getting at. Many of us belong to a demographic group that is at higher risk than some other group. Where should the cut off line be? After all, if we suspended everyone from driving, there would be no accidents at all.

The Association of Occupational Therapy, Inc. Myths and Realities About Older Drivers

“Physicians commonly state that they know little about the effects of specific functional losses on driving safety, and they prefer that the state department of motor vehicles (DMV) deal with the issue.”

VIOLATIONS OF SECTION 15 OF THE CHARTER - DISCRIMINATION

77. I understand that the State Party has undertaken specific legal obligations and has guaranteed its protection of my rights and freedoms, without discrimination and without excuses, pretexts, and interference with my personal choices in life, and no matter my age or medical condition.

Universal Declaration of Human Rights (UDHR)

Preamble

Whereas recognition of the **inherent dignity and of the equal and inalienable rights of all members of the human family** is the foundation of freedom, justice and peace in the world,

Whereas **disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind**, and the advent of a world in which **human beings shall enjoy freedom of speech and belief and freedom from fear and want** has been proclaimed as the highest aspiration of the common people,

Whereas **Member States have pledged themselves to achieve**, in cooperation with the United Nations, the promotion of universal respect for and **observance of human rights and fundamental freedoms**,

Whereas **a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge**,

International Covenant on Civil and Political Rights (ICCPR)

Recognizing that these **rights derive from the inherent dignity of the human person**,

Recognizing that, in accordance with the Universal Declaration of Human Rights, **the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights**,

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

Constitution of Canada, 1982

Legal Rights

7. **Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice**

15.(1) **Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.**

78. I understand that my rights and freedoms, no matter my age or health condition, are equal to those of all others and are superior to the privileges conferred on various State Party corporations. It is my understanding that **no distinction whatever is to be used as a pretext to excuse incursions** into and destructions aimed at my life, liberty and security of person, without first meeting the tests for justification under s. 1 of the Charter.

79. The suggestion by any State Party that ageing persons require 'schooling', 'refreshers' and extra incursions into their lives not suffered by other drivers, causes much humiliation and indignity to the victims for no justifiable reasons but that some Courts and media have insisted on participating in State Party stereotyping of senior drivers and all manner of affront, from suggestions they are less physically capable of handling their vehicles to less knowledgeable even after decades of driving in all conditions. This harms the victim, but creates massive profits for the service providers.

E Tit and Director of Vital Statistics, 1986 CanLII 3918 (MB QB)

[3] All laws, whether they touch "fundamental" rights or not, must satisfy s. 15(1) of the Charter.

The initial question is: "When does a distinction constitute inequality or prohibited discrimination?"

[4] **Professor Hogg, in The Constitutional Law of Canada, (Carswell, 1984)**, at p. 800, adopts the broad view that s. 15 applies and therefore section 1 must come into play whenever there is any departure from the rule of universal application of a law. He states:

I conclude that s. 15 should be interpreted as providing for the universal application of every law. When a law draws a distinction between individuals, on any ground, that distinction is sufficient to constitute a breach of s. 15, and to move the constitutional issue to s. 1.

R v MacLennan, 2014 ONSC 2946 (CanLII)

[36] **The negative discrimination to be avoided has been identified by Justice McIntyre in Andrews v. Law Society (British Columbia), 1989 CanLII 2 (SCC), [1989] 1 S.C.R. 143 at para. 19:**

...discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations or disadvantages on such individual or groups not imposed upon others, or which withhold or limit access to opportunities, benefits and advantages available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association within a group will rarely escape the charge of discrimination, while those based on an individual's merits and capacities will rarely be so classed.

[38] In *Law v. Canada (Minister of Employment and Immigration)*, Justice Iacobucci spoke of an objective approach to the possibility of discrimination, **focusing on the circumstances of the individual in a particular context, with an eye to whether or not the treatment in question demeaned the dignity of the individual affected (at para. 75).**

Canadian Charter of Rights and Freedoms

1. The Canadian Charter of Rights and Freedoms **guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.**

80. There is no operation of valid law that permits State Party authorities to discriminate against men and women by means of designating ‘classes’ of drivers and then subjecting them to arbitrary actions to abridge their rights. All drivers are equal under the law; all are driving on the same highways regardless their age or medical condition; all must prove competency to drive the vehicle they are choosing to drive. **That is the sole intrusion on their right to drive and travel that is permitted by law and by Supreme Court decisions. My rights cannot be abridged based on discriminatory profit-based assumptions about ageing or medical conditions. Ageing, emotional and mental states and medical conditions have little to no correlation to accident involvement, despite the promotion by State Party players that these automatically increase the risk of at-fault accidents.**

Universal Declaration of Human Rights (UDHR)

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 3

The **States Parties** to the present Covenant **undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights** set forth in the present Covenant.

Article 5

2. **There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.**

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC)

1. "Driving automobiles is a privilege most adult Canadians take for granted. It is important to their lives and work. **While the privilege can be removed because of risk, it must not be removed on the basis of discriminatory assumptions founded on stereotypes of disability, rather than actual capacity to drive safely.**

2. **All too often, persons with disabilities are assumed to be unable to accomplish certain tasks based on the experience of able-bodied individuals.** The thrust of **human rights legislation is to eliminate such assumptions and break down the barriers that stand in the way of equality for all.**"

81. In 2011, before the 'special' cognitive impairment testing was forced on senior drivers, Ontario (Serco was the service provider at this time) imposed mandatory GES (Group Educational Sessions) on those 80 years and older, despite all research showing this was useless in determining risk of at-fault accidents and seniors were already the safest driving group. However, it was clear that the additional incursions into seniors' lives was not supported by evidence of a serious and inherent risk to the public -- of the 121,862 drivers forced to attend the GES less than 2,300 were then forced into a road-test, even though to that point they had a clean driving record. There were no statistics provided to show how many of those road-tested failed a legitimate test, but it is clear that 120,000 innocent seniors had their rights violated in this hunt and for no good reason.

R v MacLennan, 2014 ONSC 2946 (CanLII)

[28] **Statistics for 2011 revealed that of the 121,862 drivers who attended the GES, less than two per cent were referred on for a road test.**

82. Further, there was no evidence provided that senior drivers of any age who had been maintaining clean driving records for decades required 'refresher' courses or more 'education, or had less knowledge of the rules of the road than younger drivers. There was no evidence of any co-relation between aging and decreased ability to drive safely and no association established between medical conditions (which are found across all ages) and accident rates. No other driving group was put through this grinder, let alone every two years, depriving them of their time, energy and resources for no justifiable reason. The indignity of being considered 'less knowledgeable or able' and forced back to 'school' after a lifetime of successful driving has been systematically dismissed by the too many lower Courts and Tribunals and the profit-driven government.

83. There is no operation of superior law that permits any State Party representative to make decisions on my behalf or to impose regulations, examinations and other interference on the grounds that it needs to 'protect me from myself', without a court declaration that I am incompetent. Clearly if actions are taken against me on the basis

of age that puts me at a disadvantage in society when I have done nothing wrong but be of a certain age or have a certain medical condition, my rights to be free from incursions into my life by the State Party are grossly violated without justification.

84. It is my understanding that I have a **right to work at any age**, to free choice in work, including volunteer work and State protection against unemployment. Once my driver's license is denied because I refuse to (a) be extorted by a requirement for an annual driver license renewal that is not associated with on-road skills testing, and/or (b) renew my vehicle registration permit annually after it has been registered the first time, and/or (c) refuse to undergo discriminatory 'cognitive' testing or any driver testing that other drivers are not subjected to or at intervals others are not subjected at, **the State Party** will have caused my unemployment, despite my having proven competent for decades.

Universal Declaration of Human Rights (UDHR)

Article 23

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[474] **The Supreme Court stated in Reference Re Public Service Employee Relations Act (Alta), supra, at paragraph [91]:**

Work is one of the most fundamental aspects in a person's life, providing the individual with a means of financial support and, as importantly, a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being. ...

[475] In **Therault Conseil Scolaire Acadien Provincial, 2008 NSHRC 3 (CanLII)**, the Board of Inquiry appointed under the human rights legislation wrote at para [1]:

The work we choose to pursue during our lifetimes can provide more than an income and more than a livelihood. The work we choose to pursue during our lifetimes can be a central source of our identity, self-definition and achievement, and self-esteem. Our work is often the product of years of commitment to a course of education and training . . . Indeed our participation in employment can be so essential to both our sense of self and our participation in society that we are protected by [the human rights legislation] from suffering discrimination in relation to employment.

85. It is my understanding that as a senior and equal member of the human family, **no matter my age or health condition**, the State Party is to protect my inherent, traditional right to be free from cruel, inhuman, degrading treatment, such as fraudulent, discredited, humiliating 'dementia' testing without my knowledge or consent, followed by inhuman and humiliating punishment comprising the removal of my traditional rights

causing fear, loss of dignity, loss of home, property, work and enjoyment of life.

Universal Declaration of Human Rights (UDHR)

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

International Covenant on Civil and Political Rights (ICCPR)

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

British Columbia v. Bolster, 2007 BCCA 65 (CanLII)

[110] Professor Sullivan discusses the "central problem" of determining what is a vested (or accrued) right (at 570):

[110] The Court must decide whether the particular interest or expectation for which protection is being sought is sufficiently important to be recognized as a right and sufficiently defined and in the control of the claimant to be recognized as vested or accrued.

Some vested rights are easily recognized. Property rights, contractual rights, and rights to damages or other common law remedies are well established categories. So are defences and immunities from suit [footnote omitted]. For the most part, these are "private law" rights with a respectable common law pedigree; their importance is taken for granted.

Moreover, it usually is possible to identify a specific point at which these rights arise and can be said to "belong" to a claimant....

[111] the analytical framework for recognizing vested rights suggested by Professor Pierre-André Côté in *Interpretation of Legislation in Canada*, 3rd ed. (Scarborough: Carswell, 2000) (at para. 37):

"Côté maintains that an individual must meet two criteria to have a vested right: (1) the individual's legal (juridical) situation must be tangible and concrete rather than general and abstract; and (2) this legal situation must have been sufficiently constituted at the time of the new statute's commencement (Côté, at pp. 160-61)."

86. It is my understanding that the State Party has fully ignored the medical community that does not see any logic in 'special' testing of senior drivers and have spoken out loudly and clearly on this discrimination for over a full decade. The State Party instead, has given full berth to non-medical entrepreneurs and multinational for-profit corporations.

Canadian Medical Association Journal, CMAJ 2012. DOI:10.1503/cmaj.110814: In defence of older drivers, Ezra Hauer PhD, Professor (emeritus) Department of Civil Engineering, University of Toronto

“Physicians are asked to play a role in the delicensing process. This role should be based on fact, not prejudice....”

The chain of reasoning — that older drivers have an inordinately high risk of being in crashes due to a decline in their ability to drive safely, and that this decline is caused by age-related medical conditions — is but a house of cards. Without the false claim that older drivers have a very high probability of being involved in a crash, the structure collapses. ...

...giving succour to government programs that rely on that prejudice for public support. However, medicine is an evidence-based discipline, and physicians should debate their role in the delicensing of drivers on the basis of facts, not lay beliefs.”

Canadian Geriatrics Journal, Comparison of the SIMARD MD to Clinical impression in Assessing Fitness to Drive in Patients with Cognitive Impairment, Wernham, M, et al, 2014, June: 17(2): 63-69

“Conclusions: There was no association between the SIMARD MD scores and the geriatricians’ clinical decision regarding fitness to drive in persons with mild dementia or mild cognitive impairment.”

Professor Richard Tay, Chair, Road Safety Management, La Trobe University: Ageing drivers: Live and let drive, May 24/2012 – research funded by The Social Sciences and Humanities Research Council of Canada (SSHRC) and The Alberta Motor Association (AMA)

“Professor Tay carried out a similar study in Australia in 2005, which found also, that the increase in the number of ageing drivers licensed had no significant effect on the number of fatal crashes.

‘From looking at the licensing practices in several provinces across Canada, we found there is no correlation between having stricter rules and less traffic accidents’, says Professor Tay.”

87. It is my understanding that senior drivers are routinely subjected (using coercion and outright lying and trickery) to ‘mental illness’ testing, when in fact, there is no scientific support for any ‘mental illness’ and when statistics clearly show that the vast majority of those with serious cognitive impairments such as ‘dementia’ are found in the *under 65-year* age group. Demented people cannot manage day-to-day activities and therefore are culled naturally from the driving public long before they become a danger. Of all the medical and cognitive conditions that could affect a driver of any age’s ability to drive, only 112,245 are estimated to have Alzheimer’s and other dementia and cognitive impairments, and that small number, includes drivers of all ages. Moreover, rates of dementia and cognitive difficulties in people of all ages declined between 2011 and 2014, just when aggressive test of seniors by Serco was facilitated by the provincial government.

Queen’s University Study on Dementia

“Together with the Alzheimer Association statistics we see that **seniors are not the problem, that**

statistically seniors have the lowest rate of dementia, but that **as the dangerous groups are aging, they are becoming more demented, earlier and thus ALL testing must be of ALL drivers and not the safest groups only.**

Canadian Alzheimer's Society of Canada, 2011 Statistics Canada Report , Table 105-1300, dated 2010/11

According to the Alzheimer's Association of Canada, and these statistics are mirrored in their European Offices as well, **of the 779,000 people in Canada, who suffer from some sort of cognitive impairment, dementia or Alzheimer's, only 14.9% are above 65 yrs. of age, but, 85.1% are between 17 and 65.**

Alzheimer's Society of Canada" report of 2014, with statistics that are mirrored by their International Headquarters. "There are **747,000 Canadians living with a cognitive impairment, including dementia and Alzheimer's** . Out of that number, **only 14.9% are over 65 years of age, while 85.1% with this handicap, are under 65.**"

The Kim Foundation of the United States, on Mental Health states "Mental Health in the United States and Canada, are the leading causes of disabilities of those between the ages of 15 yrs. and 44 yrs. of age. Further they state that many of these suffer from more than one mental disorder , at any given time (http://www.thekimfoundation.org/html/about_mental_ill/statistics.html).

88. Seniors are forced to test in unfamiliar vehicles provided by the test centre -- a situation other drivers do not find themselves subjected to. Reports abound of cases where testers have distracted and intimidated the driver during the testing. This naturally adds to the distress that seniors would never experience when choosing to drive their own vehicles in day-to-day activities.
89. It is my position that where remedial programs, education and graduated de-licensing would allow for a gradual reduction in driving as one ages, IF EVIDENCE OF INCOMPETENCY in fact exists, instead, a full assault not experienced by other drivers except in cases of criminal activity, is undertaken.

(a) 'SPECIAL TESTING' OF SENIORS

90. It is my understanding that the Court in '*Grismer*' has made it clear that all cases of discrimination must be subjected to the *Meiroin* test: (a) the standard for a purpose is rationally connected to the function being performed (b) the standard was adopted in good faith, and (c) the standard is reasonably necessary to accomplish the purpose and the individual affected cannot be accommodated.

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC) (known as the Grismer case)

21. “This test permits the employer or service provider to **choose its purpose or goal, as long as that choice is made in good faith**, or “legitimately”. **Having chosen and defined the purpose or goal** – be it safety, efficiency, or any other valid object – **the focus shifts to the means by which the employer or service provider seeks to achieve** the purpose or goal. **The means must be tailored to the ends.** For example, if an employer’s goal is workplace safety, then the employer is entitled to insist on hiring standards reasonably required to provide that workplace safety. However, the employer is **not entitled to set standards that are either higher than necessary** for workplace safety **or irrelevant** to the work required, and which arbitrarily exclude some classes of workers.”

91. It is clear that the standard requiring a senior to pass not one but two discredited in-office tests for cognition impairment when in fact their doctor had apparently not noticed any problems with their patient prior, is not rationally connected to the ability to drive safely. The standard of zero risk and searching for the ‘medically at risk’ driver is irrational because it runs contrary to the HTA’s own stated purpose: ‘to grant licenses only to those who demonstrate that they are **likely** to drive safely’, and every human being is ‘medically at risk’ of something. If a driver has a clean driving record after decades of driving, obviously they have demonstrated they are LIKELY to drive safely.

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC) (known as the Grismer case)

25. “What degree of risk would be tolerated? Where did the Superintendent draw the line between the need to maintain highway safety and the desirability of permitting a broad range of people to drive? **The possibilities range from absolute safety, in which case few if any mortals would be allowed to drive, to a total lack of concern for safety,** in which case everyone, regardless of their lack of ability, would be allowed to drive. **Between these two extremes lies the more moderate view that reasonable safety suffices.**”

International Covenant on Civil and Political Rights (ICCPR)

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, **no one shall be subjected without his free consent to medical or scientific experimentation.**

92. It is also clear that the standard involving two discredited in-office tests were not adopted in good faith since both tests had been fully discredited as an assessment of driving ability by the research community for year before introduction into Ontario, and other drivers are not subjected to them, although the groups with the highest rates of cognitive impairment are the much younger groups. Those who fail the discredited tests must pay hundreds of dollars for re-tests directly to the drive centre. Incredibly, if they can afford to ‘retest’ often enough, they pass. **It is irrational to believe that a**

seasoned driver would be incompetent one day and not the next when the only difference between those days was the payment of money to the private drive centre. Many senior drivers are forced off the road not because of incompetence, but because they could not afford the retesting fees. Worse, they are subjected to this extortion every 2 years and if an on-road test is provided, it is in an unfamiliar vehicle provided by the testing centre.

93. It is also clear that the standards are irrelevant to safety since the senior drivers targeted are deemed by statistical evidence to be the safest drivers across the world. The standard sets a much higher bar for maintaining one's drivers license than others are required to meet, since not only is on-road driving ability a measure, but now so too is whether the driver is of a certain age or has one of the 'bogey-man' medical conditions hunted for. It is clear in *Mortland and VanRootselaar v. Peace Wapiti* that claims of 'risk' are to be given very little weight as s. 1 Charter justifications.

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC) (known as the Grismer case)

31. "Second, evidence that a particular group is being treated more harshly than others without apparent justification may indicate that the standard applied to that group is not reasonably necessary."

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[403] Peace Wapiti **seeks to justify its discriminatory standard based on a potential encompassed by the concept of driver risk. The Supreme Court of Canada addressed risk at paragraph 30 of Grismer:**

... Risk has a limited role in this analysis. It is clear from Meiorin that the old notion that "sufficient risk" could justify a discriminatory standard is no longer applicable. Risk can still be considered under the guise of hardship, but not as an independent justification of discrimination. ...

94. It is my understanding that I need only DEMONSTRATE that I am competent to travel the highway system in Canada in my motor vehicle and willing to continue driving safely by maintaining a good driving record. The targeting of the safest driver group with 'special testing' not applied to other drivers and which is not remotely a legitimate assessment of driving ability, is clearly discriminatory and keeping me and senior drivers in a position of servitude to the Ministry of Transportation and its service providers in violation of *UDHR Article 28, ICCPR Articles 47 and 50, ICESCR, Articles 25 and 28, the Constitution Act, 1982, Articles 32(1) and 52(1)*. It is not acceptable for the MOT to substitute a discredited in-office test for a legitimate, unbiased on-road driving test or to ignore a clean driving record as proof of 'likelihood' to drive safely. It is not acceptable for MOT to reduce a 'right' to a privilege to circumvent human rights laws.

R v Engler, 2015 ABPC 105 (CanLII)

[13] Both Parliament and provincial legislatures have constitutional jurisdiction to create offences relating to highway traffic. Parliament's jurisdiction arises from its authority to make laws governing criminal law and procedure. See: Constitution Act, 1867, s.91(27). Alberta's jurisdiction arises from its authority to make laws relating to property and civil rights. See: Constitution Act, 1867, s.92(13). Motor vehicle offences have a 'double aspect' in that regard. See: Constitutional Law of Canada, 5th ed., Hogg, **Th s. 31 of H.T.A. specifically indicates that driving is a privilege and that in order to protect the public, the privilege of driving on a highway is granted to, and retained by, only those persons who DEMONSTRATE THAT THEY ARE LIKELY TO DRIVE SAFELY.**

95. It is my understanding that the province has the authority to issue licenses or permits and therefore the authority to suspend them or cancel them. However, it is an unreasonable expansion of powers that the authority suspends or revokes driver's licenses or permits en masse based on whether a senior refused to subject themselves to discredited 'screening tools', as is their right under the *Health Care Consent Act*, or who failed them. Unfettered authority to expand subjectively on the conditions that can give rise to suspension of a driver's license has opened the door to gross violations of rights and freedoms.

Horsefield v. Registrar of Motor Vehicles, 1999 CanLii 2023 (ON CA)

Citing Rinfret J at pp 415-16 of *Prince Edward Island (Provincial Secretary) v. Egan*

"Surely, the authority to issues such licenses, or permits, carries with it the authority to suspend or cancel them, **upon the happening of certain conditions.**"

96. It is my understanding that national and international scientific committees have come out solidly against this discriminatory age-based testing on the say-so of businesses looking to capitalize on ageing. Liisa Emilia Hakamies-Bomqvist is a member of such esteemed scientific committees and chairman of OECD expert group on Ageing and Transport **with world-wide recognition in the field of aging and transport.** She has written over 100 scientific and technical papers on road safety, developmental psychology and health psychology and has been Associate Editor of the scientific journal Accident Analysis and Prevention since 2001.

Report: January 22nd, 2003 Ageing Europe: The Challenges and Opportunities for Transport Safety, Hakamies-Blomqvist, L., Scientific Director, Swedish National Road and Transport Research Institute:

"It is important to note that for older road users, driving their own car is one of the safest ways to travel and it is far more risky for them to participate in traffic as unprotected road users [pedestrians].

Older people are not so much risky, as at risk in traffic, mainly because of their increasing physical vulnerability.

The area of ageing and driving is one where many misconceptions reign: It is also an area of intensive research and policy work where different economic and other interests may be at stake.

It is therefore important to establish the problem based on critical and impartial scrutiny of the existing research evidence.

The common perception of older drivers seems to be very biased towards seeing them as risky and as a threat to general traffic safety.

Risk is accidents per exposure. When calculating risks, we therefore need a count of the number of crashes and a measurement of exposure.

...an interpretation of the U-shaped curve as indicating an increase of accident risk by age is grossly erroneous.

For older drivers, of course, the best example of this type of sampling bias is the frailty bias, that is, their greater physical frailty.

2.3 Age-related driver screening: A Jack-in-the-box safety measure

...erroneous idea of older drivers as a high-risk group, age-related screening often is suggested as an effective safety measure....creates visions of wonderful business opportunities. In the ageing Europe, the professions vested with the screening tasks would get numerous new work opportunities and anybody inventing a testing gimmick for driver risk and getting it included into a pan-European standard equipment would greatly increase his/her personal wealth.

However, all serious studies that have aimed to evaluate the safety effects of general age-based driver screening have failed to show any benefits. There are many reasons for this...it is difficult to find correlations between single functional measures and risk and even the most carefully performed studies relating functional measures to accident risk end up with correlations so low that they cannot be used as decision criteria.

97. My position is that the summary removal of driver's licenses and a complete upheaval of the victim and their family's lives with catastrophic consequences when they have done nothing wrong is a disgrace and unacceptable in any State that claims it promotes a free and democratic society. Even criminals are not deprived of their life and liberty on the basis of 'opinion' of undefined 'risk'. The State Party has divided drivers into ever-expanding numbers of permanently unequal classes, without justification and strictly for profiteering purposes.

Report: January 22nd, 2003 Ageing Europe: The Challenges and Opportunities for Transport Safety, Hakamies-Blomqvist, L., Scientific Director, Swedish National Road and Transport Research Institute:

To prevent one personal injury accident per year by excluding this 'high-risk' group from driving, provided that we could perfectly identify its members (which we normally cannot), therefore would cost the mobility of 9999 drivers who would have not had accidents. In addition, these 9999 drivers probably would switch to other less safe modes of travel and we might well end up having decreased their overall safety.

98. It is my understanding that any legislation that forces a person to put themselves in jeopardy and that could endanger their life or security of his person violates s. 7 of the Charter. Special' cognitive impairment screening tests are in fact designed to fail at least 50% of those tested. The consequence of failing 'cognitive tests' are severe; a

victim is humiliated, their entire life turned upside down without notice or accommodation and the isolation causes seniors serious health issues and massive stress. Even though a senior knows the tests are not a legitimate means of testing driving ability and the consequences can be catastrophic psychologically and physically, they are forced to undergo these tests against their will. If they don't accept such testing, the consequences are immediately catastrophic, going to their very independence and well being. If they accept the tests, they have at best a 50% chance of failing for no good reason but that the tests are fraudulent and not designed to predict driving ability. The consequences are the same.

R. v. Doucette (1987), 48 M.V.R. 110, 28 C.R.R. 207, 77 N.S.R. (2d) 279, 191 A.P.R. 279 (C.A.) at page 117-118

"The only way this legislation could be found to be in violation of s. 7 would be if it could be proved in evidence that it forced the appellant to do something that did in fact endanger his life or security of person."

99. It is my position that merely on the basis of the opinion of one married couple and their allies in business and the media, the State Party has divided drivers into ever expanding numbers of permanently unequal classes, without justification and strictly for profiteering purposes. The circumstance of 'ageing' is misrepresented as responsible for an increased risk of accidents and offences against the HTA, such as dangerous or incompetent driving. Seniors are therefore 'signaled' by MOT to appear before their doctor to have their minds and bodies searched for 'evidence' to support this contention that these individuals, because of their age, are dangerous as they claim. Whether detained on the roadway or sent to a doctor's office, the individual is being detained without probable cause. A senior who could not be detained on the street for the reason of 'ageing' should not be treated any differently as a driver, if they have a valid driver's license.
100. The State Party's position is that there does not have to be the actual existence of a reasonable and probable grounds to interrupt the senior's life and to force them to put themselves in danger of losing their driver's licenses over discredited 'cognitive testing'. This violates s. 8 & 9 of the *Charter*, since justification, in the presence of the actual facts that seniors are the safest driving group, cannot exist.
101. What these 'special' cognitive impairment tests are in fact, are not much more than witch hunts, done under false pretense in violation of the *Criminal Code*. Inciting hatred and fear of others is a *Criminal Code* offence as is defamatory libel (CCC s. 297, 298(1)(2), 319(1)(2)(3), particularly when harm comes to the victims, as it does to hundreds of thousands of Ontario seniors every year since 2014. Causing psychological distress to senior drivers is assault. Senior non-drivers and particularly senior professionals of all types are not subjected to discredited 'cognitive impairment

testing' every two years or at all. The suspension of an innocent senior driver is tantamount to forced 'retirement' and forced retirement based on age has been squarely knocked down by the Supreme Court as age-discrimination.

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[116] Numerous reports, publications, books and statutory amendments show that mandatory retirement is an important social policy issue today. **Justice LaForest's panel, as part of its review of the Canadian Human Rights Act, noted that mandatory retirement is age discrimination. It takes away the choice of when to retire from the older worker. It may force older people into poverty if they have not been able to save enough for their later years. Such policies may have an adverse effect on new immigrants and women. Work is a fundamental aspect of a person's life, providing financial support and a contributory role, and so an essential component of identity, self-worth and emotional well-being.** Reference Re Public Service Employee Relations Act (Alta), 1987 CanLII 88 (SCC), [1987] 1 S.C.R. 313, and Theriault v. Conseil Scolaire Acadian Provincial, 2008 NSHRC 3 (CanLII).

Dickson C.J.C in Morgentaler at page 463-65

"At common law, for example, any medical procedure carried out on a person without that person's consent is an assault.

The case-law leads me to the conclusion that state interference with bodily integrity and serious state-imposed psychological stress, at least in the criminal law context, constitute a breach of security of the person."

VIOLATIONS OF SECTION 24 OF THE CHARTER

A- FAILURE TO PROVIDE EFFECTIVE REMEDY

Preamble

102. I understand that the right to drive any vehicle, as long as competent to do so, existed long before the State existed. Prior to 1982, all activities of the human being on this landmass were deemed 'privileges' by the corporate government. The entire purpose of the human rights legislation was to end these abuses.
103. While the some tribunals and courts have used the 'position' of a violation of a right within the *Charter* protection scheme as an excuse to withhold full protection from abuse by the State, with some going to far as to claim that driving a motor vehicle in this society is not inherently personal to the individual because driving does not go to the root of a person's dignity and independence (Hinds J.A. in *Buhlers, supra* at pg. 102), others have pronounced soundly that driving is an activity central to most lives and especially those living in rural areas and the loss of the right to drive can create great hardships. The Supreme Court has stated clearly that the *Charter* must be interpreted 'generously' for the individual. (*Dickson C.J.C. in R. V. Big M. Drug Mart Ltd., 1985*)
104. It is unjust that individuals be caught in such a 'chaotic' situation, which results in a hit and miss protection of their rights and especially their lives, liberty, security of person and pursuit of enjoyment of their lives and property. Whether the right to drive once proven competent is protected under s. 7 or some other section of the *Charter*, is relevant only to the corporate system. The fact of the matter is that it must be protected by some means, whether constitutional, legislative or other measure (ICCPR Articles 2.2 and 2.3(b)). The activity of driving impacts many other aspects of life in this modern society; this fact alone should be enough to motivate the courts to move from the location of the protection in the *Charter* to the fact that the Charter is to guarantee the International Covenant undertakings without derogation or limitation (such as Court decisions based entirely on preconceived notions of ageing).
105. It is my position that an important Supreme Court of Canada decision on the matter of driver's licenses was disregarded since it's writing. This has resulted in findings that driving is a privilege without any obligations placed on the State Party to ensure that the only reason for any intrusion on motorist's lives and freedoms was the requirement for proof of competency to drive. There must be no refusal by MOT to provide the proof of competency document required by a driver to exercise their right to drive, be it a 'license' or other document, for any reasons but that the driver could not pass a conflict-free on-road test in their own vehicle. The on-road test must measure

likelihood the driver will drive safely. The standard must be an ability to show a 'reasonable degree' of driving ability and safety, and NOT a demand for the 'perfect' driver free of all risk of accident involvement.

R vs HAPE

"Since it is a well-established principle of statutory interpretation that legislation will be presumed to conform to international law, in interpreting the scope of application of the Charter, a court should seek to ensure compliance with Canada's binding obligations under international law where the express words are capable of supporting such a construction.

(53) **One final general principle bears on the resolution of the legal issues in this appeal. It is a well-established principle of statutory interpretation that legislation will be presumed to conform to international law. The presumption of conformity is based on the rule of judicial policy that, as a matter of law, courts will strive to avoid constructions of domestic law pursuant to which the state would be in violation of its international obligations.**

R. v. Ladouceur, [1990] 1 SCR 1257, 1990 CanLII 108 (SCC)

"The next question is whether routine verification minimally impairs the s. 9. Driving incompetently creates a serious risk for everyone on the road. This situation has been recognized in Canada by the law that involves obtaining a driver's license the condition that the applicant demonstrates a minimum skill. Only the holders of a license can exercise the right to drive. Even this right is regulated by the provisions of the provincial traffic laws and the Criminal Code. If the right to drive can only be exercised by licensees, then there must be a method by which the company can ensure that this requirement is met by all drivers."

106. It is clear in *R. v. Ladouceur* that

- (a) DRIVING IS A RIGHT, limited only by an obligation to prove competency;
- (b) ALL drivers must be subjected to the same tests for competency at the same intervals, with no discrimination or arbitrary distinctions installed'
- (c) Competency to drive must be at least at the level of minimum skill;
- (d) Licensing is to be based on skill to drive; and a license stands as proof of competency' to drive at the minimum driving-skill level.

107. It is my understanding that other important Court decisions have echoed the fact that driving and travelling are rights that, as with most rights, come with obligations to ensure competency in order to do no harm to others while exercising that right. **Judges have made it clear that driver's licensing is about ability to drive, not about medical conditions or age.**

Longley v. Canada (Minister of National Revenue), 2000 BCCA 241 (CanLII)

[10] As to whether s. 7 applies at all, I am mindful of what has been said by Professor Peter Hogg, in the

3rd edition of his text *Constitutional Law of Canada* (Toronto: Carswell, 1992), where at pp. 1028-1029, he stated:

" 'Liberty' does not include freedom of conscience and religion, freedom of expression, freedom of assembly, freedom of association, the right to vote and be a candidate for election, or **the right to travel. These rights are all guaranteed elsewhere in the Charter of Rights, and should be excluded from s. 7.**" [paras. 110-2]

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLII 646 (SCC) (known as 'Grismer' case)

"The Meiorin test applies to all claims for discrimination under the B.C. Human Rights Code. It requires those governed by human rights legislation to accommodate the characteristics of affected groups within their standards. Once a plaintiff establishes that the standard is prima facie discriminatory, the onus shifts to the defendant to prove on a balance of probabilities that the discriminatory standard is a bona fide occupational requirement or has a bona fide and reasonable justification. The defendant must prove that: (1) it adopted the standard for a purpose or goal rationally connected to the function being performed; (2) it adopted the standard in good faith, in the belief that it is necessary for the fulfilment of the purpose or goal; and (3) the standard is reasonably necessary to accomplish its purpose or goal, because the defendant cannot accommodate persons with the characteristics of the claimant without incurring undue hardship, whether that hardship takes the form of impossibility, serious risk or excessive cost. Accommodation ensures that each person is assessed according to his or her own personal abilities rather than presumed group characteristics. Failure to accommodate may be shown by evidence that the standard was set arbitrarily, or that individual assessment was unreasonably refused, or in some other way.

...the Superintendent **did not show that no one with this condition could ever achieve reasonable highway safety.**

The Superintendent fell into error because **he abandoned his reasonable approach to licensing and adopted an absolute standard which was not supported by the evidence.**

[1] While the privilege can be removed because of risk, it must not be removed on the basis of discriminatory assumptions founded on stereotypes of disability, rather than actual capacity to drive safely.

[2] There is no suggestion that a visually impaired driver should be licensed unless she or he can compensate for the impairment and drive safely. It is also about combatting false assumptions regarding the effects of disabilities on individual capacities. All too often, persons with disabilities are assumed to be unable to accomplish certain tasks based on the experience of able-bodied individuals. The thrust of human rights legislation is to eliminate such assumptions and break down the barriers that stand in the way of equality for all.

[9] However, it was not based on hard evidence of the relationship between H.H. and driving accidents;

[22] "Accommodation" refers to what is required in the circumstances to avoid discrimination. Standards must be as inclusive as possible. There is more than one way to establish that the necessary level of accommodation has not been provided. In Meiorin, the government failed to demonstrate that its standard was sufficiently accommodating, because it failed to adduce evidence linking the standard (a certain aerobic capacity) to the purpose (safety and efficiency in fire fighting). Failure to accommodate may be established by evidence of

arbitrariness in setting the standard, by an unreasonable refusal to provide individual assessment, or perhaps in some other way.

[24] Whether a goal is “rationally connected” to a function, and whether a standard is “made in good faith” and “reasonably necessary” can only be assessed in relation to a defined goal.

[26] Similarly, the Superintendent licensed people over 80, even though their age made them more susceptible to maladies like heart attacks and strokes and reduced their reaction time, provided again that they could pass an individualized test showing that they compensated reasonably well for any such disabilities that they had. To pass these tests, the hearing impaired or elderly were not required to demonstrate that they were perfectly safe drivers. They were merely required to demonstrate that they could drive reasonably safely.

[28] Common sense and experience tell us that driver’s licences should only be issued to those who can demonstrate a reasonable degree of ability and safety in driving.

[31] First, a standard that excludes members of a particular group on impressionistic assumptions is generally suspect. ... Second, evidence that a particular group is being treated more harshly than others without apparent justification may indicate that the standard applied to that group is not reasonably necessary.

[37] The evidence also showed that Mr. Grismer had adapted his driving style so that he was in the habit of constantly looking to the left to check the blind spot caused by his condition.”

108. It is my position that the State Party has wilfully and knowingly engaged in continuing contraventions of my fundamental human rights and those of millions of drivers--a behavior that requires investigation and remedy.

British Columbia v. Bolster, 2007 BCCA 65 (CanLII)

[154] The authorities cited by the Province in support of this argument discuss the meaning of "continuing contravention" for the purposes of the Code. In *Lynch v. British Columbia (Human Rights Commission)*, 2000 BCSC 1419 (CanLII), R.M.J. Hutchinson J. adopted the definition expressed by Philip J.A. for the Manitoba Court of Appeal in *Re The Queen in Right of Manitoba and Manitoba Human Rights Commission et al.* (1984), 1983 CanLII 2967 (MB CA), 2 D.L.R. (4th) 759 at 764:

What emerges from all of the decisions is that a **continuing violation (or a continuing grievance, discrimination, offence or cause of action) is one that arises from a succession (or repetition) of separate violations (or separate acts, omissions, discriminations, offences or actions) of the same character (or of the same kind).** That reasoning, in my view, should apply to the notion of the "continuing contravention" under the Act. **To be a "continuing contravention", there must be a succession or repetition of separate acts of discrimination of the same character. There must be present acts of discrimination which could be considered as separate contraventions of the Act, and not merely one act of discrimination which may have continuing effects or consequences.**

109. Despite the advisements to the federal Minister of Transport and the Premier of Ontario that many individuals, including myself, are at the mercy of the actions the Minister of Transportation in Ontario, Bonnie and Allan Dobb's (married couple behind DriveABLE) and Serco Canada Ltd (DriveTEST) to deprive me of my means of

subsistence and to my chosen form of transportation for myself and my family, there has been no effective remedy from the State. Even when provided with the facts, the State Party representatives respond with misrepresentations and outright untruths. These actions and inactions serve as direct violations of a number of the State Party's legal obligations, including *UDHR Article 8, ICCPR, Article 2.3 and 5*.

(a) FAILURE OF SOME COURTS

110. It is clear that the framers of the International Covenants foresaw the legislative trickery and courtroom acrobatics that would no doubt crop up as a means to keep the population in servitude and subjected to pre-1982 violations of fundamental human rights. It is my position that all State Parties agreed to impose measures to prevent and/or remedy actions of authorities and courts unilaterally limiting or denying rights using all manner of pretext – *ICCPR, Article 5*

M. (A.) v. Ryan, [1997] 1 SCR 157, 1997 CanLII 403 (SCC)

30 As noted, the common law must develop in a way that reflects emerging Charter values.

PSC Industrial Canada Inc. v. Ontario (Ministry of the Environment), 2004 CanLII 15482 (ON SC)

[74] Dickson J. in *R. v. Big M Drug Mart Ltd. [1985] 1 S.C.R. 275* established that it was necessary to take a contextual approach to Charter interpretation in order to render the rights and freedoms guaranteed in the Charter meaningful and relevant. This was an approach stressed by Wilson J. in Edmonton Journal v. Alberta (Attorney General) 1989 CanLII 20 (SCC), [1989] 2 S.C.R. 1326, the context would determine the meaning of particular right and freedom.

[76] ...Therefore, it is necessary to assess the importance of a right or freedom in context along with its purpose... The right or freedom must then in accordance with the dictates of this court, be given a generous interpretation aimed at fulfilling that purpose and securing for the individual the full benefit of this guarantee."(at 1355-56)

Baker v. Canada (Minister of Citizenship and Immigration), [1999] 2 SCR 817, 1999 CanLII 699

[70] Nevertheless, the values reflected in international human rights law may help inform the contextual approach to statutory interpretation and judicial review. As stated in R. Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994), at p. 330:

[T]he legislature is presumed to respect the values and principles enshrined in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. In so far as possible, therefore, interpretations that reflect these values and principles are preferred. [Emphasis added.]

The important role of international human rights law as an aid in interpreting domestic law has also been emphasized in other common law countries: see, for example, *Tavita v. Minister of Immigration*, [1994] 2 N.Z.L.R. 257 (C.A.), at p. 266; *Vishaka v. Rajasthan*, [1997] 3 L.R.C. 361 (S.C. India), at p. 367. It is also a critical influence on the interpretation of the scope of the

rights included in the Charter: *Slaight Communications, supra; R. v. Keegstra*, 1990 CanLII 24 (SCC), [1990] 3 S.C.R. 697.

111. It is my understanding that if a fundamental right or inalienable freedom enumerated in the *ICCPR* and *ICESCR*--which are **legal obligations** of the State Party Canada--is not specifically mentioned in the *Constitution Act, 1982, Canadian Charter of Rights and Freedoms*, it is still guaranteed because the *ICCPR* and *ICESCR* exists as foundational law to be guaranteed by constitutional process, legislation or other measure in Canada pursuant to *ICCPR Article 2.1* and *ICESCR Article 2*. After reading selected Canadian court decisions in matters respecting the right to drive it seems that **some Judges hold the view that Charter values are established at their sole discretion, that the Charter protects no rights unless specifically stated in the Charter, that rights can be reduced to privileges conferred by the state, and that Charter 'values' are separate from the very International Covenants that the it was to express and guarantee.** As a result, millions of drivers of all ages are abused and violated.

Constitution Act, 1982, Canadian Rights and Freedoms

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Drennan v. K2 Wind Ontario Inc. 2017 ONSC 2295

[58] International treaties and conventions are not part of Canadian law unless implemented by statute:

112. Any Court decision that claims that ones right to drive their personal vehicle once proven competent is not fundamental or inherently personal to the individual is out of touch with reality. Clearly, such Court decisions stand as actions aimed directly at destroying fundamental rights through linguistic acrobatics and 'opinions' about what constitutes dignity and independence.

Buhlers v. British Columbia (Superintendent of Motor Vehicles), 1999 BCCA 114 (CanLII)

[109] In my view, the broadened scope of the liberty interest protected by s. 7, as expressed by some of the members of the Supreme Court in B.(R.) and in Godbout, does not extend to the driving of a motor vehicle on a public highway. It is not a matter that is fundamental or inherently personal to the individual. It is not a matter that goes to the root of a person's dignity and independence. To hold otherwise would trivialize the liberty sought to be protected by s. 7.

113. It is my position and can be demonstrated that the State Party legislators and some courts have created a situation of worsening conditions of life for

millions of drivers of motor vehicles by arbitrarily reducing a 'right to drive--the exercise of which is conditional ONLY on the driver proving they are competent and willing to drive safely--to that of a 'privilege' to be conferred on the motoring public, without putting any measures in place to prevent the abuse of drivers who have proven competency as much as 5 decades ago. The courts, without any consideration of the catastrophic consequences to millions of individuals and their families have provided the State Party with the leverage to violate all human rights and freedoms at will by withholding driver's licenses unless and until the driver acquiesce to all demands of the State's multi-national service provider, including the disposal of their resources annually with no benefit to the driver whatsoever.

114. From a reading of numerous lower court and Tribunal Decisions, it is clear the State Party's judiciary is often only too happy to give support to stereotyping of senior drivers: "*some elderly citizens do have issues with the side effects of medication, illness such as diabetes and dementia, physical disabilities and impaired vision*", yet, it is the younger driver group who have the highest rates of suicide, all users of medication suffer 'medication side effects', all diabetics suffer from their illness and younger citizens suffer dementia five times the rate suffered by seniors. In addition, both young and old suffer impaired vision and most can compensate. Rarely are these facts given consideration by those who are to be protecting, as a primary obligation, the rights of senior drivers. Instead, the courts have agreed that the indignity of having to 'return to driving school' because one has aged is inconsequential.

115. My understanding is that the State Party must provide an independent, impartial and competent tribunal or court in which I can seek remedy for violations of my rights and freedoms. It also has a **primary legal obligation** to train and educate its players in the judicial and administrative systems, thereby assuring those rights will be upheld. It cannot be a 'competent jurisdiction' if it does not provide to the violated **a forum that works for them** and that includes common sense and a willingness of the arbiter to thoroughly investigate the life-long consequences that individuals face when a right is converted to a 'privilege'. **No victim of violations should be placed in a position of dueling with trained legal persons in order to be protected.**

Chief Justice R.v. Wagner 2015, ON CJ 66 and R. v. Peel Regional Police:

- JUDGES **are not there to uphold legislation**, regulations and rules **over individual rights**
- JUDGES' PRIORITY: **UPHOLD INDIVIDUAL FULL LEGAL CAPACITY, CHARTER AND INTERNATIONAL LAW FIRST; UPHOLDING GOOD LAWS SECONDARY**

Universal Declaration of Human Rights (UDHR)

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

International Covenant on Civil and Political Rights (ICCPR)

Article 2

3. Each State Party to the present Covenant undertakes:

(a) **To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy**, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To **ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities**, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth **or other status**.

116. In addition, it is my understanding that the legal remedy offered by the State Party to those who experience violations of their individual human rights and freedoms is a remnant of pre-1982 law due to

(a) a court process that makes exercising one's rights a veritable nightmare for those who have not been privy to legal training or who are not familiar with the court system, so that despite having a prima facie case of discrimination, their rights can continue to be violated through deference to 'State Party' statistics. The Courts have the means to ensure that all statistical evidence comes from conflict-free sources and not provided by contractors with whom State Party players are colluding.

(c) the failure of the courts to ensure that the (a) evidence provided as 'justification' by State Party players for violating human rights of millions of people is based on real science and ethical peer-reviewed research, and (b) that annual vehicle permit and driver's license renewal of millions of drivers is in fact associated with 'safety'.

Canadian Charter of Rights and Freedoms

24. (2) **Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.**

117. While the Supreme Court of Canada on one hand has pronounced the importance of the foundational International Covenants in how *Charter* values are to evolve and to be interpreted by the Courts, on the other hand there is a noticeable effort to dismiss the Covenants as not important and/or not relevant by some Courts. Many of the guaranteed rights are being deemed merely 'privileges'. There is no operation of law that allows this sort of State Party behavior, thus Canada is dishonouring its guarantees and legal obligations.

British Columbia v. Bolster, 2007 BCCA 65 (CanLII)

[78] - **Human rights legislation** is recognized as having a special character. It **is to be interpreted so as to give it full force and effect, and is not to be limited except by express legislative language.** The Supreme Court of Canada expressed those principles in **Re Winnipeg School Division No. 1 and Craton et al., 1985 CanLII 48 (SCC), [1985] 2 S.C.R. 150 at 156:**

*Human rights legislation is of a special nature and declares public policy regarding matters of general concern. It is not constitutional in nature in the sense that it may not be altered, amended, or repealed by the Legislature. It is, however, **of such nature that it may not be altered, amended, or repealed, nor may exceptions be created to its provisions, save by clear legislative pronouncement.***"

Divito v. Canada (Public Safety and Emergency Preparedness), 2013 SCC 47, [2.0131 3 S.C.R. 157]

[22] – **Canada's international obligations and relevant principles of international law are also instructive in defining the right:** *Slaight Communications Inc. v. Davidson, [1989]*

1 S.C.R. 1038; United States v. Burns, 2001 SCC 7, [2,00] 1 S.C.R. 283; Canadian

Foundation for Children, Youth and the Law v. Canada (Attorney General), 2004 SCC 4,

*[2004] 1 S.C.R. 76; R. v. Hape, 2007 SCC 26, [2007] 2 S.C.R. 292. In Reference re Public Service Employee Relations Act (Alta.), [1987] 1 S.C.R. 313, Dickson C.J., dissenting, described the template for considering the international legal context as follows: **The content of Canada's international human rights is, in my view an important indicia of the meaning of "the full benefit of the Charter's protection" I believe that the Charter should generally be presumed to provide protection at least as great as that afforded by similar provisions in international human rights documents which Canada has ratified.** [p. 349]*

[23] More recently, in *Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia, 2007 SCC 27 (CanLII), [2007] 2 S.C.R. 391, **McLachlin C.J. and LeBel J. confirmed that, "the Charter should be presumed to provide at least as great a level of protection as is found in the international human rights documents that Canada has ratified" (para. 70).** This helps frame the interpretive scope of s. 6(1).*

R. v. Peel Regional Police Service, Chief of Police, 2000 (ON SC)

[104] **The courts too must conform to the rule of law:** *The rule of law is the very foundation of the Charter It stands to reason then that the courts are duty bound to apply the Charter*

The rule of law, however, does more than demand compliance with the law. To validate this demand, **the law must provide individuals with meaningful access to independent courts with the power to enforce the law by granting appropriate and effective remedies to those individuals whose rights have been violated.**

Reference Re Public Service Employee Relations Act (Alta.), [1987] 1 S.C.R. 313

(iv) International Law

International law provides a fertile source of insight into the nature and scope of the freedom of association of workers. Since the close of the Second World War, **the protection of the fundamental rights and freedoms of groups and individuals has become a matter of international concern.** A body of treaties (or conventions) and customary norms now constitutes an international law of human rights under which the nations of the world have undertaken to adhere to the standards and principles necessary for ensuring freedom, dignity and social justice for their citizens.

The Charter conforms to the spirit of this contemporary international human rights movement, and it incorporates many of the policies and prescriptions of the various international documents pertaining to human rights. The various sources of international human rights law—declarations, covenants, conventions, judicial and quasi-judicial decisions of international tribunals, customary norms—must, **in my opinion, be relevant and persuasive sources for interpretation of the Charter's provisions.**

Prior to accession the Federal Government obtained the agreement of the provinces, all of whom undertook to take measures for implementation of the Covenants in their respective jurisdictions.

R. v. Wagner, 2015 ONCJ 66

The Rule of Law

The “rule of law” not only finds itself in the preamble to the Charter of Rights, its spirit is manifested throughout the document, from the restrictions on the state’s powers in relation to citizens, complete with enforcement mechanisms such as the exclusion of evidence or the invalidation of statutes to concepts such as the “principles of fundamental justice” and the requirement that any restrictions to Charter rights be, “demonstrably justified in a free and democratic society”. **The idea that there are certain fundamental unwritten principles that govern all members of society including legislators and which judges are expected to enforce is not particularly new**

The contemporary concept of unwritten constitutional principles can be seen as a modern reincarnation of the ancient doctrines of natural law. Like those conceptions of justice, the **identification of these principles seems to presuppose the existence of some kind of natural order.** Unlike them, however, it does not fasten on theology as the source of the unwritten principles that transcend the exercise of state power. **It is derived from the history, values and culture of the nation, viewed in its constitutional context.**[69]

Natural law- A physical law of nature. A philosophical system of legal and moral principles purportedly deriving from a universalized conception of human nature or divine **justice rather than from legislative or judicial action;**

Natural right. A right that is conceived as part of natural law and that is therefore thought **to exist independently of rights created by government or society, such as the right to life, liberty, and property**

Inalienable right- A right **that cannot be transferred or surrendered,** a natural right such as the right to own property.

Absolute right. 1. **A right that belongs to every human being**, such as the right of personal liberty; a natural right.

The Chief Justice goes on to note that these rules bind the legislative, executive and judicial branches. The **debate is not so much about whether such norms exist, but what those norms are in relation to any given case where a litigant calls on such norms to his aid.**

The Chief Justice goes on to develop the scope of these binding principles as follows:

This “rich intellectual tradition” of natural law seeks to give the law minimum moral content. It **rests on the proposition that there is a distinction between rules and the law. Rules and rule systems can be good, but they can also be evil.** Something more than the very existence of rules, it is argued, is required for them to demand respect:

The debate about unwritten constitutional principles can thus be seen **as a debate about the nature of the law itself and what about it demands our allegiance.**

Modern democratic theory, as espoused by most developed western democracies, combines two inherently contradictory doctrines. **The first is what is often identified as the Diceyan doctrine that it is for Parliament and Parliament alone to establish the law, and, by implication, the fundamental norms upon which it rests.** The second is the belief, widely accepted in developed modern democracies since World War II, **that legal systems must adhere to certain basic norms.**

Beyond this minimum, there is a variance, although still a solid core of agreement. States, most hold, should not torture their citizens. States should not discriminate on the basis of gender, race or religion. **Finally, at the developing fringes of the new natural law, which goes by the name human rights, are other assertions. Not only should states not directly kill their citizens, they should avoid killing them indirectly by famine, medical neglect, and degradation of the environment.[70]** (emphasis added)

Thus, as important as these principles may be, and as essential as it may be that in difficult cases the judge must stand against the winds and rains to uphold them, it is equally important that these principles not be used to create an anarchic judicial oligarchy that blithely undermines the principle of democratic government.

It seems to me self-evident that the idea of unwritten constitutional principles effectively plays a lesser role in countries with mature, enshrined constitutions than it does in those without a written constitution that explicitly binds the institutions of the state. **Those unwritten principles tend to be largely replicated in the text of the constitution, with s. 7 of Canada’s Charter of Rights striking me as a prime example. Our written constitution reflects many, many influences, including the drafters’ awareness of natural law, civil liberties and the democratic tradition, as well as the depths to which supposedly advanced, civilized and democratic societies might sink, as freshly manifested in the horrors of Nazi Germany and the struggles of the American civil rights movement.**

I agree with her that the “rule of law” is, quite apart from the terms of any written constitution, part of the constitutional DNA of this country and that its precepts must be abided by and must be applied by judges no matter how strong may be the prevailing winds or how challenging the social or political environment in which an issue arises

118. It is my position that if driving is to be upheld as a ‘privilege’ when the original Supreme Court decisions in *R. v. Ladouceur*, *R. v. Robson* and others stated it was a ‘right’ that came with duties and obligations, then the courts must uphold that the **only** criteria to be met by motorists is proof of skill to drive safely

using ON-ROAD testing in one's one personal vehicle. The Courts must denounce all arbitrarily-established criteria used by the Minister of Transportation of Ontario, including age-triggered testing, medical condition 'appearances', 'opinions', discredited 'cognitive testing' and pretext of 'protecting the public' or 'protecting seniors when they did not request to be 'protected' from themselves.

119. When there is a claim for injury to dignity and self-respect, the awards and remedies should be significantly higher than in the past, so as to not trivialize human rights; *Robichaud v. Canada (Treasury Board)*, 1987 CanLII 73 (SCC), 1987 CanLII 73 [1987] 2 SCR 84 (SCC), the Court emphasized that human rights legislation serves to eradicate anti-social conditions without regard to motives or intention of those who cause them. To eliminate discrimination, remedies must be effective, consistent with the almost constitutional nature of the protected right. Yet, repeatedly we have seen some courts instead diminish the 'rights' to privileges, subject to endless demands by the Province.

120. In many cases where a victim has sought remedy in a court or Tribunal of competent jurisdiction, it was established immediately that there was a prima facie case of discrimination on the basis of age and/or medical condition. It is my position that some State Party players, including some Human Rights Tribunals have perpetuated age-related stereotyping promoted by profiteering corporations involved intimately with the State Party. Some Tribunal and court decisions have compared age-triggered 'cognitive testing' of seniors to that which 'novice drivers' undergo, claiming that novice drivers are 'young' and thus the novice-based protocols are 'age-triggered'. The truth is that novice drivers are not a homogenous group of 'young' drivers and the graduated licensing is strictly about competency and not about age or medical condition. Further, if novice driver license programs were about age and medical condition, they too would be discriminatory, since age and medical condition are not statistically associated to driving ability.

(b) FAILURE OF ATTORNEY-GENERAL(S)

121. It is my understanding that the Attorney General of the province of Ontario has the authority and obligation to ensure the administration of justice in Ontario and the duty, as the gatekeeper of legislative activity in the province, to ensure that all legislation in the province conforms to International Law, the Constitution Act, 1982 and the Charter.

Ministry of the Attorney General Act, 1990, Chapter M.17

Functions

5. The Attorney General,

(a) is the Law Officer of the Executive Council;

(b) shall see that the administration of public affairs is in accordance with the law;

(c) shall superintend all matters connected with the administration of justice in Ontario;

(e) shall advise the Government upon all matters of law connected with legislative enactments and upon all matters of law referred to him or her by the Government;

(f) shall advise the Government upon all matters of a legislative nature and superintend all Government measures of a legislative nature;

(g) shall advise the heads of the ministries and agencies of Government upon all matters of law connected with such ministries and agencies;

122. It is my position that the Attorney General of Ontario has failed in his obligation to ensure that all internal legislation honours the State Party's legal obligations (*ICCPR, Articles 2 and 5, ICESCR Article 5*) and my fundamental human rights. Through his failures to protect my rights to travel and to drive my private motor vehicle without interference once I have proven competence to drive safely, and without being forced to dispose of my monies annually to do so, the subsequent Attorney Generals have wilfully engaged in the violations of my fundamental rights and freedoms since 1990. Either there is an internal mechanism in the form of judiciary installed to ensure the State Party Canada meets its legal obligations when individuals seek remedy, or Canada has signed those international covenants without any intention of honouring it's legal obligations.

Thomson Newspapers Ltd. V. Canada (Director of Investigation and Research, Restrictive Trade Practices Commission)

"While individuals as a rule have full legal capacity by the operation of law alone, the individual may stand upon his constitutional rights. He owes no duty to the State, since he receives nothing there from, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State."

Zingre v. The Queen et al., [1981] 2 SCR 392 (Supreme Court of Canada)

"It is a recognized principle of international customary law that a state may not invoke the provisions of its internal law as justification for its failure to perform its international obligations."

Baker v. Canada (Minister of Citizenship and Immigration), [1999] 2 SCR 817, 1999 CanLII 699

70 Nevertheless, **the values reflected in international human rights law may help inform the contextual approach to statutory interpretation and judicial review.** As stated in *R. Sullivan, Driedger on the Construction of Statutes* (3rd ed. 1994), at p. 330:

[T]he legislature is presumed to respect the values and principles enshrined in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. In so far as possible, therefore, interpretations that reflect these values and principles are preferred. [Emphasis added.]

The important role of international human rights law as an aid in interpreting domestic law has also been emphasized in other common law countries: see, for example, *Tavita v. Minister of Immigration*, [1994] 2 N.Z.L.R. 257 (C.A.), at p. 266; *Vishaka v. Rajasthan*, [1997] 3 L.R.C. 361 (S.C. India), at p. 367. It is also a critical influence on the interpretation of the scope of the rights included in the Charter: *Slaight Communications, supra*; *R. v. Keegstra*, 1990 CanLII 24 (SCC), [1990] 3 S.C.R. 697.

B– FRAUD, FALSE PRETENSE, MISREPRESENTATION, OBFUSCATION

(a) VIOLATIONS OF HEALTH CARE CONSENT ACT AND PRIVACY ACT(S)

123. I claim that the *Highway Traffic Act*, in addition to violating my fundamental human right to drive my personal vehicle without interference anywhere on the State Party's territory and the right to privacy of my health information, coerces medical professionals into releasing such information to a non-healthcare service provider in violation of the *Personal Health Information Protection Act* and to do so without the explicit consent of the driver and the patient who is unaware of the machinations of the State Party in its actions aimed at the destruction of their human rights.

Personal Health Information Protection Act

Personal health information Provisions based on consent

(2) *A provision of this Act that applies to the collection, use or disclosure of personal health information about an individual by a health information custodian with the consent of the individual, whatever the nature of the consent, **does not affect the collection, use or disclosure that this Act permits or requires the health information custodian to make of the information without the consent of the individual***

Permissive disclosure

(3) **A provision of this Act that permits a health information custodian to disclose personal health information about an individual without the consent of the individual,**

(a) does not require the custodian to disclose it unless required to do so by law;

(b) does not relieve the custodian from a legal requirement to disclose the information; and

(c) does not prevent the custodian from obtaining the individual's consent for the

Conflict

(2) In the event of a conflict between a provision of this Act or its regulations and a provision of any other Act or its regulations, this Act and its regulations prevail unless this Act, its regulations or the other Act specifically provide otherwise.

Other rights and Acts

(2) Nothing in this Act shall be construed to interfere with,

(f) any provision of any Act of Ontario or Canada or any court order, if the provision or order, as the case may be, prohibits a person from making information public or from publishing information.

124. It is my claim that all collection of health information by a medical doctor, when it is to satisfy private corporate contractors profiting from the results of test failures, and

the disclosure of same for any purpose to a non-healthcare professional, violates the 'consent' provisions of the *Personal Health Protection Act*. It also threatens the security of person, and interferes with driver privacy at all levels.

Personal Health Information Protection Act

Steps to ensure collection

11.1 A health information custodian shall take steps that are reasonable in the circumstances **to ensure that personal health information is not collected without authority.**

Elements of consent

18 (1) **If this Act or any other Act requires the consent of an individual for the collection, use or disclosure of personal health information by a health information custodian, the consent,**

(a) must be a consent of the individual;

(b) must be knowledgeable;

(c) must relate to the information; and

(d) must not be obtained through deception or coercion.

Implied consent

(2) Subject to subsection (3), **a consent to the collection, use or disclosure of personal health information about an individual may be express or implied.**

Exception

(3) **A consent to the disclosure of personal health information about an individual must be express, and not implied, if,**

(a) a health information custodian **makes the disclosure to a person that is not a health information custodian;** or

(b) a health information custodian **makes the disclosure to another health information custodian and the disclosure is not for the purposes of providing health care or assisting in providing health care.**

Knowledgeable consent

(5) **A consent to the collection, use or disclosure of personal health information about an individual is knowledgeable if it is reasonable in the circumstances to believe that the individual knows,**

(a) **the purposes of the collection, use or disclosure, as the case may be;** and

(b) that **the individual may give or withhold consent.**

Withdrawal of consent

19 (1) If an individual consents to have a health information custodian collect, use or disclose personal health information about the individual, **the individual may withdraw the consent, whether the consent is express or implied, by providing notice to the health information custodian,** but the withdrawal of the consent shall not have retroactive effect.

Requirement for consent

29 **A health information custodian shall not collect, use or disclose personal health information about an individual unless,**

(a) **it has the individual's consent under this Act and the collection, use or disclosure**, as the case may be, to the best of the custodian's knowledge, **is necessary for a lawful purpose**; or

(b) the collection, use or **disclosure**, as the case may be, **is permitted or required by this Act**.

36 (1) A health information custodian may collect personal health information about an individual indirectly if,

(a) **the individual consents to the collection being made indirectly**;

(b) **the information to be collected is reasonably necessary for providing health care or assisting in providing health care to the individual and it is not reasonably possible to collect, directly from the individual**,

125. It is also clear that everyone is entitled to know what tests are being offered, why they are being offered and the ultimate purpose for the tests, particularly when they are given in medical surroundings at the behest of a non-medical business person for subsequent use by those who can ultimately exert extreme control over the victim's life. Complaints abound about how medical doctors misrepresent 'cognitive tests' as participation in studies, and how many are threatened if they do not attend a 'memory clinic', often operated by friends or family members.

Personal Health Information Protection Act

Permitted use

37 (1) A health information custodian may use personal health information about an individual,

(a) **for the purpose for which the information was collected or created and for all the functions reasonably necessary for carrying out that purpose, but not if the information was collected with the consent of the individual or under clause 36 (1) (b) and the individual expressly instructs otherwise**;

Dickson C.J.C in Morgentaler at page 463-65

"At common law, for example, any medical procedure carried out on a person without that person's consent is an assault."

126. It is my understanding that the *Personal Health Information Protection Act* clearly specifies that **disclosure of personal health information is strictly** for the purposes of reducing or eliminating **significant risks** of **serious bodily harm**. In contrast, the *Highway Traffic Act* seeks to pool all medical conditions into the category of significant risks of bodily harm, even if there is only an appearance of a medical condition, when medical conditions are not a prescribed purpose in the *PHIPA* and medical condition of the driver does not factor into crash rates.

Personal Health Information Protection Act

Disclosures related to risks

40 (1) A health information custodian may disclose personal health information about an individual if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a SIGNIFICANT risk of SERIOUS bodily harm to a person or group of persons.

Immunity

71 (1) No action or other proceeding for damages may be instituted against a health information custodian or any other person for,

(a) anything done, reported or said, both in good faith and reasonably in the circumstances, in the exercise or intended exercise of any of their powers or duties under this Act; or

(b) any alleged neglect or default that was reasonable in the circumstances in the exercise in good faith of any of their powers or duties under this Act.

127. When healthcare professionals share test results with others, particularly when the reason for sharing has nothing to do with providing medical treatment, the individual has been given such tests under false pretense, the individual's rights and freedoms have been breached, the *Health Care Consent Act* has been violated and the *Privacy Act and Personal Health Information Protection Act of Ontario* have been dishonoured. Of course, this is over and above the violations of international law, the *Constitution of Canada*, and the Criminal Code of Canada on Fraud and False Pretense.

128. It is my understanding that when any medical professional performs any test, procedure or treatment **for health purposes**, without first obtaining fully informed consent of that individual, he/she is violating the *Health Care Consent Act*. However, it is also clear that 'treatment' is considered to be actions by a healthcare professional **geared solely to health-related purposes**. The testing of seniors to establish cognitive impairment and emotional state for driving purposes at the behest of private service providers is not treatment, since it is not a test completed for treatment purposes, nor a proven, reliable test.

Health Care Consent Act, 1996

"treatment" means anything that is done for a therapeutic, preventive, palliative, **diagnostic, cosmetic **or other health-related purpose**, and includes a course of treatment, plan of treatment or community treatment plan, **but does not include**,**

(a) the assessment for the purpose of this Act of a person's capacity with respect to a treatment, admission to a care facility or a personal assistance service, the assessment for the purpose of the Substitute Decisions Act, 1992 of a person's capacity to manage property or a person's capacity for personal care, **or the assessment of a person's capacity for any other purpose,**

(b) the assessment or examination of a person to determine the general nature of the person's condition,

(h) anything prescribed by the regulations as not constituting treatment.

Meaning of “excluded act”

3 (1) In this section,

“excluded act” means,

(a) anything described in clause (b) or (g) of the definition of “treatment” in subsection 2 (1), or (b) anything described in clause (h) of the definition of “treatment” in subsection 2 (1) and prescribed by the regulations as an excluded act.

Dickson C.J.C in Morgentaler at page 463-65

“At common law, for example, any medical procedure carried out on a person without that person’s consent is an assault.

***The case-law leads me to the conclusion that state interference with bodily integrity and serious state-imposed psychological stress, at least in the criminal law context, constitute a breach of security of the person.*”**

129. When an individual enters a doctor’s office or medical clinic, unless advised otherwise, he/she would not be expecting anything but health-related services. They would expect to be advised when **non-health** related services on behalf of corporate parties for reasons to do with driving ability are being provided him/her, considering that **the law itself states that the definition of ‘treatment’ does not include assessments that are not for healthcare treatment purposes.** The *Health Care Consent Act* provides to patients, free CHOICE to accept **or decline** treatment and all manner of assessments. **Since the ‘cognitive’, emotional and mental ‘testing’ is not for further treatment but provided as information for the use by non-medical persons outside the medical field, the individual should be given full opportunity to know the true purpose of the test, the scientific acceptance or non-acceptance as valid test and other such information BEFORE being given a ‘cognitive’ test at the behest of a private contractor and never proposed by the medical professional prior to the involvement of profiteering corporate interests.**

Health Care Consent Act, 1996

10 (1) A health practitioner who proposes a treatment for a person shall not administer the treatment, and shall take reasonable steps to ensure that it is not administered, unless,

(a) he or she is of the opinion that the person is capable with respect to the treatment, and the person has given consent;

11 (1) The following are the elements required for consent to treatment:

- 1. The consent must relate to the treatment.***
- 2. The consent must be informed.***
- 3. The consent must be given voluntarily.***
- 4. The consent must not be obtained through misrepresentation or fraud.***

Informed consent

(2) A **consent to treatment is informed** if, before giving it,

(a) **the person received the information about the matters set out in subsection (3) that a reasonable person in the same circumstances would require in order to make a decision about the treatment;** and

(b) **the person received responses to his or her requests for additional information about those matters.**

Same

(3) ***The matters referred to in subsection (2) are:***

- 1. The nature of the treatment.***
- 2. The expected benefits of the treatment.***
- 3. The material risks of the treatment.***
- 4. The material side effects of the treatment.***
- 5. Alternative courses of action.***
- 6. The likely consequences of not having the treatment.***

130. Since the Ministry of Transport forces a senior driver to undergo physical, mental and emotional testing that is not defined as an assessment for the purpose of treatment, is not initiated as part of any previous treatment or assessment, but which is given by a medical doctor at the behest of a for-profit corporation, usually without full disclosure, it is doing so under false pretense. **The doctor is acting as a contractor for the Ministry of Transportation; the victim is not given a choice and not warned of the true purpose of the assessment or the doctor's conflict of interest.**

131. It is my understanding that a private-person / natural person with inalienable rights and freedoms guaranteed by the State Party, **should expect that actions are not taken against him/her by their medical practitioner without their full knowledge and consent on the pretext that they are for medical purposes directly related to his/her medical treatment.** It is clear that any individual can withhold consent to any treatment or test, should they so choose, particularly since there is no statistical association between the presence of medical conditions and accident risk. However, it is also clear that if an individual in Ontario, BC and Alberta does not consent to undergo bi-annual discredited 'cognitive impairment' tests, their driver's licenses are suspended, regardless that they have an excellent driving record.

132. **It is my position that it is plain and simple coercion to force a driver/patient/private-person/natural person to give up medical autonomy in order to exercise their right to drive and travel in their own private vehicle, particularly when there is no objective evidence present to establish a significant and pressing concern of risk of accident. It is plain and simple misrepresentation and fraud if non-**

treatment-related ‘cognitive impairment’, emotional, mental and physical tests are given without full disclosure as part of a corporate witch hunt, and particularly when they are not correlated to driving ability or scientifically reliable.

Health Care Consent Act, 1996

Withdrawal of consent

14 A consent that has been given by or on behalf of the person for whom the treatment was proposed may be withdrawn at any time,

133. It is clear that the determination of the ability to drive safely requires a skill-based, on-road driving test. All drivers, without distinction, should be subjected to a driving test that focuses on their abilities, not their age or medical condition. Any ‘cognitive impairment, emotional or mental’ test given to an individual, is valid only for that day, absent a brain injury or identifiable neurological issue. Given the many variables that can affect the results in any moment in time for any age group, it is unacceptable that an individual’s life, liberty and security of person are placed in such jeopardy.

Grismer SCC, McLachlin J

“There was no evidence of a ‘safe or reliable form of testing that can measure the ability to deal with unexpected or exceptional traffic situations”.

134. There is no operation of law that allows any State Party to insinuate itself into an aging person’s life except in circumstances **when it is clear they are incompetent** according to legal definition. Dobbs’ opinions on ‘dementia’ are not supported by **the Courts which have clearly stated that dementia has little to do with ability to make decisions.** Studies have shown that 76% of those with mild dementia are safe drivers and can pass an on-road test.

Grams v Babiarz, 2015 SKQB 374 (CanLII)

“As Kapacila goes on to observe, *eccentricity, capriciousness or unfairness is not a sufficient marker of testamentary incapacity, nor for that matter should a diagnosis of dementia or Alzheimers be taken to be conclusive on the issue.*”

135. The *Highway Traffic Act* itself does not permit the collection of information for any ‘medical treatment’ purpose or for any other purpose associated with medical conditions.

Highway Traffic Act

Purposes for collection and disclosure of information

(5) The only purposes for which information may be collected or disclosed under this section are the following:

1. To verify the accuracy of any information provided under this Act by an applicant for or holder of a driver's licence or vehicle permit.
2. To verify the authenticity of any document provided under this Act by an applicant for or holder of a driver's licence or vehicle permit.
3. To detect a false statement in any document provided under this Act by any person.
4. To detect or prevent the improper use of a driver's licence or vehicle permit.
5. To detect or prevent the improper issuance or renewal of a driver's licence or vehicle permit, including by conducting an audit or review of any issuance, renewal or cancellation of a driver's licence or vehicle permit or the conduct of any person or entity involved in issuing, renewing or cancelling a driver's licence or vehicle permit.
6. To provide a public body or related government with the information that the Minister believes is necessary to assist it with a purpose similar to a purpose set out in paragraph 1, 2, 3 or 4 if the holder of a driver's licence or vehicle permit has presented his or her driver's licence or vehicle permit in order to obtain a benefit or service under a legislatively authorized program or service administered or provided by that public body or related government

(b) BAD FAITH

136. It was noted in *R. v. Ladouceur*, that the statistics put before the Court relating to unlicensed driving and accidents misled the Court in *Hufsky* to support their conclusion that unlicensed drivers caused a significantly higher percentage of accidents than licensed drivers. In fact, once the Court of Appeal analyzed the Crown records provided to justify the additional inroads on the rights to be free from arbitrary detention by targeting unlicensed drivers, the Court arrived at a radically different conclusion:

***R. v. Ladouceur*, [1990] 1 SCR 1257, 1990 CanLII 108 (SCC)**

"This Court in *Hufsky*, supra, held that the detention was justified under s. 1 in light of the statistics that were put before the Court relating to unlicensed driving and accidents. Le Dain J. found that these statistics supported the conclusion that unlicensed drivers caused a significantly higher percentage of accidents than licensed drivers. Therefore, extraordinary enforcement measures were justified to eliminate this hazard. In the present case, the Court of Appeal invited the Crown to submit a new record to justify this additional inroad on the rights to be free from arbitrary detention. The Crown submitted volumes of "statistical data, charts and comparable legislation". The Court of Appeal analyzed this data and the majority judgment concludes, at p. 259, that:

... the material submitted does not show that there is a proportionality between the measure taken, i.e., a power to stop motorists at random in order to check whether they have a valid driver's licence, and the admittedly valid government objective of promoting safety on the highways. The only statistical figures concerning unlicensed drivers and higher accident rates shows a correlation between uninsured vehicles and a higher rate of personal injuries, but a reverse correlation as far as property damage is concerned."

137. It is also my position that while marketed as driver licensing and examinations for the 'safety of the public', in fact, the entire purpose of the licensing scheme that started in 2003 to control Novice driver licensing was to profit multinational corporations such as Serco. Suspiciously, immediately on the heels of renewing the contract with Serco in 2013 to provide all driver testing and licensing services in Ontario, the Ontario Ministry of Transport installed regulations targeting the safest driving group, but also the most vulnerable to predatory corporate practices and elder abuse. Regulations were forced on the safest of the driving population whereby 80+ year olds were subjected to fully discredited age-triggered testing for 'cognitive impairment' and medical screening against their will or without their knowledge. Presently, defamatory actions using State Party media has focussed on reducing the trigger age to 65 years, and more recently to 55 years. The fee schedule has increased every year, still with no benefit to individual victims or to society.

Highway Traffic Act

Retaining portion of fee

(6) Despite section 2 of the *Financial Administration Act*, **any person who issues licences or provides any other service in relation to licences on behalf of the Minister, pursuant to an agreement with the Minister, may retain, from the fee paid, the amount that is approved by the Minister from time to time.**

138. It is my position that there is NO justification for the State Part to ignore the extensive body of work focusing on every aspect of the senior driver population such as THE INSURANCE INSTITUTE FOR HIGHWAY SAFETY; their business can only succeed if decisions are based on facts rather than prejudice. Prior to having targeted seniors and those with medical conditions shared by the entire population, accidents rates were already dropping significantly as a result of improved road engineering and construction and vehicles. As insurers reward senior drivers with premium discounts, they stated:

"The number of drivers seventy and older increased 30 percent between 1997 and 2012. The proportion of the seventy and older population with licences went from 73 percent in 1997 to 79 percent in 2012."

139. It has also been reported that when a 'locum' has made an error in testing an unsuspecting patient with the discredited 'cognitive tests' that fails safe drivers at least 50% of the time, that patient loses their license, often on the spot without notice. When the driver's regular medical doctor seeks to correct the situation with the Ministry of Transport, their efforts are rebuffed and the victim continues to be denied the right to travel in their personal motor vehicle. Not only is there no on-road testing in their own vehicle by an unbiased tester, but there is no accommodation of the victim to ensure minimal disruption of their lives. Thus, it is clear that the true effect of the HTA is to remove as many people from the roads and their properties (vehicle and home).

Personal Health Information Protection Act

Accuracy

11 (1) A health information custodian that uses personal health information about an individual shall take reasonable steps to ensure that the information is as accurate, complete and up-to-date as is necessary for the purposes for which it uses the information.

140. Once the public became aware that the fraudulent testing scheme was moving east from BC and Alberta, Bonnie Dobbs sat on Ontario policy committees and in one instance, was co-author of a 282-page 'Review of Driver Sanctions and Remediation Programs'. The Ministry in Ontario undertook 3 mini-studies *after the fact* and two pilot studies were never completed. In fact, in her Review that is truly an example of gross conflict of interest since policy outcomes significantly benefited her and her husband's businesses (DriveABLE and MARD), she downplays the wholesale lack of support for age-based testing and medical condition assessments in the available research literature.

Highlights of Bad Faith and Misrepresentations in 'Review of Driver Sanction and Remediation Programs', by Bonnie Dobbs, et al (completed by contractor Dobbs for Ontario Ministry of Transportation) [comments in brackets mine]

- **Pages 38, 41, 88 admission that the mandatory age-based medical screen of older drivers has weak support in the research literature**, but they are **doing it because it is policy** (page 187) and because **it is consensus** (page 197) [policy and consensus with no evidence]
- **Page 86 the DriveABLE test (owned by husband Allen Dobbs) is promoted with assertions of accuracy that we now know are not true** [Dobbs claims of accuracy discredited by M. Bedard, Director, et al, Candrive, a CIHR-funded research team, published 12 May 2013.]
- **Page 171 Dobbs recommends that older drivers be assigned demerit points for not-at fault accidents** [punishing an innocent individual to ensure future statistics support her demented approach to revenue generation]
- **Page 197 "shortening license renewal periods had little or no effect on overall crash and fatality rates"**
- **Page 208 "because the SIMARD MD is a new tool, there is no data yet linking it to reduction in crashes. A study is currently being designed."** [aka, harm the public then study it, presumably with a rigged and conflict-ridden protocol]
- **End of Report:** list of 18 pages of studies- still no evidence that mandatory medical screening has a safety benefit.
- Dobbs makes many references to OSMV in BC and to the Canadian Council of Motor Transport Administrators when it is actually Bonnie Dobbs quoting herself.
- In Appendix D of we see Bonnie Dobbs suggesting that conflict-free Dr. Michel Bedard and Dr. Man-Son-Hing who are associated with Candrive, a government funded research centre, criticizing actual facts presented with more 'opinions', while she peddles her SIMARD MD.

Clearly, there is no amount of fact that will cause the Dobbs couple to revisit their stated grounds for discrimination.

Study does not show that DriveABLE assessments are highly accurate, Robert Gifford, Professor University of Victoria. [re Allen Dobbs' report]

"In my opinion, the conflict of interest in this study appears to have colored the interpretation of the results to an unacceptable degree, and the manuscript's conclusions should have been totally revised, or the manuscript rejected. Table 1 clearly shows that the in-office test had about 69% accuracy when it gave drivers a 'pass', about 75% accurate when it gave a 'fail' and about 24% accurate when it said a driver was 'indeterminate'. Using the diagonal percents as the measure of accuracy across all cases, the in-office test matched the on-road test in 50% of all cases. A 50% accuracy rate is far from the tenor of the conclusion the author tires to depict ("highly accurate") and far from a standard that one would consider to be an overall 'good' test. In sum, **the 'savings' provided by the in-office test amount to wasted funds if half of its conclusions about driver ability are wrong. "Just test drivers on the road" should be the conclusion, in my opinion.** It is good that the conflict of interest was reported, but **in this case the conflict appears to have colored the conclusions so much as this article's conclusions are severely flawed and should not have been published as is.** This shows that merely reporting a conflict of interest is not enough; a manuscript's interpretations and conclusions need closer scrutiny when there is a conflict. One wonders what the peer reviewers were thinking."

In-office DriveABLE cognitive assessments fail to predict on-road results with high accuracy: A re-analysis, Bedard, M. et al, members of Candrive, a CIHR-funded research team, May 2013

"Therefore, **the correct interpretation of the data is that there is only fair to moderate agreement between the in-office and on-road outcomes.** We do not agree with Dobbs' conclusion that these 'findings provide the evidence physicians need to be confident in using the recommendations from the DriveABLE In-Office cognitive evaluation to assist them in making accurate, evidence-based decisions about their patients fitness to drive" (p. e161)

The author's interpretation and the Editor's Key Points need to be revised to accurately reflect the results. Dr. Dobbs' conclusion that the DriveABLE in-office cognitive assessment is highly accurate in identifying drivers with suspected or confirmed cognitive impairment who would pass or fail the DriveABLE On-Road Evaluation(DORE) is based, incorrectly, on overall cell percentage."

141. It is my position that the lack of statistics showing the number of licensed senior drivers involved in accidents and especially at-fault accidents for 2015 and 2016 is unacceptable, but expected given that tens of thousands of innocent seniors (many with perfect driving records) have been forced out of their vehicles. It is further unacceptable that statistics are deliberately manipulated to harm one group of drivers. There is never a distinction made between at-fault and not-at-fault accidents, therefore the accident rates for seniors imply 100% at-fault senior accidents, when that is far from the case.
142. It is my understanding that the evidence shows that the Minister of Transportation of Ontario engaged in fraud against the driving public and particularly against senior drivers. The MOT provided funding to Traffic Injury Research Foundation

of 171 Nepean St., Suite 200, Ottawa, ON to do a Meta-Analysis of Cognitive Screening Tools for Drivers 80 years old or older. The Ministry could not endorse the validity of the tests it applies against senior drivers and added a disclaimer to its website, all the while ignoring the evidence to push through violations of rights and freedoms:

“ THE ONTARIO MINISTRY OF TRANSPORTATION OF ONTARIO HAS PROVIDED FUNDING FOR THIS REPORT;

A META-ANALYSIS OF COGNITIVE SCREEN TOOLS FOR DRIVERS 80 YEARS OF AGE AND OVER, MTO DOES NOT WARRANT THE ACCURACY, VALIDITY, COMPLETENESS OR CURRENCY OF THE REPORT”.

FUNDING OF THIS REPORT IS NOT TO BE CONSTRUED AS AN ENDORSEMENT OF THE CONTENTS OF THIS REPORT, THE TRAFFIC INJURY RESEARCH FOUNDATION OR ANY OTHER PERSON OR ENTITY. USE OF THIS REPORT IS COMPLETELY AT ONE’S OWN DISCRETION AND RISK. ”

143. It is my position that the Ministry of Transportation is failing to protect me, a member of the senior drivers group from statistically high-risk drivers that I have to share the highways with by failing to subject them to ‘special testing’.

Ontario Provincial Police profile data (2005-2014)

- . more than 3,500 road deaths
- . young adult males ages 25 - 34 years of age have the highest rate of fatalities
- . most accidents are the result of distractions, such as phoning while driving and texting

Mothers Against Drunk Driving (MADD) studies

Fatalities due to distracted driving are overtaking those cause by drinking and driving.

Ministry of Transportation Statistics continually show that the majority of accidents are the fault of those between 19 and 58 years of age.

(c) THE DOBBS SYNDROME

144. It is my understanding that faculty members Allen and Bonnie Dobbs, a pair of ambitious psychology-gearred professors with no medical expertise or training credentials, took a simple little cognitive screening tool never designed to test driving ability called the DEM-TECT (originally developed to be one of several tools doctors could use in assessing patients presenting with memory problems), eliminated two parts of it, and renamed it the SIMARD MD, finally coercing medical doctors to ‘use’ it to hunt down ‘dangerous’ patients’ that presumably the doctor had not recognized previously.

145. According to the evidence, in the last decade they have taken this over-simplified tool, misrepresented it as “world class” Alberta research based on “science” and used it to leverage the creation of an institute at the University of Alberta (MARD institute) promoting the SIMARD MD and a spinoff company, Allen Dobb’s DriveABLE that provides further testing of “medically at risk” drivers. The Dobbs apparently used the media and false-flag propaganda, turned ageing into a ‘bogey man’ to build a business or two. The challenges of aging were being more than adequately managed by senior drivers themselves, their families and previously trusted family doctors.

146. The Dobbs have created new vague terms and firmly attached them to seniors – ‘medically at risk’ and ‘cognitively impaired’ as examples. They have played a large part in the media’s false characterizations of ageing people in Canada since 2005, and particularly drivers as ‘demented’, ‘dangerous’, ‘high risk to others’ and a huge burden on society...none of which is supported by evidence. As Director of MARD (Medically at Risk Driver Center), as a professor in gerontology focussing on older drivers and as a speaker who has even quoted charts from THE INSURANCE INSTITUTE FOR HIGHWAY SAFETY, one can only conclude this is no mistake on the part of Bonnie Dobbs. It is a deliberate, reasoned misrepresentation of an entire group of Canadians.

147. The preamble to Dobbs’ MARD program states “THE PERCENTAGE OF SENIORS WITH A DRIVERS LICENCE IS DECLINING AND THE MAJORITY OF SENIORS WILL BECOME TRANSPORTATION DEPENDENT”. This is a factually wrong statement as evidence by the government’s own statistics that this ‘expert’ should have in hand; the claim is simply MARD Center institutional propaganda.

THE INSURANCE INSTITUTE OF HIGHWAY SAFETY

“The number of drivers seventy and older increased 30 percent between 1997 and 2012. The proportion of the seventy and older population with licences went from 73 percent in 1997 to 79 percent in 2012.”

148. It is my understanding that there has been relentless world-wide criticism of the Dobbs testing schemes and ‘special testing’ of senior drivers.

* Some countries have ended all ‘special testing’ of seniors, Australia and Tazmania as examples; Saskatchewan and Manitoba do not support discriminatory testing, many USA states protect their citizens from ‘special testing’ incursions.

* Candrive researchers have described the Dobbs influence on policy makers a travesty of due process; out-of-province researchers are posting highly critical warnings right next to the SIMARD MD and associated websites on Google

* Alberta Transportation on their licence renewal web page says in capital letters that

they do not require the use of the SIMARD MD or DriveAble tests

- * Some clinics are discontinuing use of the SIMARD MD and all such testing altogether
- * Some doctors now refer “very few” on for DriveAble testing or none; many refuse to give the test
- * Some younger seniors are firing their doctor. Doctors complain of losing patients
- * Internationally recognized academics are going public to protect patients
- * Advocacy and human rights groups, and individuals, are posting copies of the DEM TECH, SIMARD MD and the hybridized SIMARD used in Ontario on line with scoring sheets so that seniors can practice in case they get coerced into taking it.
- * Media are starting to rethink the propaganda they unwittingly participate in.

149. CanDrive is a Canada-wide research effort started in 2002 with long-term study groups of volunteering seniors to study seniors health and driving abilities as they age. They are committed to the Knowledge-to-Action Framework. Senior research members, other than Dr. Langford had been unable to access the original studies done by Bonnie Dobbs’ MARD INSTITUTE (the SIMARD MD) and DriveAble. **Organizations which claim good success in accurately screening older drivers yet who will not commit to an open and non-secretive evaluation of their tests to see if they really do what they claim, should raise State Party eyebrows.**

150. It is my understanding that many in the research and advocacy field feel the Dobbs are running secretive private organizations, hiding their ‘work’ while somehow persuading the Primary Care Network in 3 provinces to use their discredited tests against their patient’s best interests, while ignoring reliable research statistics and evidence. Candrive researchers have expressed serious doubts that one very small private, non-public study of roughly 120 people, impossible to replicate or examine in any way, is adequate science given the enormous amount of research results publicly available that contradict that study, Candrive believes it is unjustifiable for the Dobbs tests to be implemented in a mass screening process, or ever anywhere.

151. It is also my understanding that the SIMARD MD-DriveABLE protocol starts with the SIMARD MD or hybrids thereof, which is administered in the doctor’s office. Even with little statistical understanding, the SIMARD MD and its hybrids would defy common sense. **Any test that is indeterminate 50% of the time, which can misclassify a**

significant percentage of safe drivers as being unsafe and a significant percentage of unsafe drivers as being safe, and which then sends patients to another expensive test that is also indeterminate 46-50% of the time, and which is equally inaccurate, has to be discarded.

152. The information about the DriveABLE was repressed for years until Allen Dobbs published his retrospective study, ie, he peer-reviewed himself. In his retrospective study he compared the DriveABLE scores to the results of his on-road test, the DORE. He concluded that the error rate was only 1.7% for pass predictions and 5.6% for fail predictions, which, he claimed, allowed him to assure physicians that the test was highly accurate and that they could trust the results for a diagnosis. According to his own data, 13.7% passed, 40% failed, and 46% got an indeterminate score. Only 13.7% passed, but when he calculated the percentage of incorrect passes, he divided the number of incorrect passes by the passes, the fails, and the indeterminates. He calculated the percentage of incorrect fails in the same way. **Ethical researchers have noted that this can't be a mistake, not for a researcher trained in statistics; this has to be fraud. Dobb's conclusion provoked great concern from Canadian researchers, as seen in their many reports on this issue, but the Ontario government willfully and deliberately turned a blind eye and instead installed a hybrid version of the SIMARD MD and DriveABLE in Ontario in 2014.**

153. It is my understanding that following the publication of a retrospective study by Michel Bedard and 8 other researchers, dated 30 May 2013 titled '*In-office DriveABLE cognitive assessments fail to predict on-road results with high accuracy: A re-analysis*', Allen Dobbs retired from DriveABLE. Kerry Brown, the President and CEO of Foundation Equity Ltd, which is the majority shareholder, took over as DriveABLE's Director. Nonetheless, this did not stop the Ontario Ministry from 'consulting' with Bonnie Dobbs and installing DriveABLE.

154. It is also my understanding that this 'cognitive and medical testing' scheme and DriveABLE have become involved in Fleet Management. This is very serious because commercial drivers could be hired, monitored, and terminated according to their DriveABLE scores, severely impacting directly their ability to gain their living.

155. It is documented that in BC, where this entire scheme was first launched, not only did RoadSafetyBC adopt the SIMARD MD-DriveABLE protocol in a most amateurish manner, they made DriveABLE their partner and they hired Bonnie Dobbs, the author of the SIMARD MD, as their consultant. This created a most egregious conflict of interest that the Province of Ontario was aware of when it too brought Bonnie Dobbs on board as their 'consultant'. The State Party gave older driver policy-making powers to the Dobbs, replacing their consulting physician, Dr. John McCracken, while

ignoring pleas from Dr. Ian Gillespie, BC Medical Association President that this is unacceptable policy.

156. It is also my understanding that **an on-road driver's test remains the gold standard in the research community, but researchers emphasize that there is still very little, if any, correlation between a driving test score and actual at-fault accident risk.**

**VIOLATIONS OF SECTION 26 OF CHARTER - ACTS AIMED DIRECTLY
AT THE DESTRUCTION OF MY FUNDAMENTAL RIGHTS NOT
SPECIFIED IN CHARTER**

Preamble

157. It is my position that there is no operation of international or constitutional law that permits the abridgement of any right or freedom by converting it to a 'privilege', or using such tactics to also limit other rights and freedoms associated with an activity such as driving. *ICCPR Article 5* enumerates the right to be free from State Party actions aimed at the destruction of rights and freedoms.
158. Public declarations by service providers of an intention to turn ever-younger senior drivers into 'the hunted' has created much fear, as the new 'ideal' target age proposed by for-profit licensing centres is 55 years and even younger. In her FINAL REPORT: REVIEW OF DRIVER SANCTION AND REMEDIATION PROGRAMS for the Ministry of Transportation in Ontario, July 31st, 2012, service provider and author of the discredited 'cognitive tests' forced on senior drivers in three provinces, **Bonnie Dobbs recommended the imposition of 'demerit points' on senior driver licenses simply on the basis of age and not because of any infraction.**
159. **It is my position that if 'safety of the public' is the true objective, having one's privacy fully breached by mandatory driver license photos cannot be an acceptable 'consequence'.** Facial recognition software to biometrically identify each and every holder of a driver's license in Ontario, was developed by the service provider **Serco, a globalist multi-national corporation with a long history of human rights violations** now in control of all Ontario driver examination centres. **There is no co-relation between a picture of one's face and competency to drive safely.**
- Antony Loewenstein: Australian independent freelance journalist, author, documentarian, 'Serco constantly fails human rights standards yet governments love to embrace them', January 15, 2012**
160. Serco is thus utilizing this software without the driver's knowledge or consent and for purposes unassociated with safe driving. Using computers to map the faces of all drivers is considered by many to be just as effective as a fingerprint or DNA test, which require the consent of the individual or a Court Order. There is a violation of the privacy of many millions of drivers subjected to mandatory photos IDs. Boaters are not subjected to such invasion of privacy; the discrimination is directed at motor vehicle drivers.

(A) FLAWS IN THE HIGHWAY TRAFFIC ACT, ONTARIO

161. The *Highway Traffic Act*, including the amendments awaiting proclamation, was framed to give the State Party's players the ability to systematically circumvent individual rights and freedoms, force people off their properties, out of their jobs and isolated from society, while collecting images for facial recognition software developed and controlled by for profiteering and globalization purposes. When minimal intrusion, such as through skill-based on-road testing of proven problematic motorists is possible, the State Party instead has taken every measure possible to create financial, mental and psychological hardship and breaches of privacy of every carrier on its territory.
162. Studies show that once a carrier/driver has become competent to drive a motor vehicle, their skills and judgement improve through experience and the increased sense of responsibility that comes with maturity. The *HTA* fails to give full credit to this reality.
163. It is my position that using terms and definitions that encompass every mode of transportation and designate every commonly-travelled road a 'highway', travel that the natural/private person man or woman in Ontario would engage in for the activities of daily living, is fully denied the driver unless they are willing to pay annual fees, agree to unnecessary and unproven medical examination, subject themselves to medical experimentation, and accept violations of the privacy and their rights under the *Health Care Consent Act* on a regular basis.

Highway Traffic Act, 1990

1 (1) Definitions

"compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable, promised, received or demanded, directly or indirectly;

"driver" means **a person who drives a vehicle on a highway;**

"driver's licence" means a licence issued under section 32 to drive a motor vehicle on a highway;

"goods" includes all classes of materials, wares and merchandise and livestock;

"highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

"King's Highway" includes the secondary highways and tertiary roads designated under the *Public Transportation and Highway Improvement Act*;

“**vehicle**” includes a **motor vehicle**, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car; (“

“**motor vehicle**” includes **an automobile**, a motorcycle, a motor-assisted bicycle unless otherwise indicated in this Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;

“**commercial motor vehicle**”, unless otherwise defined by regulation, means **a motor vehicle having attached to it, a truck or delivery body** and includes an ambulance, a hearse, a casket wagon, a fire apparatus, a bus and a tractor used for hauling purposes on a highway;

“**permit**” means a permit issued under subsection 7 (7) consisting, except when the permit is a CAVR cab card or an IRP cab card, of a vehicle portion and a plate portion;

Definition of “commercial motor vehicle”

1 (10) The Lieutenant Governor in Council **may make regulations defining “commercial motor vehicle” differently from its definition in subsection (1) for the purposes of any Part or provision of this Act, and those regulations may include or exclude any vehicle or class of vehicles for the purposes of that definition, including the inclusion or exclusion of vehicles or classes of vehicles based on a use or uses to which a vehicle may be put.**

164. Licensing is not synonymous with ‘competency’ in any field, activity or profession. **All drivers are entitled to have a document that stands as proof of competency.** That document can be a license, but in Ontario the statement of competency is entirely absent from the current driver licenses.

165. It is my understanding that licensing and vehicle permitting have so little to do with safety of the motoring public that drivers from other countries are excused from competency testing for at least 2 months. How a driver’s license is validated when obtained in another country is undetermined and unenforceable. Many countries are not members of the International Drivers Permit system and there is no way to determine if their drivers have ever been tested for competency to drive in conditions experienced by most Ontarians even if their homeland was a member. Carriers/drivers are not typically re-tested on-road when renewing their driver’s licenses, standing as confirmation that license renewal and safety are not associated.

1949 Geneva Convention on Road Traffic

An International Driver’s Permit is **an identity document that allows the holder to drive a private motor vehicle in any country, such as Canada**, that recognizes these International Driver’s Permits. To be valid, the **International Driver’s Permit must be accompanied by a valid driving licence issued by the holder’s home country.**

Article 24

1. Each Contracting State shall allow any driver admitted to its territory who fulfils the conditions which are set out in Annex 8 and who holds a valid driving permit issued to him, after he has

given proof of his competence, by the competent authority of another Contracting State or subdivision thereof, or by an Association duly empowered by such authority, **to drive on its roads without further examination** motor vehicles of the category or categories defined in Annexes 9 and 10 for which the permit has been issued.

2. **A Contracting State may however require that any driver admitted to its territory shall carry an international driving permit** conforming to the model contained in Annex 10, **especially in the case of a driver coming from a country where a domestic driving permit is not required** or where the domestic permit issued to him does not conform to the model contained in Annex 9.
3. **The holder shall be entitled to drive in all Contracting States without further examination** motor vehicles coming within the categories for which the permit has been issued.
5. **A Contracting State or a subdivision thereof may withdraw from the driver the right to use either of the abovementioned permits only if the driver has committed a driving offence of such a nature as would entail the forfeiture of his driving permit under the legislation and regulations of that Contracting State.**

Highway Traffic Act (Ontario)

Exemption as to non-residents, licensing requirements

34(1) **Section 32 and any regulation made thereunder do not apply to any person who is,**

(a) resident of any other province of Canada, who is at least sixteen years of age and has complied with the law of the province in which he or she resides as to the drivers of motor vehicles; or

(b) a **resident of any other country or state,**

(i) **who is at least sixteen years of age and is the holder of a valid International Driver's Permit,** or

(ii) **who is at least sixteen years of age and has not resided in Ontario for more than three months in any one year and has complied with the law of the country or state in which he or she resides as to the licensing of drivers of motor vehicles.**

Exemption of new residents

34(2) **Section 32 and any regulation made thereunder do not apply to a person for sixty days after he or she has become a resident of Ontario** if during such period he or she holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he or she was a resident immediately before becoming a resident of Ontario.

166. It is clear that driver licensing and vehicle registration have zero impact on traffic accident statistics in general and at-fault accidents in particular. No statistics are maintained to determine how many motorists on Canadian highways relying on their International Driver's Permit are involved in at-fault traffic accidents. Since many tourists and non-residents also visit and live in large centres such as Toronto, there is no reason to believe that the problem identified below is not the case in Ontario, or even worse.

"Thousands of 'illegal' Chinese motorists could be driving in Richmond-- Richmond RCMP and ICBC caught in foreign licensing legal jam" ALAN CAMPBELL / RICHMOND NEWS, April 8, 2014 05:03 PM

“A legal loophole is leading potentially thousands of Chinese motorists in Richmond to take to the road illegally.

The vast majority of those drivers, though, have been given the go-ahead to drive for a designated length of time by ICBC, which is using the Motor Vehicle Act (MVA) to justify its decision.

“This has been going on for many years, but it can’t continue,” said Const. Dennis Hwang, of Richmond RCMP’s road safety unit. “It seems to be more prevalent now than it’s ever been. But the drivers are rightly saying to us, ‘How can this be right when ICBC says it’s OK?’”

*ICBC disagrees, saying an official driver’s licence, issued by China, is acceptable in B.C. **for any visiting tourist up to six months.** If you’ve **established residency, your licence is valid for 90 days,** ICBC stated.*

“Validly issued? How do they know it’s been validly issued when they have no access to that country’s driving licence records?” added Hwang.

Many foreign tourists driving in B.C. have an international driver’s permit (IDP), which you can only get in your country of origin, and only if that country is part of a core group signed up for the program.

“China is not one of those countries and when we come across Chinese drivers with an IDP, we know that document is fake,” said Hwang.”

167. In addition, investigations have shown that ‘competency’ testing by the Ministry is seriously lacking if ‘safety’ is truly the goal of the Minister.

Tractor-trailer drivers not tested on Highways at Ontario’s busiest test centre, The Star investigation, 2014/10/10, by Mary Ormsby and Kenyon Wallace.

“The Star also observed how Woodbridge examiners did not take tractor-trailer candidates on roads where the speed limit is at least 80 km/h, a ministry guideline.

“The fact that some tractor-trailer (operators) do not get tested on a major highway at significant speed is simply mindboggling,” said Brian Patterson, president and CEO of the Ontario Safety League, which offers provincially accredited driving courses.

“It is a public safety issue not only for Ontarians but for all Canadians, because so many people receive their licences, commercially, in this province.” ”

168. Considering that the State Party has a **primary legal obligation** to ensure education is provided for free 35 years after the signing of the International Covenants in 1976 and guaranteed by s. 26 of the *Constitution Act, 1982*, it is my position that s. 5(a)(d) and 7.02.(1) of the *HTA* and s. 10 of the *Municipal Act* regulation 333/07 facilitate the violation of students (youths and mature) rights to their education. Driver’s **licenses are revoked for inability to pay fines and arbitrary administrative fees (much of which constitutes profit for service providers) and not for incompetence. Yet, incompetence is the only reason justified to revoke driver licenses.** Many seniors are unjustly faced with license suspensions for failing

discredited testing and they too are forced to pay administrative penalties. Coerced disposition of wealth and resources is a direct violation of International law. HTA amendments impose administrative penalties without a right to be heard. Further, students are extorted on behalf of banks and other lenders:

Highway Traffic Act

5(1)(d) providing for and governing **the imposition and payment of administrative fees for the reinstatement of suspended licences;**

7 (21) *Despite section 2 of the Financial Administration Act, any person who issues permits or provides any other service in relation to permits on behalf of the Minister, pursuant to an agreement with the Minister, may retain, from the fee paid, the amount that is approved by the Minister from time to time. R.S.O. 1990, c. H.8, s. 7 (21).*

17.0.2 (1) **The Registrar may refuse to issue, replace or renew a CVOR certificate if the applicant owes an outstanding fee, fine or administrative penalty, or any interest or penalty that is in respect of such a fee, fine or penalty, under this Act, the Provincial Offences Act, the Public Vehicles Act or the Motor Vehicle Transport Act (Canada).** 2014, c. 9, Sched. 2, s. 5; 2017, c. 2, Sched. 17, s. 3

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2014, c. 9, Sched. 2, ss. 9, 47)

Administrative penalties

Purpose

21.1 (1) An administrative penalty may be imposed under this section in order to promote compliance with this Act and the regulations. 2014, c. 9, Sched. 2, s. 9.

Order imposing administrative penalties

(2) If a prescribed authorized person is satisfied that a person is contravening or not complying with or has contravened or failed to comply with a prescribed provision of this Act or of the regulations, the prescribed authorized person may, by order, impose an administrative penalty on the person in accordance with this section and the regulations. 2014, c. 9, Sched. 2, s. 9.

May only be imposed on prescribed persons

(3) An administrative penalty may only be imposed on a person who belongs to a prescribed class. 2014, c. 9, Sched. 2, s. 9.

May be imposed with other measures

(4) An administrative penalty may be imposed alone or in conjunction with any other regulatory measure provided by this or any other Act; however, an administrative penalty may not be imposed if the person is charged with an offence under this Act in respect of the same contravention or failure to comply. 2014, c. 9, Sched. 2, s. 9.

Limitation

(5) An administrative penalty may only be imposed within the prescribed time period. 2014, c. 9, Sched. 2, s. 9.

No right to be heard

(6) There is no right to be heard before an order imposing an administrative penalty is made. 2014, c. 9, Sched. 2, s. 9.

Contingent validity

32 (7) Where a driver's licence issued under subsection (5) has been suspended, it is not valid for purposes of subsection (1) until the prescribed administrative fee for its reinstatement has been paid. R.S.O. 1990, c. H.8, s. 32 (7).

Municipal Act, Ontario Regulation 333/07

Administrative Penalties

10. (1) *If an administrative penalty is not paid within 15 days after the date that it becomes due and payable to a municipality, it may notify the Registrar of Motor Vehicles of the*

default and **the Registrar shall not validate the permit of a person named in the default notice nor issue a new permit to that person until the penalty is paid.**

“No loan payment, no driver’s licence? Victoria students say no way” JEFF BELL AND LINDSAY KINES / TIMES COLONIST March 25, 2015 06:00 AM

“University of Victoria students spoke up Tuesday against a provincial government plan that could take away their right to drive if they can’t pay back their loans. The plan would leave those who default on student loans unable to renew their driver’s licence or vehicle registration.

Under the legislation, an account will have to be in arrears for a year or more before ICBC starts blocking driver’s licence renewals. *The government said it will not take action against someone who is making regular payments or can prove a financial hardship.”*

International Covenant on Economic, Social and Cultural Rights

Article 1

2. **All peoples may, for their own ends, freely dispose of their natural wealth and resources** *without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. **In no case may a people be deprived of its own means of subsistence.***

Article 13

1. **The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.**

2. The States Parties to the present Covenant recognize that, **with a view to achieving the full realization of this right:**

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, **and in particular by the progressive introduction of free education;**

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular **by the progressive introduction of free education;**

169. It is clear that in other areas where people seek to enjoy life and liberty, such as boating on Canadian waters, where undeniably the risk of harm to others of incompetent boating is just as significant, boaters need only prove competency through testing that is applied equally to all boaters without discrimination. They are not subjected to unnecessary cognitive testing, humiliating ‘clock drawing’, embarrassing ‘medical questions’, excessive incursions into their lives, photo ID requirements, and the forced disposal of their incomes. They are not subjected to claims by the Courts that boating is a ‘privilege’. It is clearly seen as a ‘right’ of all humans to operate a boat, but with an obligation to be competent at driving a boat.

BoatSmart: BOATsmart!® Exam is accredited by Transport Canada and a proud member of the Canadian Safe Boating Council.

Transport Canada

Why do boaters need a Pleasure Craft Operator Card?

In the past, any person of any age could operate a recreational boat without any minimum boating safety knowledge, experience or training.

In order to reduce boating related deaths and injuries, the federal government of Canada enacted the Competency of Operators of Pleasure Craft Regulations which requires all operators of recreational motorized vessels to obtain and carry proof of competency. The most **common form of proof of competency is a Pleasure Craft Operator Card**, commonly known as a boat card, boat license or boating license.

Proof of competency can be any of the following:

- Most common: **A Pleasure Craft Operator Card which is obtained after passing an accredited Transport Canada boating safety test**
- Proof having passed a boating safety course in Canada** prior to April 1, 1999
- A **completed rental-boat safety checklist**, which is valid only for the duration of the rental period
- For foreign visitors to Canada, an operator card or equivalent which meets the requirements of their own state or country
- A specialized marine certificate** (must be from the List of Certificates of Competency, Training Certificates and other Equivalencies accepted as Proof of Competency when Operating a Pleasure Craft)

170. **The refrain ‘driving is a privilege’ has become the entire justification for the State Party’s outright assault on guaranteed freedoms and rights of every motorist. The *Highway Traffic Act* has facilitated the incursions by the State Party into the lives of the entire driving public (8.5 million people in Ontario) to the point where it’s actions are demonstrably unjust, depraved, tyrannical, undemocratic and a gross violation of privacy of every driver on Ontario highways—all in violation of International laws to which Canada is a signee. Annual for-fee license and vehicle registration renewal can be demonstrated to have nothing to do with ‘safety of the public and public order’ -- but fully correlated to revenue generation objectives of multi-national service providers. No recourse is provided the affected individuals, as the service providers are self-auditing and unaccountable.**

(B) PLANNED TRESPASS ON ALL DRIVERS BY MINISTER OF TRANSPORTATION

171. It is clear that the pending proclamation of a 2015 amendment to the HTA seeks to allow unrestricted access to all medical reports of any and all medical conditions of all drivers, **even if there is only an appearance** of such a condition, functional impairment or visual impairment. **It is also noteworthy that the requirement that there actually exists a serious medical condition (Regulation 240/94 s. 15) that would affect driving ability is no longer present...any condition based on any appearance or opinion would do to cause great harm to millions of individuals for profit.** It is clear that the additional violations of health care privacy is strictly to provide a pretext for the unnecessary additional in-office testing of millions of innocent drivers at the driver's cost.

Highway Traffic Act

Note: On a day to be named by proclamation of the Lieutenant Governor, section 203 is repealed and the following substituted: (See: 2015, c. 14, s. 55)

Medical reports

Mandatory reports

203 (1) Every prescribed person shall report to the Registrar every person who is at least 16 years old who, in the opinion of the prescribed person, has or appears to have a prescribed medical condition, functional impairment or visual impairment. 2015, c. 14, s. 55.

Discretionary reports

(2) A prescribed person may report to the Registrar a person who is at least 16 years old who, in the opinion of the prescribed person, has or appears to have a medical condition, functional impairment or visual impairment that may make it dangerous for the person to operate a motor vehicle. 2015, c. 14, s. 55.

Authority to make discretionary report prevails over duty of confidentiality

(3) The authority to make a report under subsection (2) prevails over any duty of confidentiality imposed on the prescribed person by or under any other Act or by a standard of practice or rule of professional conduct that would otherwise preclude him or her from providing the information described in that subsection to the Registrar. 2015, c. 14, s. 55.

172. **A planned trespass occurs when any individual is subjected to forced medical testing on the basis of 'appearance' of a 'condition', when only scientific evidence obtained with fully informed consent is permitted by law.** The Minister is set to force drivers to appear in person at their doctor's office on the pretext that their age poses a grave risk to the public safety, thus this provision preserves no rights and openly discriminates. The Minister of Transportation is clearly attempting to do legally what is unlawful, unethical and immoral by any measure.

Highway Traffic Act

Note: On a day to be named by proclamation of the Lieutenant Governor, section 203 is repealed and the following substituted: (See: 2015, c. 14, s. 55)

Required to meet the person

(4) Subsections (1) and (2) **only apply if the prescribed person actually met the reported person for an examination or for the provision of medical or other services, or in the circumstances prescribed by regulation.** 2015, c. 14, s. 55.

173. On one hand all reporting is deemed mandatory in subsection 203 (1) of the HTA, but subsection 203 (5) of the HTA states it is discretionary...this is designed to distract from the breadth of the violations of the rights of all involved--the patient, the driver, the medical professional playing the role of 'contractor' for the State Party service provider.

Highway Traffic Act

Note: On a day to be named by proclamation of the Lieutenant Governor, section 203 is repealed and the following substituted: (See: 2015, c. 14, s. 55)

Authority to make discretionary report is not a duty

203 (5) Subsections (2) and (3) **do not impose a duty on a prescribed person to report to the Registrar.**

174. The fishing expedition for the driver who may be a significant risk to the rest of the population by using the 'appearance' of medical 'conditions' as a new excuse to increase testing of drivers is actually an oppressive net closing over the population. It violates the *Personal Health Information Protection Act*, which **allows medical professionals to collect and share information ONLY for medical treatment purposes and only to those defined as health information custodians. Driver testing staff and the Ministry of Transportation staff are not 'prescribed health information custodians' in this enactment.**

Personal Health Information Protection Act

Purposes

1 The purposes of this Act are,

(a) **to establish rules for the collection, use and disclosure of personal health information about individuals** that protect the confidentiality of that information and the privacy of individuals with respect to that information, **while facilitating the effective provision of health care;**

(e) **to provide effective remedies for contraventions** of this Act.

Definitions

2 In this Act,

“collect”, in relation to personal health information, means to gather, acquire, receive or obtain the information **by any means from any source**, and “collection” has a corresponding meaning;

“disclose”, in relation to personal health information in the custody or under the control of a health information custodian or a person, means to make the information available **or to release it to another health information custodian or to another person, but does not include to use the information**, and “disclosure” has a corresponding meaning;

“health care” means any observation, examination, assessment, care, service or procedure that is done for a health-related purpose and that,

(a) is carried out or provided to diagnose, treat or maintain an individual’s physical or mental condition,

“health care practitioner” means,

(a) a person who is a member within the meaning of the Regulated Health Professions Act, 1991 and who provides health care,

(c) a person who is a member of the Ontario College of Social Workers and Social Service Workers and who provides health care, or

(d) any other person whose primary function is to provide health care for payment;

“health information custodian” has the meaning set out in section 3;

“individual”, in relation to personal health information, means the individual, whether living or deceased, with respect to whom the information was or is being collected or created;

“Minister” means the Minister of Health and Long-Term Care;

“personal health information” has the meaning set out in section 4;

“record” means **a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise**, but does not include a computer program or other mechanism that can produce a record;

“use”, in relation to personal health information in the custody or under the control of a health information custodian or a person, **means to view, handle or otherwise deal with the information**, subject to subsection 6 (1), **but does not include to disclose the information**, and “use”, as a noun, has a corresponding meaning.

Health information custodian

3 (1) In this Act,

“health information custodian”, subject to subsections (3) to (11), **means a person or organization described in one of the following paragraphs who has custody or control of personal health information** as a result of or in connection with performing the person’s or organization’s powers or duties or the work described in the paragraph, if any:

1. A **health care practitioner or a person who operates a group practice of health care practitioners**.

2. A **service provider within the meaning of the Home Care and Community Services Act, 1994** who provides a community service to which that Act applies.

3. A **community care access corporation within the meaning of the Community Care Access Corporations Act, 2001**.

4. **A person who operates one of the following facilities, programs or services:**

- i. **A hospital** within the meaning of the Public Hospitals Act, a private hospital within the meaning of the Private Hospitals Act, a psychiatric facility within the meaning of the Mental Health Act or an independent health facility within the meaning of the Independent Health Facilities Act.
- ii. **A long-term care home** within the meaning of the Long-Term Care Homes Act, 2007, a placement coordinator described in subsection 40 (1) of that Act, or a care home within the meaning of the Residential Tenancies Act, 2006.
- ii.1 a retirement home within the meaning of the Retirement Homes Act, 2010.
- iii. **A pharmacy** within the meaning of Part VI of the Drug and Pharmacies Regulation Act.
- iv. **A laboratory or a specimen collection centre** as defined in section 5 of the Laboratory and Specimen Collection Centre Licensing Act.
- v. **An ambulance service** within the meaning of the Ambulance Act.
- vi. A **home for special care** within the meaning of the Homes for Special Care Act.
- vii. A **centre, program or service for community health or mental health** whose primary purpose is the provision of health care.
5. **An evaluator within the meaning of the Health Care Consent Act, 1996 or an assessor within the meaning of the Substitute Decisions Act, 1992.**
6. **A medical officer of health of a board of health** within the meaning of the Health Protection and Promotion Act.
7. **The Minister**, together with the Ministry of the Minister if the context so requires.
8. **Any other person prescribed as a health information custodian if the person has custody or control of personal health information** as a result of or in connection with performing prescribed powers, duties or work or any prescribed class of such persons.

Exceptions

(3) Except as is prescribed, **a person described in any of the following paragraphs is NOT a health information custodian in respect of personal health information that the person collects, uses or discloses while performing the person's powers or duties or the work described in the paragraph, if any:**

1. A person described in paragraph 1, 2 or 5 of the definition of "health information custodian" in subsection (1) who is an agent of a health information custodian.
2. **A person who is authorized to act for or on behalf of a person that is not a health information custodian, if the scope of duties of the authorized person does not include the provision of health care.**

4 (1) In this Act,

"**personal health information**", subject to subsections (3) and (4), **means identifying information about an individual in oral or recorded form**, if the information,

(a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family,

Identifying information

(2) In this section,

“identifying information” means information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual.

Provisions based on consent

(2) A provision of this Act that applies to the collection, use or disclosure of personal health information about an individual by a health information custodian with the consent of the individual, whatever the nature of the consent, does not affect the collection, use or disclosure that this Act permits or requires the health information custodian to make of the information without the consent of the individual.

Permissive disclosure

(3) A provision of this Act that permits a health information custodian to disclose personal health information about an individual without the consent of the individual,

(a) does not require the custodian to disclose it unless required to do so by law;

(b) does not relieve the custodian from a legal requirement to disclose the information; and

(c) does not prevent the custodian from obtaining the individual’s consent for the disclosure.

(C) FORCED DISPOSITION OF RESOURCES / SERVITUDE

175. It is my understanding that the State Party is to ensure I am not threatened or coerced into disposing of my wealth and resources by private service providers, such as Serco. Pursuant to legally binding international law enumerated as ICCPR Article 1.2, ICESCR Article 1, and guaranteed by the *Constitution Act, 1982*, private/natural persons have a natural right not to be forced to dispose of their income, except freely and for their own ends. State Party players have skirted their legal obligations by converting our driving rights to ‘privileges’ controlled by multinational corporations.

Canadian Charter of Rights and Freedoms

Guarantee of Rights and Freedoms

1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

176. It is also my position that the *HTA* regulations and limitations forced on the majority of drivers are far more restrictive and imposing than necessary to ‘protect the public’. The consequences resulting from the impugned sections of the *HTA* do not accomplish any stated goal but that of revenue generation (*Constitution Act 1867, Section 92.9*), which cannot succeed without forcing the population into servitude, since **safety of the public is not statistically co-related to driver licensing and vehicle registration renewal and there is no statistical co-relation between accident rates and medical conditions or age of drivers proven competent.**

177. It is my position that once a private-person/natural person driver proves they are competent to drive, the only criteria that can be considered justification to impose limitations on driving **are the individual's personal record of demerit points and/or at-fault accidents.** The entire driving population cannot be subjected to mass incursions on their rights, subjected to mass screening for 'bogey-man' medical issues marketed by service providers, and to be extorted annually for monies when **driver license renewal is not connected to safety and driving ability.**

178. It is my position that privatization of any essential services, but especially that of driver's licenses, is a means of destroying the fundamental human rights of Canadians by proxy.

Definition 'Servitude'

The **state of a person who is subjected, voluntarily or involuntarily, to another person as a servant.** A charge or burden resting on one's estate **for benefit or advantage of another.**

Black's Law Dictionary Definition: 'liberty'

Freedom; exemption from extraneous control. The power of the will, in its moral freedom, to follow the dictates of its unrestricted choice, and to direct the external acts of the individual without restraint, coercion, or control from other persons.

179. It is my understanding that the **State Party has a legal obligation to refrain from converting a liberty into a 'privilege' as a means of forcing a human being to dispose of their wealth and resources. Coercion in the form of attaching hardships to the ability to obtain a document confirming competency to drive, is a violation of human rights (ICCPR Article 5.1). While the province has obligations to ensure safe use of highways, it has obligations to do without violating fundamental human rights.** The annual forced payment of monies for a piece of paper to be carried, not connected directly to an on-road examination, cannot be acceptable.

180. **The licensing and permit system used by the State Party has no relevance to the driver's ability to handle a motor vehicle and their permit has no relevance to its safe function as a mode of transportation;** it is clearly a scheme designed to extort billions of dollars from Ontario drivers, particularly through the expansion of age-triggered driver testing and violations of the *Health Care Consent Act*. The massive numbers of complaints have been suppressed by Serco and DriveABLE, thus it is clear the MOT is not remotely providing oversight to protect Ontarians.

Highway Traffic Act, 1990 (HTA)

Regulations re fees

5 (1) The Lieutenant Governor in Council may make regulations,

(a) providing for the payment of fees for the issue, renewal, replacement or transfer of permits, licences and number plates under this Act and prescribing the amount of the fees;

(d) providing for and governing the imposition and payment of administrative fees for the reinstatement of suspended licences;

(h) prescribing fees for anything done or provided by or on behalf of the Minister, the Ministry or the Registrar under this Act;

Fees may include cost recovery portion

(3) A fee prescribed or set under this Act for the issuance or renewal of any permit or licence or for the validation of any permit may include a portion that is for the recovery of costs related to public highway infrastructure.

PERMITS

6 (1) In this Part,

“**permit**” means a permit issued under subsection

7 (7) consisting, except when the permit is a CAVR cab card or an IRP cab card, of a vehicle portion and a plate portion; “**validate**” means render in force for the prescribed period of time and “validation” and “validated” have corresponding meanings.

Permit requirements

7 (1) No person shall drive a motor vehicle on a highway unless,

(a) there exists a currently validated permit for the vehicle;

(4) No person shall draw a trailer on a highway unless,

(a) there exists a permit for the trailer; and

(b) there is displayed on the trailer, in the prescribed manner, a number plate showing the number of the permit issued for the trailer.

Permit to be carried

(5) Subject to subsection (6), every driver of a motor vehicle on a highway shall carry,

(a) the permit for it or a true copy thereof; and

(b) where the motor vehicle is drawing a trailer, the permit for the trailer or a true copy thereof, and shall surrender the permits or copies for inspection upon the demand of a police officer.

Refusal to validate

(9) Validation of a permit may be refused where the permit holder is indebted to the Minister of Finance in respect of a vehicle-related fee or tax or in respect of a penalty imposed under this Act.

Property of the Crown

(2) Every number plate is the property of the Crown and shall be returned to the Ministry when required by the Ministry

LICENCES

Driver's licence

32 (1) No person shall drive a motor vehicle on a highway unless the motor vehicle is within a class of motor vehicles in respect of which the person holds a driver's licence issued to him or her under this Act.

Issuance of driver's licence, endorsements

(5) The Minister **may require** an applicant for a driver's licence or an endorsement or **a person who holds a driver's licence to submit to the examinations that are authorized by the regulations at the times and places required by the Minister and to meet other prescribed requirements**, and the Minister may

(b) in the case of a person who holds a driver's licence,

(ii) **where the person fails to submit to or to successfully complete the examinations or fails to meet the other prescribed requirements**, impose the conditions authorized by the regulations, remove any endorsements, **suspend or cancel the driver's licence held by the person** or change the class or classes of driver's licence held by the person;

Regulations

(14) The Lieutenant Governor in Council **may make regulations** relating to this section, (e) respecting practical and written driving examinations, **mental examinations** and physical examinations, including ophthalmic and auditory examinations, for applicants for and **holders of drivers' licences** and endorsements;

As to carrying licences and surrender on demand

33 (1) Every driver of a motor vehicle or street car shall carry his or her licence with him or her at all times while he or she is in charge of a motor vehicle or street car for carrying out the provisions of this Act.

"novice driver" has the meaning prescribed by the regulations made under section 57.1; [note: no definition provided in Section 57.1]

"young driver" means a driver who is under 22 years old.

(i) DRIVERS LICENSE RENEWAL

181. It is my position that the forced disposal of one's resources is a form of servitude and is a violation of international law (*ICCPR Articles 1.2 and 8, guaranteed by the Constitution Act, 1982, Article 26*). **There is no co-relation between driver license renewal and safety or reduction of accidents.** Therefore, even if driving and motor vehicles are not specifically mentioned in the *Charter*, that 'other rights' exist is not denied. The other rights that exist in Canada are those the State Party has undertaken in the International covenants. Competency, once proven, should satisfy all conditions that can lawfully be imposed on a driver and owner of a motor vehicle.

182. It is my understanding that the State Party was legally obligated (*ICCPR, Article 2*) to provide some mechanism that would allow all people to exercise their fundamental human rights, either through constitutional process, legislation or other measure. It is my position that the State Party has done this by means of s. 33(3) of the *Highway Traffic Act*. It is my position that **s.33(3) of the HTA confirms that annual driver license renewal regulations are not required to fulfill the purpose of 'public safety'**. Once a person has obtained their **driver's license which should stand as their proof of competency**, no further proof is necessary unless objective evidence indicates otherwise.

Highway Traffic Act, Ontario

Identification on failure to surrender licence

33(3) **Every person who is unable or refuses to surrender his or her licence in accordance with subsection (1) or (2) shall, when requested by a police officer or officer appointed for carrying out the provisions of this Act, give reasonable identification of himself or herself and, for the purposes of this subsection, the correct name and address of the person shall be deemed to be reasonable identification.**

183. The State Party has not, other than through 'opinion', demonstrated that annual driver's license renewal has reduced traffic accidents or improved safety on the highways. It has not shown that 'special' testing of senior drivers at their expense has resulted in improved safety and reduced involvement in accidents of this proven 'safest' driving group.

(ii) ANNUAL VEHICLE PERMIT RENEWAL

184. It is my position that the forced disposal of one's resources annually for a vehicle permit is a form of servitude, and forced disposal of resources. This is a violation of international law *ICCPR, Article 1.2* guaranteed by the *Constitution Act, 1982 Article 26*. There is no co-relation between vehicle registration renewal and safety or reduction of accidents, therefore I have the right to refuse to pay annual vehicle permits. The State Party is exercising constructive possession of private property by holding my vehicle ransom until a 'fee' is paid every year.

Black's Law Dictionary Definition, 6th Edition

Right: *With respect to the ownership of external objects of property, rights may be classed as absolute and qualified. An absolute right gives to the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only.*

185. The actions of State Party players using the *HTA* driver license and vehicle registration renewal scheme is a violation of International Law, because **it is far more restrictive of individual liberty than needs be, even if there was a correlation to**

'safety', which there is not. The State Party has now monetized travelling and driving activities, forcing me to dispose of my income every year in order to exercise the right to move about the territory in my personal vehicle.

Statistics Canada 2016:

- 11,948,296 motor vehicles registered in Ontario
- 8.5 million driver's licences
- 55 Driver Examination Centres & 37 Travel Points (all operated by Plenary Serco (PS) DES
- 281 Privately owned Driver & Vehicle License Issuing Offices across Ontario.

Highway Traffic Act Regulation R.R.O. 1990, Reg. 628: VEHICLE PERMITS under Highway Traffic Act, R.S.O. 1990, c. H.8

SCHEDULE 4

ANNUAL VALIDATION FEES FOR ADDITIONAL CLASSES OF VEHICLES

August 31, 2016: passenger car registration fee \$108

January 1, 2018: passenger car registration fee \$124

Increase = \$16 per vehicle = 15% increase in 16 month period

186. It is my position that there is no co-relation between annual vehicle registration and safety or accident statistics, but there is a correlation with obscene and unjustified profit-taking at the expense of innocent drivers forced to dispose of their income annually for something that should require an expenditure only once in the life of the vehicle. This is seen with the 15% increase in fees in a 16-month period, September 1, 2016 to January 1, 2018:

\$16.00 per passenger vehicle registration X 11,948,296 vehicles in Ontario
= \$191,172,736.00 increased profit in 16 months

187. **One-year vehicle registration renewal revenue for multi-national service providers, including increase, as of January 1, 2018 = \$1.5 billion. There is not one benefit to the driver or public. Once a vehicle's serial number has been 'registered' to an owner, there can be no further demand for money.**

188. Insurers insure vehicles by serial number, not by registration number, indicating there is no association between annual renewal of vehicle permits and proof of insurance coverage requirements.

(D) DEFAMATION

189. I understand that I have the right, as an equal member of the human family, to be free of attacks on my reputation and character due to my age and/or my medical condition. I have a right to be protected from those who seek to criminalize ageing. Ageing is not a disability and does not create a 'serious' concern of risk to the public; neither are emotional and mental states or variations in cognition. If ageing were a disability, it would be protected by the *Constitution*.

Constitution Act, 1982

15.(1) **Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.**

190. I also understand that the State Party is to protect me from defamatory actions by State Party media (CBC) and its contractors (eg. Bonnie Dobbs) that arbitrarily class me as a 'risky driver', frail senior, person at risk of dementia and cognitive impairment, a person of risk to other Canadians and the myriad of other misrepresentations of me as a member of an artificial class of persons. These actions serve to cause and perpetuate stereotypes of seniors, senior drivers and seniors with medical conditions as persons who are 'dangerous', when people of all ages may suffer the same medical conditions. Even in the courts, we see prejudice against seniors raise its ugly head.

Universal Declaration of Human Rights (UDHR)

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

International Covenant on Civil and Political Rights (ICCPR)

Article 17

1. **No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.**
2. **Everyone has the right to the protection of the law against such interference or attacks.**

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 4

*The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, **the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of***

these rights and solely for the purpose of promoting the general welfare in a democratic society.

191. In addition, it appears to be the State Party's position that defamation of senior drivers of all ages by State Party players is acceptable if the excuse is that violations of fundamental human rights of hundreds of thousands of senior men and women, many of whom have never so much as had an accident in decades, is for 'public safety'. The people being hunted down and subjected to abuse by the State because they are senior drivers are members of the same group who comprise the 35% of physicians over 70 years old still in practice, the MPPs over the age of 75 still voting on legislation and many other professionals including Judges, teachers, professors and engineers, yet those groups would not tolerate such abuse.
192. The medicalizing of aging, together with actions to monetize driver licenses and vehicle permits are actions tantamount to placing seniors permanently on 'probation' and limited in life and liberty. State Party for-profit contractors who have systematically denigrated aging as a 'disability' to benefit their businesses and careers, now advocate witch hunts on the basis of 'appearance of a medical condition' and 'future risk of accident'. They advocate the assignment of demerit points, simply on the basis of age!

Examples of defamation of seniors:

- Bonnie Dobbs, creator of the Simard Dementia/DEM TECT and the author of the tweaked tests forced on seniors in Ontario **appeared December the 6th, 2014 on the CBC Calgary Radio show called Homestretch "Aging Driver", and made the statement " At Age 70, They Become the Most Dangerous Drivers on The Road"**. [SHE WOULD NOT MAKE THE SAME CHARACTERIZATIONS OF CANADIAN SENATORS or DOCTORS OVER 70 YEARS OLD]
- Bonnie Dobbs presented her 'Screen for Early Identification of Mental Health Issues in Seniors: The Development of an evidence-based, standardized, user-friendly ToolKit for use in Primary Care Setting (Bonnie Dobbs, Diane McNeil, Anita Saini) North American Primary Care Research Group 11/24/14 3:30 pm. Here Dobbs **started to reintroduce the highly criticized and discredited SIMARD, MD, Dementia test by camouflaging it under it's original name, "DEM-Tect", from a German origin**, or this new one. **The fact is that there is no scientific support for any mental illness and no diagnostic tool ever created that withstood conflict-free peer reviews. All mental illness diagnoses are 'opinions' and moreover, DEM-TECT was never designed to assess driving ability in any age group.**
- Witnesses have attended presentations by Bonnie Dobbs. They report that she "*has consistently juxtaposed the U shaped accident risk curve with graphs of demographic trends in order to predict impending catastrophe. They did this prior to 1990 and the trends have gone in the opposite direction. She emphasizes the fatality curve, which looks scary on a line graph from a power point presentation until you realize that it could take 2,000 years of driving before getting up to a distance that could create a probability*

of death by driving. Twice as many seniors die as pedestrians than as car occupants: up to 27% of young people die from car crashes while one half of one percent of older people die from car crashes. She tells the truth but she distorts. She shows pictures of car crashes that involved seniors, she always mentions the Santa Monica incident, and she finished the presentation with a video of an elderly woman crashing through a store window. **This is hucksterism and fear mongering.** “

- **British Medical Journal “Are the media running elderly drivers off the road? By Alan Martin, registrar, Lucy Balding, house officer, Desmond O’Neill, associate professor, 2005 Feb 12, 330(7487) PMID: PMC548368: “Drivers over the age of 65 are the safest drivers of any age group.Much of the literature on older people’s medical fitness to drive concentrates on risk rather than mobility. When we excluded brief reports on fatal crashes, we found the results for opinion or editorial articles to be 1 negative, four positive and seven balanced. Headlines included “keep the over-50s off our M-ways, Newspaper report of issues relating to older drivers in the UK and Ireland is largely negative in content and is at variance with the evidence. **The potential consequences of such representation are to distort the political and societal context** within which doctors practise medicine and promote health ageing. In particular, **the media can influence the public’s perception of health-related issues.**”**

- **Canadian Medical Association Journal, CMAJ 2012. DOI:10.1503/cmaj.110814: In defence of older drivers, Ezra Hauer PhD, Professor (emeritus) Department of Civil Engineering, University of Toronto:**

“Physicians are asked to play a role in the delicensing process. This role should be based on fact, not prejudice....

Not all crashes are reported. Crashes in which injuries occur are more fully reported than crashes in which only property is damaged, and seniors are more easily injured in a crash. In addition, **seniors report their crashes more fully than do other drivers.** ...

The upshot is that a **larger proportion of seniors’ crashes end up in the official statistics;** this too contributes to the appearance of **overrepresentation and has nothing to do with the ‘ability to drive safely’.** ...

The chain of reasoning — that older drivers have an inordinately high risk of being in crashes due to a decline in their ability to drive safely, and that this decline is caused by age-related medical conditions — **is but a house of cards. Without the false claim that older drivers have a very high probability of being involved in a crash, the structure collapses.** ...

In addition, the number of people killed when an older person is driving is very small in comparison with other drivers. ...

In spite of what data show consistently, almost one-third of Canadians believe that elderly drivers are a “very or extremely serious traffic safety problem. The CMAJ editorial¹ echoes this prejudice, giving succour to government programs that rely on that prejudice for public support. However, medicine is an evidence-based discipline, and physicians should debate their role in the delicensing of drivers on the basis of facts, not lay beliefs.”

193. What the Dobbs, et al, have succeeded in accomplishing, with the Ministry in tow, is to cause the public to develop contempt for, and to act in a harmful way, against an entire group... senior drivers (violations of *Criminal Code of Canada* (s. 297, 298(1)(2), 319(1)(2)(3)). And they have done it repeatedly using false and demeaning public attacks (eg. 70-year olds are 'dangerous') that aging MPPs in the same government would not tolerate. [MPPs hold positions of high responsibility, presumably at least as cognitively demanding as driving: Joe Dickson is 77, Ted McMeekin is 70, Mike Colle is 72, Mario Sergio is 76; Deputy Premier Deb Matthews and Treasury Board President Liz Sandals are both in their mid-sixties, Michael Chan is 65, Bob Chiarelli is 75, Jim Bradley is 72 years old. The list goes on.] As a result of the Dobbs attacks and State Party efforts to turn the public against *senior drivers*, they have experienced grievous harm, such as loss of their livelihoods, homes, health, etc. despite many enjoying flawless driving records.
194. Bonnie Dobbs seems to have used the word 'demented' many times when discussing senior drivers, always in concert with her claims of association with the University of Alberta, and has advocated harm against senior drivers to the exclusion of any other group, to the point where the public, bureaucrats, politicians and even the Courts are automatically and unconsciously linking the terms 'demented', 'aging', and 'serious risk' together. **Studies are readily available to the Dobbs show that only 14% of the entire senior population is 'demented' and those had already stopped driving on their own.**
195. The Dobbs have also engaged in the manipulation of 'evidence' for the purpose of harming an entire group for their benefit. Bonnie Dobbs **has advocated in a consultant's report for the MOT that seniors be assigned demerit points regardless of their perfect record, presumably because she deems 'aging' a crime or HTA violation.**

VIOLATIONS OF THE PRINCIPLES OF FUNDAMENTAL JUSTICE – ACTIONS NOT SAVED BY SECTION 1 OF THE CHARTER

196. It is my understanding that there is no pretext acceptable in International law (*ICCPR Article 2.1*) to deny or abridge individual rights on the basis of ‘possible future risks’, ‘opinions of consultants’, ‘vague terms’, medical condition or ageing, ‘distinction’, assumptions, privatization of services, self-appointed ‘experts’ claims, court conversions of rights to privileges, or policy influenced and/or written by service providers.
197. It is my understanding that there is no operation of international or constitutional law that allows the State Party to limit the rights of some people on its territory on the basis of their ability to pass a ‘memory’ test or because they have an ‘emotional’ issue such as grief at the loss of a spouse, yet in *10159 v. Registrar of Motor Vehicles, 2016* and *8696 v. Registrar of Motor Vehicles, 2014*, this is exactly how far Tribunals and subsequently the Courts have gone to violate individual rights to drive at the behest of the State Party, when neither an obscure memory test or presence of an emotional state are associated scientifically to driving ability.

R. v. Maier, 1989 CanLII 3038 (AB QB)

[26] The interpretation of the *Charter* has been discussed by the **Supreme Court** of Canada on several occasions. That court **has held that the interpretation should be “a generous rather than a legalistic one, aimed at fulfilling the purpose of the guarantee and securing for individuals the full benefit of the Charter’s protection”** (*Dickson C.J.C. in R. v. Big M Drug Mart Ltd., 1985 CanLII 69 (SCC), [1985] 1 S.C.R. 295, 37 Alta. L.R. (2d) 97, [1985] 3 W.W.R. 481, 85 C.L.L.C. 14,023, 18 C.C.C. (3d) 385 at 424, 18 D.L.R. (4th) 321 at 360, 13 C.R.R. 64, 60 A.R. 161, 58 N.R. 81*).

Mortland and VanRootselaar v. Peace Wapiti School Division No 76, 2015, AHRC 9 (CanLii)

[403] *Peace Wapiti* seeks to justify its discriminatory standard based on a potential encompassed by the concept of driver risk. The Supreme Court of Canada addressed risk at paragraph 30 of **Grismer**:

... Risk has a limited role in this analysis. It is clear from Meiorin that the old notion that “sufficient risk” could justify a discriminatory standard is no longer applicable. Risk can still be considered under the guise of hardship, but not as an independent justification of discrimination. ...

Godbout v. Longueuil (City), [12997] 3 SCR 844, 1997 CanLii 335 (SCC)

“Furthermore, a violation of s. 7 will normally only be justified under s. 1 in the most exceptional of circumstances, if at all.

The right to liberty in s. 7 goes beyond the notion of mere freedom from physical constraint and protects within its scope a narrow sphere of personal autonomy wherein individuals may make

inherently private choices free from state interference. The autonomy protected by the s. 7 right to liberty, however, encompasses only those matters that can properly be characterized as fundamentally or inherently personal such that, by their very nature, they implicate basic choices going to the core of what it means to enjoy individual dignity and independence.

198. It is my understanding that the principles of natural justice were recognized by the Supreme Court and the common law duty of fairness may be modified by statute, but intent to modify or abrogate the rules of natural justice must be revealed by clear statutory language.

Cardinal v. Kent Institution (Director), 1985 CanLII 23 (SCC), [1985] 2 S.C.R. 643 at p. 653, 69 B.C.L.R. 255:

This Court has affirmed that there is, as a general common law principle, a duty of procedural fairness lying on every public authority making an administrative decision which is not of a legislative nature and which affects the rights, privileges or interests of an individual

L'Heureux-Dubé J. in Knight v. Indian Head School Division No. 19, 1990 CanLII 138 (SCC), [1990] 1 S.C.R. 653 at pp. 677-78, 83 Sask. R. 81:

However, it as pointed out by Dickson J. in Kane v. Board of Governors of the University of British Columbia . . . "To abrogate the rules of natural justice, express language or necessary implication must be found in the statutory instrument."

199. It is my understanding that the principle of 'arbitrariness' is a well-established principle: laws should not be arbitrary (*R. V. Malmo-Levine*). A law may not limit an individual's rights where 'it bears no relation to, or is inconsistent with, the objective purported to be behind it (*Rodriquez v. British Columbia (Attorney General)*). Therefore, s. 31 (5) (b), 31(13) and 32.2 and 31(14)(m.1) of the HTA are all arbitrary because they have no relevance to the objective of 'safety of the public'. Section 16 of Regulation goes on to be discriminatory and arbitrary, since there is no scientific or statistical correlation between age and risk of accident or ability to drive safely. Further, s. 16(a), 16(b) and 16(c) HTA, Regulation 340/94 arbitrarily include all those involved in accidents, thus targeting those not at fault for an accident. There is no co-relation between being involved in *not-at-fault* accidents and ability to drive safely. In addition, since an ID Photo (s. 31(13) and s. 32.2(1) & (5) has no correlation the ability to drive safely, these are arbitrary demands and unjust, violating privacy.

200. Since the validity of a driver's license (if such driver's license is to be confirmation of competency to drive safely) is affected not by loss of demerit points or record of at-fault accidents, but by the State Party under s. 31(14)(b) of the HTA, the forced annual payment of a renewal of such confirmation of competency is arbitrary and not

reasonably connected to 'ensuring safety', particularly when no on-road driving test is required. It is reasonably connected to the raising of revenue by the province, an activity that the individual is not obligated to participate in under *ICCPR Article 1.2*.

201. It is my understanding that laws must have a clear and understandable interpretation so as to properly define the rule or offence. Since s. 31(5)(b) of the *HTA*, as well as s. 16(a) (b) and (c) of the *HTA Regulations 340/94* are vague and non-specific, unclear in their purpose, subject matter and nature, the demand that drivers subject themselves to 'mental' and 'physical examinations, and particularly age-triggered examinations, as a condition for renewing their driver's licenses when they have committed no offence, this section violates the principles of fundamental justice.
202. It is my understanding that the means to achieve the purported objective of 'safety' of the public must be necessary. Since senior drivers are deemed the safest driving group across the world, year after year, and getting safer as they age, there is no reason to implement the hunt for so-called 'demented' drivers amongst senior drivers. Since there is no co-relation between the annual payment of a fee to renew one's drivers license as required under s. 31(14)(m.1) and competency to drive safely, annual demand for monies is not necessary. In addition, since a photo of one's face is not co-related to competency to drive safely, but is co-related to violations of privacy, s. 31(13) and 31.2 (1) and (2) of the *HTA* are absolutely not necessary and violate the principles of fundamental justice.
203. It is my position if the purpose of the *HTA* stated in s. 31(a) was actually to confer a license on those who demonstrate they are LIKELY to drive safely, then such proof using an on-road examination provided by a conflict-free examiner could be the only reasonable means acceptable to achieve that objective. Instead, once licensed, no further on-road testing is required of most carriers/drivers. Paying for a piece of paper with one's name on it without a competency test is not proof of competency, nor is an ability to draw clocks at two-year intervals protecting the public.
204. It is clear that legislation that employs tactics such ID face recognition technology, demands ID Photos, requires age-triggered mental examinations, demands annual expenditures for 'renewals' and attaches the validity of one's proof of competency to their willingness to pay an annual fee, is wholly disproportionate to the goal of ensuing safety of the driving public, and violates many fundamental human rights.
205. **It is my position that forcing any driver who has not committed an offence to undergo a discredited 'cognition' examination in a doctor's office when neither the author of the discredited test nor the medical doctor are experts in assessing driving ability is a violation of s.9 of the**

Charter just as any other forced detention based on ‘opinion’ would be. It cannot be remotely considered ‘fundamental justice’ that anyone be detained (forced to attend a doctor’s office instead of police station) on the basis of opinion and ‘class distinction’, then further deprived of their liberty with summary judgement and revocation of that driver’s license when they have done nothing wrong but fail a discredited ‘mental’ test designed to fail at least 50% of those subjected to it. The ‘evil’ to be suppressed has been identified as ‘aging’, being ‘medically at risk’ and other vagaries.

R. v. Robson, 1985 CanLII 108 (BC CA)

“The next question under s. 7 is whether the deprivation of liberty is in accordance with the principles of fundamental justice. MacAlpine Prov. Ct. J. accepted, without elaboration, that if there was a deprivation of liberty, there was an “absence of the principles of fundamental justice”. In that approach, I agree with him. I do not think that to empower a peace officer to deprive a person of liberty, on the basis only of his opinion without any kind of notice or hearing can be in accordance with the principles of fundamental justice.

... But the limits must be reasonable. The extent of the arbitrary powers must bear a reasonable relation to the evil sought to be suppressed.”

R. v. Ladouceur, [1990] 1 SCR 1257, 1990 CanLII 108 (SCC)

“If sanctioned, we will be agreeing that a police officer can stop any vehicle at any time, in any place, without having any reason to do so. For the motorist, this means a total negation of the freedom from arbitrary detention guaranteed by s. 9 of the Charter. This is something that would not be tolerated with respect to pedestrians in their use of the public streets and walkways. It is in this light that the efforts of the Crown to discharge its s. 1 onus must be viewed.”

206. Random is random; not made less random because the victim is ageing, or because the victim’s life was interrupted due to the opinion of a profiteer and/or medical doctor, neither of which are trained in assessing driving ability. Random stops of drivers without just cause are violations of s. 9 of the *Charter* and not saved by s. 1. The forced attendance at a doctor’s office of hundreds of thousands of innocent senior drivers based on the opinion of the author of a ‘cognitive test’, is a form of detention. Whether the driver is forced into a police vehicle, to the police station or a doctor’s office, they are interfered with and detained against their will because the consequences are grave if they should refuse.

207. The principles of natural justice were recognized by the Supreme Court of Canada, which also established that any intent to abrogate principles must be revealed by clear statutory language.

Cardinal v. Kent Institution (Director), 1985 CanLII 23 (SCC), [1985] 2 S.C.R. 643 at p. 653, 69 B.C.L.R. 255

"This Court has affirmed that there is, as a general common law principle, a duty of procedural fairness lying on every public authority making an administrative decision which is not of a legislative nature and which affects the rights, privileges or interests of an individual."

Knight v. Indian Head School Division No. 19, 1990 CanLII 138 (SCC), [1990] 1 S.C.R. 653 at pp. 677-78, 83 Sask. R. 81

"However, as was pointed out by Dickson J. in *Kane v. Board of Governors of the University of British Columbia* . . . ***"To abrogate the rules of natural justice, express language or necessary implication must be found in the statutory instrument."***

208. It is my understanding that only *individuals* can be subjected to a requirement to prove they are competent to drive, therefore the medical screening of an entire class of drivers is unconstitutional, as is refusing to issue a driver's license based on a medical condition, inability to pay a municipal levy or pay a student's loan. There is no reliable, scientifically established co-relation between cognition and/or medical conditions to accident rates.

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 SCR 868, 1999 CanLii 646 (SCC) (Grismer Decision)

"***The Meiorin test applies to all claims for discrimination*** under the B.C. Human Rights Code. It requires ***those governed by human rights legislation to accommodate the characteristics of affected groups within their standards.*** Once a plaintiff establishes that the standard is *prima facie* discriminatory, ***the onus shifts to the defendant to prove on a balance of probabilities that the discriminatory standard is a bona fide occupational requirement or has a bona fide and reasonable justification.***

The claimant established prima facie discrimination by showing that he was denied a licence on the basis of his physical disability. The Superintendent was then required to prove on a balance of probabilities that the discriminatory standard had a bona fide reasonable justification. The Superintendent's goal was reasonable highway safety, balancing the need for people to be licensed and the need for public safety.

209. It is my understanding that ***courts and tribunals have been fed manipulated and misrepresented statistics and propaganda by for-profit corporations while ignoring common sense, legitimate science and research and the individual's rights and driving record. The fact that senior drivers have always been and remained the SAFEST driving group in the world and are provided 15-20% premium discounts on insurance rates based on EVIDENCE, should be sufficient evidence that there can be NO limitations on their right to drive in their own private vehicle, unless their driving record specifically shows they have become incompetent or unwilling to drive safely.***

R. v. Hynes, 1999 18979

83) Prior to the Charter's advent, **the individual really had no special means of protecting against incursions upon his or her basic fundamental rights by executive or legislative arm of the state**, beyond making representations to the executive or administrative arms of government, or petitioning and lobbying Parliament or Legislatures for changes in the law. Linked as they were to concepts of parliamentary supremacy and sovereignty, **there were no means at the disposal of individuals to muster court challenges aimed at invalidating legislative, executive or administrative acts**

(84) Apart from these exceptions, the individual's means of challenging incursions on fundamental **rights were extra-judicial and of a precatory nature that were neither effective nor potent**. Respect for the rule of law, upon which, as W. Ivor Jennings in his text entitled *The Law and the Constitution* (University of London Press, 4th ed.) points out at p. 42, **hinges the existence of public order, mandated compliance with directives and ordinances even if they infringed upon individual fundamental rights and freedoms**

A primary purpose of the Charter was to **change this relationship of the individual with the state and its laws by endowing individuals with an effective means of challenging acts of the state in courts on the ground of violation of their constitutionally protected rights and freedoms**.

Németh v. Canada (Justice), [2010] 3 SCR 281, 2010 SCC 56 (CanLII) (re presumption of the courts)

[34] I also accept, of course, that, where possible, statutes should be interpreted in a way which makes their provisions consistent with Canada's international treaty obligations and principles of international law. As LeBel J. noted in *R. v. Hape*, 2007 SCC 26 (CanLII), [2007] 2 S.C.R. 292, at para. 53, **it is presumed that the legislature acts in compliance with Canada's obligations as a signatory of international treaties and as a member of the international community as well as in conformity with the values and principles of customary and conventional international law**: see also, for example, *Zingre v. The Queen*, 1981 CanLII 32 (SCC), [1981] 2 S.C.R. 392, at pp. 409-10; *Ordon Estate v. Grail*, 1998 CanLII 771 (SCC), [1998] 3 S.C.R. 437, at para. 137; *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817, at para. 70; and *Schreiber v. Canada (Attorney General)*, 2002 SCC 62 (CanLII), [2002] 3 S.C.R. 269, at para. 50.

PSC Industrial Canada Inc. v. Ontario (Ministry of the Environment), 2004 CanLII 15482 (ON SC)

[76] ...Therefore, it is necessary to assess the importance of a right or freedom in context along with its purpose... **The right or freedom must then in accordance with the dictates of this court, be given a generous interpretation aimed at fulfilling that purpose and securing for the individual the full benefit of this guarantee.** (at 1355-56)

[79] In commenting on the interrelationship between the sections, Justice McIntyre stated that, **“section 7 affords broad protection for life and liberty while the other sections, particularly those dealing with legal rights, apply to protect those rights in certain stated circumstances.”**

[80] **From the above, section 7 appears as a broad statement of purpose or principle which encompasses both specified and unspecified rights.**

[86] As to whether section 7 could be applied to protect rights wholly unconnected with the administration of justice, the Chief Justice states that that question remains unanswered. It may one day create positive obligations. **Harkening back to the principles of Charter interpretation referred to above, the Justice believed that “it would be a mistake to regard s.7 as frozen, or its content as having been exhaustively defined in previous cases.” (para. 82)**

210. The impairment caused by the forced ‘cognitive testing’ of seniors on the right to drive freely once a driver has proven competence and shown, through a good driving record, that they are willing to drive safely, is NOT as minimal as possible. There were far more effective and less intrusive means of achieving the objective of making the roadways even safer from the safest drivers: checking the individual driving records for demerit points and insurance records for AT-FAULT accident statistics. Since far less intrusive means were indeed available and the consequences of forced submission to discredited ‘cognitive impairment’ testing were completely disproportionate to the objective by removing excellent drivers from the roadways, the legislation and actions of the Minister cannot meet the test for ‘justification’ laid out in *R. v. Oakes*.
211. It is my understanding that no representative of the State Party, at any level, is permitted to engage in **arbitrary** interference with individual fundamental rights. Certainly, Ministers cannot lawfully engage in the destruction of human rights by proxy or by delegation to other parties such as multinational for-profit globalists disguised as ‘service providers’, or to self-styled ‘experts’ on aging.

Universal Declaration of Human Rights (UDHR)

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. *Everyone has the right to the protection of the law against such interference or attacks.*

International Covenant on Civil and Political Rights (ICCPR)

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation *to a greater extent than is provided for in the present Covenant.*

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

Constitution Act, 1982 Canadian Charter of Rights and Freedoms

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

212. It is my position that the following comprise ARBITRARY Interference in my fundamental human rights regarding the issue of driving and owning a private motor vehicle:
- forced medical examinations and experimentation
 - forced participation in mass medical screenings
 - forced acceptance of discredited 'cognitive testing' as a substitute for on-road testing
 - forced disposal of my wealth, resources, time and energy every year after having proved my competency to drive and willingness to do so safely.
213. It is my position that the 'testing' and examinations forced on safe drivers do not **impair the right to drive as little as possible. In fact, their effects are so severe that the actions of the State Party result in almost complete abridgement of rights.** There is no compelling concern about 'risk' of those who have good driving records and have earned their driver's license many years ago other than that manufactured by service providers and bureaucrats. There is no co-relation proven between licensing drivers and accident statistics and absolutely no association between forced annual vehicle permit renewal and safety. Insurance is not obtained based on vehicle registration, but based on the serial number of the vehicle assigned by the manufacture.
214. When a service provider can direct policy that impacts millions of lives and when they can call for the imposition of 'demerit points' on senior driver licenses simply on the basis of age and not because of any infraction, it is clear the sole purpose and consequence of driver license renewal systems, vehicle registration and mandatory 'medical examinations' are to violate of every human right Canada claimed to guarantee.
215. Canadians have never been subjected to mass medical screening for other medical issues, yet today Ontario suffers the effects of self-styled 'experts' given authority to rummage through the population with tests looking for a problem, especially when the tests are inaccurate and have no bearing on driving ability.
216. It is my position that since the autonomous Google vehicle is touted as the 'perfect' driver and it has been involved in 5 times the number of traffic accidents and caused one fatality during its testing period, it should be deemed clear that claims the MOT is concerned about the 'safety' of the public are smoke and mirrors designed to scare the public into accepting tyranny and complete violations of their rights to life, liberty and travel.

217. Thus, the *Charter* breaches are not justified: the means of the State Party to achieve 'safety of the public' is not rationally connected to the objective, since senior drivers are the safest driving group in the world and there is no evidence that a cognitive impairment test exists that correlates to driving ability. Forcing seniors to undergo cognitive testing has not been shown to protect the public and in fact since the implementation of special senior testing, accident involvement increased (2015 over 2014). All valid and peer-reviewed statistical evidence proves that special driver testing is not correlated to accident risk, cognitive impairment is not associated with accident involvement and medical conditions have little to no co-relation to accident involvement, let alone at-fault accidents.

218. If the *severity of the deleterious effects* of the legislation requiring all manner of 'mental and physical examination' at the behest of the Minister was balanced against the *importance of the objective* of making the safest driving group still safer, one would easily conclude that the deleterious effects to seniors are extremely severe...their entire security of person is violated if they refuse such tests, or if they are ones of the 50% targeted to fail regardless their good driving record. Wearing the label of 'cognitive impaired' which is the result of failing these fraudulent 'mental examinations' would cause much humiliation. The possibility of wearing such a label increases every two years when they have to retake these tests, given that failing as many as possible is lucrative for the examination centre.

(i) RIGHTS CONVERTED TO PRIVILEGE

219. A legal privilege is a special power granted to particular legal entities because of their political status. A slave owner is 'privileged' to own another human being. There are no privileges in natural moral law, since one of the premises from which the universal ethic is derived is human moral equality--an equality of moral value. This premise is implemented as equality before the law and equal legal rights and further expressed in the *Universal Declaration of Human Rights* and codified in the International Covenants. Canada is a signee to all.

220. **It is my position that the driver examination centres must not be owned and operated by those with a vested interest in failing as many people as possible so that they can profit from the \$400-700 retest fees imposed. An essential document (proof of competency) cannot be commoditized. What the State Party's enactments have done is commoditize a human right.**

221. Many Courts have found that driving is a right with an obligation (ie. not an absolute right to drive). The Courts have acknowledged that interference with an essential activity in this society when a person has not been convicted of any offence, is an act of meting out punishment in violation of the tenets of procedural fairness.

R. v. Rowland (1984), 1984 CanLII 1200 (AB QB), 13 C.C.C. (3d) 367 at pp. 374-75, 33 Alta. L.R. (2d) 252 (Q.B.)

*"In the context of today's society it, I believe, is **unrealistic to say that an individual's entitlement to a motor vehicle operators license, and consequently his right to move freely on public highways, is a privilege.** In my view **every individual has a right to use public highways, and consequently to an operators license, subject** only to the right of the legislature to pass laws or regulations in the interest of public safety **for the purpose of controlling** the use of public highways and **the fitness and competence of those individuals who use them.**"*

R. v. Sharma, 1992 CanLII 90 (SCC), [1992] 1 S.C.R. 814 at p. 817, 71 C.C.C. (3d) 184 at p. 187

Lamer C.J.C. observes as follows:

*"The appellant's liberty interest was clearly prejudiced by the bail conditions to which he was subject for the entire 13-month period between the charge being laid and the matter being brought to trial. Those bail conditions included a complete prohibition on driving, a prohibition which would have been imposed as part of his sentence had he been found guilty following a prompt trial. Essentially, the appellant had already begun serving his sentence, a state of affairs which calls for haste in bringing a matter to trial. **It is clear, then, that the suspension of one's driver's licence occasions a deprivation of that person's right to "liberty" within s. 7 of the Charter.**"*

R. v. Robson (1985), 1985 CanLII 108 (BC CA), 19 C.C.C. (3d) 137 (B.C.C.A.)

"Liberty" under the Charter cannot be taken to create an absolute right to drive. Age, infirmity and other impediments may restrict the granting of drivers' licences. However, **once the licence is granted there becomes attached to it the general liberty to employ one's skill and ability — in this case the ability to drive.** Accordingly, **such liberty constitutes a right under the Charter and a person cannot be deprived of it except in accordance with the principles of fundamental justice.**"

222. Some courts and Tribunals, through a series of decisions stating that 'driving is a privilege', have subjected millions of innocent drivers and their families to increasing levels of abuse and deprivation...the very sort of abuse the *Constitution (Charter)* guaranteed to protect against and enumerated in *ICCPR Article 2*. Instead of remedy, the Courts have summarily eliminated the right to drive one's vehicle freely once proven competent with excuses based on age, medical condition, opinion, inability to draw clocks or to drive perfectly in an unfamiliar vehicle while tested by those in a conflict of interest. Such internal actions aimed at the destruction of fundamental rights are forbidden by international law. This has left the door wide open to Rule BY Law in Ontario, not moral and ethical law.

Mortland and VanRootselaar v. Peace Wapiti School Division No. 76, 2015 AHRC 9 (CanLII)

[440] **Concerning the claim for injury to dignity and self-respect, the director asserts damage awards should be significantly higher than in the past so as not to trivialize human rights:** ADGA Group Consultants Inc. v. Lane (2008), 64 CHRR. D/132, 2008 CanLII 39605 (ON SCDC), 2008 CanLII 39605 (Ontario Div. Court), and subsequently the awards in Garofalo v. Cavalier Hair Stylists Shop Inc. 2013 HRTO 170 (CanLII) (\$27,000); Garrie v. Janus Joan Inc. 2014 HRTO 272 (CanLII) (\$25,000); Rollick v. 1526597 Ontario Inc. (c.o.b. Tim Horton's Store No. 2533) 2014 HRTO 337 (CanLII) (\$15,000); Vipond v. Ben Wicks Pub and Bistro 2013 HRTO 695 (CanLII) (\$18,000). In Walsh, supra, the Alberta Court of Appeal endorsed the human rights tribunal's award of \$35,000. In University of Prince Edward Island, supra, the three complainants were awarded \$8,000 each by a human rights panel.

[442] The complainants also point to **Robichaud v. Canada (Treasury Board), 1987 CanLII 73 (SCC), 1987 CanLII 73 [1987] 2 SCR 84 (SCC), where the Court emphasized that human rights legislation serves to eradicate anti-social conditions** without regard to motives or intention of those who cause them. **To eliminate discrimination, remedies must be effective, consistent with the almost constitutional nature of the protected right. PerGwinner, supra, the provisions prohibiting discrimination are broadly construed, the defences narrowly construed, and the key provisions adapted to changing social conditions.**

223. It is notable that other signees to the same international law, such as the USA, have in fact, come to the opposite conclusions to confirmed and reconfirm the fact that motoring is a right and no driver's license renewal is necessary when competency is proven. This is not to be taken as meaning that any motorist should not be required to prove competency in driving; what it does mean is that motorists should not be pimped out to for-profit corporations and revenue-generating schemes that have nothing to do with establishing competency.

Thomson Newspapers Ltd. v. Canada (Director of Investigation and Research, Restrictive Trade Practices Commission), [1990] 1 SCR 425, 1990 CanLII 135 (SCC)

"While individuals as a rule have full legal capacity by the operation of law alone, the individual may stand upon his constitutional rights. He owes no duty to the State, since he receives nothing there from, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State and can only be taken from him by due process of the law and in accordance with the Constitution. He owes nothing to the public so long as he does not trespass on their rights.

R. v. Hynes, 1999 18979

83) Prior to the Charter's advent, **the individual really had no special means of protecting against incursions upon his or her basic fundamental rights by executive or legislative arm of the state,** beyond making representations to the executive or administrative arms of government, or petitioning and lobbying Parliament or Legislatures for changes in the law. Linked as they were to concepts of parliamentary supremacy and sovereignty, **there were no means at the disposal of individuals to muster court challenges aimed at invalidating legislative, executive or administrative acts.** A primary purpose of the Charter was to **change this relationship of the individual with the state** and its laws **by endowing individuals with an effective means of challenging acts of the state in courts on the ground of violation of their constitutionally protected rights and freedoms.**

R. v. Wagner, 2015 ONCJ 66 (CanLII)

“Although Ms. Wagner may find cold comfort in this conclusion, I agree with her that *the “rule of law” is, quite apart from the terms of any written constitution, part of the constitutional DNA of this country and that its precepts must be abided by and must be applied by judges no matter how strong may be the prevailing winds or how challenging the social or political environment in which an issue arises. “Rule by law”, in which palpably immoral behaviour affecting basic rights of others may be entirely lawful, is indeed, as Ms. Wagner argues, the hallmark of totalitarian and despotic states rather than of our own legal and constitutional history.*”

R. v. Hynes, 1999 CanLII 18979 (NL CA)

[53] Another tenet of our law is that the Canadian Charter of Rights and Freedoms rights belong to all Canadians. They are not rights granted by court. The court’s function is to identify them.

[101] The determination whether to enforce constitutionally protected rights under s. 24 (2) was never intended to revert to the executive arm of government. Indeed, as has already been discussed, a primary purpose of the Charter was to place courts between the executive and the individual to protect the latter’s individual fundamental rights and freedoms.

Assn. v. British Columbia, 2007 SCC 27, [2007] 2 S.C.R. 391(para. 70)

McLachlin C.J. and LeBel J. confirmed that, **“the Charter should be presumed to provide at least as great a level of protection as is found in the international human rights documents that Canada has ratified”.**

REMEDY SOUGHT – Section 24 of the Charter

224. Canadian society has expressed its extreme dissatisfaction with the continuing impossibility for victims of privatization and profiteering scams to obtain timely remedy and protection--and particularly those in their senior years not expecting to have to dispose of their wealth and resources on lawyers. This highlights the gross failure of this State Party to meet its legal obligations.

Canadian Charter of Rights and Freedoms

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

Personal Health Information Protection Act

Crown liability

(2) Despite subsections 5 (2) and (4) of the Proceedings Against the Crown Act, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Crown bound

(5) For greater certainty, this Act binds the Crown, including all ministries, agencies and employees of the Crown.

Highway Traffic Act, 1990 (Ontario)

Protection from personal liability

5.4 (1) No action or other proceeding for damages shall be instituted against the Minister, the Registrar of Motor Vehicles, a public servant, a delegate or agent of the Minister for anything done in good faith in the execution or intended execution of a power or duty under section 5.2 or 5.3. 2008, c. 17, s. 30.

Crown not relieved of liability

(2) Despite subsections 5 (2) and (4) of the Proceedings Against the Crown Act, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject. 2008, c. 17, s. 30.

Proceedings Against the Crown Act, R.S.O. 1990

Right to sue Crown corporation without consent

4. A claim against a corporation of the Crown that, if this Act had not been passed, might be enforced, subject to the consent of a servant of the Crown, may be enforced as of right without such consent. R.S.O. 1990, c. P.27, s. 4.

Liability in tort

5. (1) *Except as otherwise provided in this Act, and despite section 71 of the Legislation Act, 2006, the Crown is subject to all liabilities in tort to which, if it were a person of full age and capacity, it would be subject,*

(a) in respect of a tort committed by any of its servants or agents;

(b) in respect of a breach of the duties that one owes to one's servants or agents by reason of being their employer;

(c) in respect of any breach of the duties attaching to the ownership, occupation, possession or control of property; and

(d) under any statute, or under any regulation or by-law made or passed under the authority of any statute. R.S.O. 1990, c. P.27, s. 5 (1); 2006, c. 21, Sched. F, s. 124.

Where proceedings in tort lie

(2) No proceeding shall be brought against the Crown under clause (1) (a) in respect of an act or omission of a servant or agent of the Crown unless a proceeding in tort in respect of such act or omission may be brought against that servant or agent or the personal representative of the servant or agent.

I seek the following:

1. *A driver's license, if it is to be considered proof of competency to drive', is to be issued to me within 45 days, marked "proof of driving competency' with no expiry date and my name in capitis diminutio minima style, specifically, Marie Monique Gracia (Grace) Joubarne. The document issued MUST note my competency to drive my vehicle. The document CAN be called Motor Vehicle Operator Card, but whatever it is named, it must be accepted by rental agencies and other such organizations that rely on driver license information;*
2. *A letter signed by the Minister that I may present to car rental agencies and others who may require the standard license document, clearly stating that the proof of competency license stands in place and is equally acceptable for purposes where the standard driver's license is requested.*
3. *My picture is to be removed from the facial recognition database immediately and confirmation of the completion of this action signed and dated by the Minister of Transportation, sent to me by registered mail;*

4. *A vehicle registration permit for my current vehicle marked 'permanent' so that I can be free of future forced disposal of my resources to renew such permit. Any new vehicles I may acquire will be 'registered' once with your office, and the permit for that vehicle marked 'permanent'. The document or permit must make it possible for me to be free of harassment or distress should a police officer wish to check my vehicle registration.*
5. *All mandatory age-triggered and age-based medical screening of drivers, particularly those utilizing 'cognitive tests' promoted by the Dobbs, Foundation Equity Ltd or Serco (and allied corporations) is to be discontinued immediately, and the assessment of driver risk due to medical conditions is to be left to medical doctors without coercion such as currently imposed by the HTA and upon the submission of objective, proven and probably cause, such as the existence of demerit point accumulation and a series of at-fault accidents.*
6. *All 'special' testing of senior drivers for cognitive and medical conditions are to be ended immediately, to prevent further victimization by unethical doctors and 'memory clinics'. All suspensions of senior driver's licenses based on 'memory tests', allegations of 'cognitive impairment' in the absence of demerit point and AT-FAULT accident accumulations must cease immediately to prevent further victimization.*
7. *All on-road testing must be consistent across all ages and status of drivers. The DriveABLE and DriveTEST in-office and on-road tests must be abolished immediately and replaced by on-road testing provided by MOT staff, free of charge and free of conflict. The ONLY condition to obtain a driver's license/competency card is to be the passing of an on-road skills test and rules-of-the-road exam in a vehicle of the driver's choice, by unbiased, conflict-free testers and free of charge.*
8. *Installation of a complaints system, the records of which are to be available to the public on request by Freedom of Information application, and an appeal system provided by Ministry staff as opposed to that provided by not for-profit service providers.*

9. *All senior driver's licenses that were revoked as a result of a failure on the 'cognitive test' and/or DriveABLE and/or DriveTEST exams in the absence of any OBJECTIVE evidence of incompetence or demerit point accumulation since 2013, are to be reinstated immediately to mitigate the damage to victims and their families.*
10. *An end to annual driver license renewal fees: once competency is proven by passing an on-road and rules-of-the-road test, the driver's license must be a clear certificate of competency, unless a history of AT-FAULT accidents and demerit point accumulation indicates renewal examinations, education and remediation is necessary.*
11. *Instead of summary revocation or suspension of senior's driver's licenses, gradual de-licensing must be instituted where objective evidence is established that such is necessary.*
12. *An end to annual vehicle registration renewal. A vehicle need only be registered once, the permit marked permanent. Insurers rely on Vehicle Serial Numbers, not vehicle registrations to provide insurance coverage.*
13. *There is no evidence that emissions testing is of any benefit to the individual or the environment and must be ended for private-person owned vehicles. Emissions testing is not associated with 'safety'.*
14. *An immediate repeal of the amendments to the HTA awaiting proclamation: s. 203 (1), (2), (3), (4) and (5).*
15. *A reimbursement of my costs to prepare this documentation and all future actions as may be necessary to protect and preserve my fundamental human rights enumerated in this document, including a Notice of Constitutional Question and Claim for Remedy in the Superior Court of Justice, Ontario. Presently the amount is:*

Labor and time @ \$50.00/hr =	\$ 20,050.00
Expenses: photocopying, mailing, etc =	<u>251.38</u>
<u>Total to date, expenses & labor:</u>	<u>\$ 20,301.38</u>

Should the above remedies not be forthcoming within 45 days of the date of receipt of this letter by you, I will govern myself accordingly in order to access remedy in a court of competent jurisdiction.

G. Joubarne

Grace Joubarne

279 Columbus Avenue
Ottawa, ON K1K 1P3

November 9, 2017

Date

Attachment: Affidavit of victim Lea Porter