

Substitute Decision-Making: Ontario's Place in the Canadian Landscape 15 Years Later



Looking Back, Moving Forward

ORIENTATION

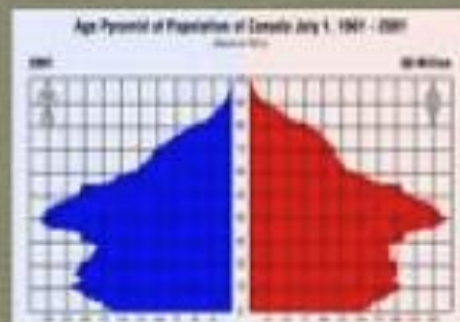


33 MILLION POP

1:8 OVER 65 NOW

1:4 BY 2041

**CANADIAN
SERVICES NOT
PREPARED**



OLDER CANADIANS' VALUES

- Are these yours?

KEY SOCIAL AND CULTURAL VALUES OF SENIORS (1998)

- INDEPENDENCE
- REQUIRES SOMEONE
TO HELP DEFEND
AND ENFORCE



| | |
|---------------|----------|
| DIGNITY | FAIRNESS |
| PARTICIPATION | SECURITY |

Ontario



- ▣ *Substitute Decisions Act*
- ▣ Large pre-legislative review – 1980s/90s – Fram Report
- ▣ Trend of guardianship reform
- ▣ SDA was part of a constellation of legislation – including a proposed “Advocacy” Act

All Under One Roof...



- Power of Attorney
Personal Care (Health)
- Power of Attorney
Finance
- Guardianship



- - Strong Principles of **Personal Planning**

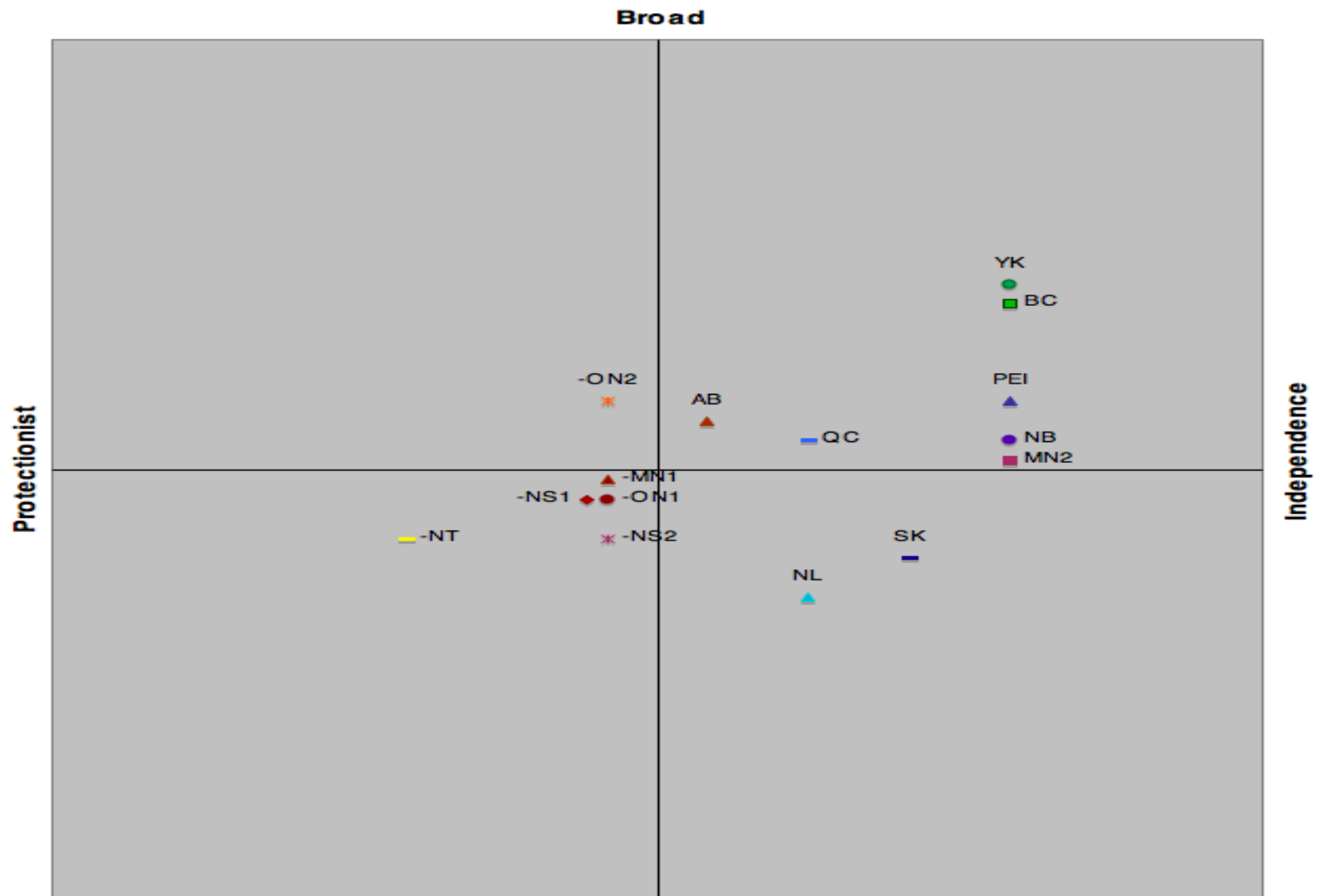
The Infrastructure



- Combination “community based” legislative development
- Strong (last resort) Public Guardian & Trustee
- Rethinking how decisions **should** be made
- Creation of a “Consent/Capacity Board”
- Board / Court can appoint counsel
- Right of Appeal – Trial Court – de novo

Legislative / Cultural Differences

Comparing Adult Protection Legislation



Problems and Challenges



- Understanding of Capacity
- Abuse and Neglect dynamics
- Lack of gerontology / aging knowledge
- Power dynamics / Family issues

What We Didn't Expect



- ✓ Pre-Succession fighting
- ✓ The “rise” of Elder Abuse narrative
- ✓ Costs Issues

Recent Developments...



- ▣ Mr. Justice Brown – strong statements
- ▣ Rethinking who pays
- ▣ Timelines rethought
- ▣ Specialized Courts?
- ▣ Mediation - mandatory



Moving Forward...



- ✓ Rethinking the role of the Consent/Capacity Board
- ✓ Attracting new blood to the field
- ✓ Competencies in Elder Law

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