

Chapter 6

Ageism and Age Discrimination in the Labour Market: A Macrostructural Perspective



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6.1 Introduction

Ageism and age discrimination in the labour market have been topics of scholarly interest since the early twentieth century. Today, in markedly different economic conditions, with increasingly globalised labour markets, the victories and failures of workers' movements, and the changing conditions of the European welfare state, the problem of unequal and negative treatment of older workers still prevails. This chapter looks at the phenomenon of age discrimination and ageism in the labour market from a socio-political perspective and draws attention to deciding factors in its emergence. We add to the individualistic and micro accounts adopted by psychological research (see Lev et al. 2018; Chap. 4, in this volume) and the meso level studies of organisation and work environment conditions (see Naegele et al. 2018; Chap. 5, in this volume) by examining the role of macrostructural processes and transformations to identify their link to the persistence of ageism and age discrimination in contemporary labour markets. First, we provide an overview of the most common conceptual understandings of ageism and age discrimination in employment. Second, we investigate the dynamics between the phenomena of ageism and age discrimination and a range of socio-political contexts, cultural settings, and legal and economic conditions. We then discuss the costs and consequences of age discrimination in employment, and examine various policy responses to these costs and consequences.

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6.2 Ageism and Age Discrimination in the Labour Market: Key Theoretical Distinctions

The concepts of age discrimination and ageism in the labour market have been variously defined and conceptualized in the literature. According to Palmore (1999), “Age discrimination may take the form of refusal to hire or promote older workers, or forcing retirement at a fixed age regardless of the worker’s ability to keep working” (p. 119). Macnicol (2006) defined age discrimination as “the use of crude ‘age proxies’ in personnel decisions” (p. 6), and Carmichael et al. (2011) proposed a definition based on actual experiences of older workers who themselves define workplace age discrimination as “not being allowed to do something you are capable of or willing to do just because of your chronological age” (p. 122). The definition based on subjective perception of age discrimination allows for improved understanding of phenomenological aspects of how ageism operates, casting more light on the individual experiences of older workers.

Another significant distinction was introduced with the tripartite definition of ageism that is in frequent use especially among psychologists (Cuddy and Fiske 2000; Levy and Banaji 2004). This model assumes ageist attitudes as constituted of three mechanisms: prejudice (affective), discrimination (behavioural), and stereotyping (cognitive). Here age discrimination is differentiated from the general concept of ageism as it represents only those elements that have a behavioural and externally manifested character. This partition helped enhance the understanding of ageism and age discrimination and was adopted by McMullin and Marshall (2001), who suggested two further distinct dimensions of ageism: “ageist ideology” and “ageist behaviours.” Ageist ideology includes negative stereotypes, beliefs, and attitudes; and ageist behaviours refer to behaviours that exclude certain people and place them in a disadvantaged situation relative to others on the basis of their chronological age (McMullin and Marshall 2001). This distinction is especially useful when referring to the legal prohibition of age discrimination in employment (Macnicol 2010). A key distinction based on empirical research that follows is that biased ageist attitudes may, but do not necessarily, lead to discrimination (Furunes and Mykletun 2010). Thus, ageism can exist without age discrimination.

To better comprehend the behavioural component of ageism (age discrimination), its specific *manifestations* in the labour market need to be discussed. Studies point to several different types of age discrimination. The first type could be defined as those behaviours which occur in strict relation to the employment status of the worker, i.e. the hiring and firing decisions of employers. Refusing to hire an older person or firing someone because of his or her age form the bluntest type of age discrimination. A plethora of research shows a preference among employers to hire younger workers while placing older ones in a disadvantaged position already in the recruitment process (Malinen and Johnston 2013). The second area where ageism

manifests is in practices occurring within the workplace. Furunes and Mykletun (2010) identified several such practices: being paid less than younger workers, being left out of promotions, not being accepted to training programmes, and being left out of companies' modernisation processes. Stypińska and Turek (2017) distinguished between two types of age discrimination in the labour market: soft and hard. Hard discrimination refers to the types of discrimination mentioned above, whereas soft discrimination consists of practices that occur in the interpersonal sphere and in the general atmosphere of the workplace; it is also not directly prohibited by law. Examples of these include hearing ageist jokes or remarks; being treated disrespectfully by employers, co-workers or clients; receiving lower evaluation of work outcomes; hearing that "you are too old for something"; or being humiliated or intimidated because of your age (Stypińska and Turek 2017). This is by no means an exhaustive list, but rather examples of possible manifestations of age discrimination on the level of personal experiences.

An important concept in ageism studies is *institutional ageism*, which refers to a bias against or in favour of (see *positive ageism* below) actions inherent in the operation of any of society's institutions, including schools, hospitals, police, and the workplace (Wilkinson and Ferraro 2004). Institutional ageism has been explained by Palmore (1999) as a "policy of institutions or organizations, which is discriminatory in a positive or negative way towards older persons" (p. 44). One standard example of institutional ageism in the area of employment is the statutory retirement age that serves as an obligatory condition for leaving the labour market. Institutionalisation of retirement at fixed chronological age boundaries, such as 60 or 65, has, in many industrialised countries, led to an increase of institutional ageism (Breda and Schoenmaekers 2006). Rigid chronological age boundaries support the social conviction that once past a certain age, the economic and social value of an individual suddenly drops, regardless of actual skills and qualifications. Shifting the responsibility for institutional ageism from the individual onto an institution or organisation may lead to its further institutionalisation which, if not contested, might further decrease control over possible consequences (Bytheway 1995).

To introduce the flipside of the predominantly negative term, *positive ageism* is understood as those stereotypes, attitudes, and practices of individuals and institutions which influence the situation of older adults positively (Palmore 1999). Palmore (1999) recognized eight major positive stereotypes about older adults: kindness, wisdom, dependability, affluence, political power, freedom, eternal youth, and happiness. A number of favourable stereotypes specifically about older employees also exist (Loretto et al. 2007), which can work to their advantage in the labour market, including maturity, experience, responsibility, reliability, stability, loyalty, customer service skills, and patience (Loretto et al. 2000; Malinen and Johnston 2013; Posthuma and Campion 2009). However, studies also show that even when employers display positive attitudes towards older workers, these do not directly translate into positive practices (Loretto and White 2006).

6.2.1 *Specific Features of Age Discrimination in the Labour Market*

To better understand the dynamics of labour market age discrimination, we need to separate it from ageism in other areas of social life (health care, law, media, access to services, etc.). This distinction boils down to two primary features. First, ageism and age discrimination in the labour market use different chronological ages as benchmarks to define old age than other spheres of life. There is ample evidence of ageist practices being applied to workers and job seekers already in their 30s or 40s (Ghosheh 2008; Stypińska 2015). The contextual character of age that stems from its clearly socially constructed meanings (Aronsson 1997; Hazan 1994; Maier 2009; Nikander 2000) further contributes to the complexity and specificity of the phenomenon of labour force age discrimination. The definition of who is an older worker varies between branches of economy and types of entrepreneurship, as well as among various cultural and local organizational contexts. Certain types of occupations (e.g., programmers, customer service workers, online marketers) and economic branches (e.g., hospitality, new technologies, entertainment, social media, and tech start-ups) are permeated with ageist attitudes, and the “middle age” in these types of companies can be as early as 27 years old (Gaster et al. 2002; Stypińska 2015). To reflect the phenomenon of extreme ageism in modern high tech and start-up working environments, the term *Silicon Valley ageism* has been coined, which describes the dominant ageist attitudes of most enterprises in this sector (Wickre 2017). It is best manifested in the infamous words of Mark Zuckerberg, CEO and co-founder of Facebook, who stated that “young people are just smarter”.

The second important distinction is that age discrimination in the labour market is the only area of social life where legal protection against unequal treatment is deeply institutionalised due to binding regulations, and thus provides a specific context for country-specific analyses. The protection of older workers inscribed in European Union law since the early 2000s, and in the USA since 1967, allows for efficient counteraction to inequalities due to age, be it at the individual or organizational level.

6.2.2 *Intersectional (Multiple) Discrimination*

A further framework for enhancing the understanding of age discrimination in employment, and beyond, is the academic and legal perspective of intersectionality. Crenshaw (1991), who launched the concept within academic research, claimed that the experiences of individuals who hold several disadvantaged statuses are utterly unique, and thus any comparison to single-status disparity is not justified in legal or political terms. Intersectional (or multiple) discrimination is seen to operate between various socio-demographic categories, such as sex, race, age, ethnicity, class, and sexual orientation, and to be structurally carved into societal institutions, creating a

tangle of multiple oppressions (Baer et al. 2010). The intersectionality framework has also been widely adopted in gerontological research. So far, the most commonly studied aspect of intersectionality in ageing studies has been the combination of age and gender (Calasanti and King 2005; Krekula 2007; Ojala et al. 2016). The literature on the intersection of these two statuses goes back to the work of Simone de Beauvoir's seminal book, *The Coming of Age* (1970). In this classic work, the common situation of older women was first described as a "double jeopardy" that combines both age and gender, whereas older men were seen to hold only one marginal status (de Beauvoir 1970). The categories of age and gender have also been coupled with minority statuses such as ethnic origin and race when analysing the experiences of older women with different types of discrimination in employment (Moore 2009; van den Heuvel and van Santvoort 2011). In such cases one can talk about "triple jeopardy", where the person suffers from discrimination based on three grounds (Macnicol 2005). These intersecting statuses are also the source of difference in the experiences of various social groups within the labour market. The effects are visible in lower labour force participation rates, lower earnings, and, consequently, lower pension benefits among female populations across Europe. Ample evidence exists of the fact that older women experience barriers to re-entering the labour market and that these experiences also vary substantially according to the women's ethnic origin or race. In the area of self-employment, older minority women are similarly precluded from embarking on an entrepreneurial path, as they are constantly confronted with the normative white male ideal type for the entrepreneur (Ainsworth and Hardy 2008).

Intersectional experiences of discrimination often prove challenging for empirical researchers and legal practitioners. Despite the wide theoretical agreement on the fact that intersectional discrimination occurs and that it has detrimental effects on the individual, a lack of agreement prevails as to how to measure this type of discrimination, and moreover, how to address it at the policy level. It is crucial to note, however, that minority statuses as grounds for discrimination and inequality in the labour market are not static functions which operate with the same force throughout the lives of individuals. Work force dynamics and the interplay of socio-demographic characteristics should therefore be analysed from a broader, life-course perspective. The differences between different age groups (cohort effect) as well as the differences between different stages of life (age effect) are certainly valuable and should be incorporated into the intersectional analysis of relatively more static statuses, such as gender, ethnicity, and migration background.

6.2.3 *Ageism and Discrimination Across the Life Course*

Loretto et al. (2000) observed a loosening of the tight association of the term *ageism* solely with older employees. Instead, ageism is increasingly being recognised as potentially affecting all age categories. Negative stereotypes and discrimination of

older people are matched by similar stereotypes and discrimination of children or young adults, which is called *adultism*. Studies of ageism in Europe revealed that across the European Social Survey (ESS) countries, respondents felt more positively towards people aged over 70 than people in their 20s (Abrams et al. 2011). A study of age-related prejudice in the UK showed that younger age groups (below 25 years of age) were more likely to report age discrimination as more serious than older groups (over 64). Moreover, it showed that younger respondents are at least twice as likely to have experienced age prejudice than all other age groups (Swiery and Willitts 2012). Studies also confirm that these attitudes can have a negative effect on the employment opportunities of young adults (Abrams et al. 2011). Similar to challenges faced by older workers, younger employees often come across discriminatory practices, such as lower wages, disadvantaged working conditions, mistrust for their skills and competencies, as well as for their loyalty to the employer (Loretto et al. 2000; Sargeant 2010). What sets experiences of ageism in these age groups apart, however, is their potential outcome. Research shows that younger workers suffer less because of discriminatory practices and have greater opportunities to find alternative employment and to develop new career paths, simply due to the longer span of time available to work ahead of them. Older workers, on the other hand, resort to voluntary resignation much more frequently than younger workers. For older workers this entails a risk, as their options of finding a new job are more limited due to widespread age discrimination in recruitment practices (Sargeant 2010).

The situation of younger workers has also significantly deteriorated in recent years, with the global economic crisis of 2008 bringing an unprecedented rise in unemployment rates among the youngest age cohorts (under the age of 25) (European Commission 2014). The most recent data show a 19.7% unemployment rate on average in the European Union, with the highest rates found in Greece (48%), Spain (46%), Croatia (44%), and Italy (38%), and the lowest in Germany (7%), Denmark (10%) and the Czech Republic (11%) (Eurostat 2016). Even though no direct link between the levels of unemployment and age discrimination can be established with certainty, there is evidence that in dire economic situations, younger people tend to be confined to more precarious and insecure jobs with lower levels of workers' protection, including protection from discrimination (Blackham 2015). The harsh effects of the crisis have concentrated on one particular generation, namely those born in the 1980s (Hills et al. 2013). According to Hills et al. (2013), "Despite being better qualified than previous generations, people in their twenties were worst hit by the crisis in terms of unemployment, pay and incomes... The legal cases of age discrimination of younger workers suggest that the phenomenon is relatively widespread and goes underreported when compared with cases from older workers" (p. 6). However, despite its significance, more in-depth study into the experiences of age discrimination in the labour market by younger persons is still largely lacking (Furunes and Mykletun 2010).

6.3 Macrostructural Processes and Age Discrimination in the Labour Market

Three levels of analysis should be used to explain the origins of age discrimination in the workplace: the micro level, where psychological structures of deep-rooted prejudices, stereotypes, and biases are discussed; the meso level, where structures of the enterprise and of the management and interpersonal relations between employees can be studied, and the macro level, where the importance of macrostructural processes and factors on a global scale can be linked to the experiences of older workers with age discrimination. Since the literature on age discrimination pays less attention to the latter, this section digs deeper and discusses the role of macrostructural factors. These will be discussed in three subsections reflecting different macrostructural processes: social and cultural change (in the section on “Modernisation”); mechanisms of capitalist development (in the section on “Globalisation and Economic Crises”); and retirement regulations and anti-discrimination laws (in the section on “The Political Economy of Old Age”).

6.3.1 *Modernisation*

Modernisation processes of the last two centuries in industrialised countries have impacted the status of older workers and dramatically changed the structure of the labour market (Hofaecker 2010; Kohli 1985; Palmore and Manton 1974). This change is based on the shift within the economy and society to higher levels of productivity, efficiency, and competitiveness—all core values inscribed in capitalism. Such emphasis has often worked to the disadvantage of older workers, who stereotypically have difficulties keeping up with the strength of younger workers, and with the increasing levels of technological advances and new forms of employment (Macnicol 2006; Palmore 1999).

One of the key theories explaining the decreasing status of older people in societies and the labour market is the modernization theory of Cowgill and Holmes described in 1972 in the book *Aging and Modernization*. The modernization theory shows that the reduced status of older people occurred because of the transformation from traditional, agrarian societies to modern, urbanised, and industrialised societies. Four major shifts occurred in the social structure throughout the modernising process: (1) improvement of health care resulting in the extension of the lifespan and hence institutionalisation of retirement schemes, but also more competition for jobs; (2) technological advances making older persons’ skills obsolete and leading to the emerging pattern of preference for younger workers; (3) urbanisation and the rapid movement of younger people out of traditional housing and family settings which led to the collapse of close ties in extended families and to the loss of status of “wise elders”; (4) the expansion of the public education system and the

disruption of traditional ways of intergenerational knowledge transfers (Cuddy and Fiske 2000). Although appealing, the modernisation theory has also faced criticism for employing imprecise definitions of social status, overgeneralising the processes of modernisation, and disregarding intervening variables such as ideology and value systems (Morgan and Kunkel 2007). In the process of testing the theory of modernization, Palmore and Manton (1974) concluded that indeed “employment status does decline steadily with the shift from agriculture, but that occupation and education status have a J-shaped¹ relationship to modernization...It is suggested that as societies move beyond a transitional stage of rapid modernisation, discrepancies between the aged and non-aged decrease, and the relative status of the aged may rise” (p. 205).

6.3.2 *Globalisation and Economic Crises*

Globalisation involved similar processes to those that occurred in modernization period. For this reason, the impact of globalisation on older workers needs careful consideration. Research suggests that globalisation processes have greatly deteriorated the situation of older workers. The loss of status of older workers in globalised economies is seen as a consequence of the demands of a global labour market in which cost-efficiency, flexibility, adaptability, and transferable skills are required (Baars et al. 2006; Hofaecker 2010). Hofaecker (2010) approached the worsening of the situation of older workers with an explanation of profound structural changes that the global economy imposed on labour markets. One such change is the deep restructuring of the traditional industrial sectors of the economy, where older workers were overrepresented. The aftermath of these processes meant increasing unemployment rates for older workers and difficulty in re-entering the labour force, which in turn prompted an intensification of age discrimination. Moreover, replacing older workers with younger ones has sometimes been seen by employers as a cost-saving technique (Roscigno et al. 2007). Age started to turn into a stigma also outside traditional industries, as the competitiveness of new working environments worked to the advantage of younger workers.

Since 2008, the global labour market has been affected by financial crises, the age-specific effects of which are only recently becoming evident (Eurostat/European Commission 2012). The evidence from European social surveys carried out in the first year after the economic crisis of 2008 (European Commission 2009) showed a strong conviction that the economic crisis would negatively influence the position of older workers in job markets through the increase in age discrimination. Analysis from the point of view of employers and companies also revealed that in a situation of economic slowdown and deterioration of market opportunities, the burden shifted towards older employees by cutting their salaries (which are sometimes higher due

¹ **J-shaped relationship** refers to a variety of J-shaped diagrams where a curve initially falls, then steeply rises above the starting point.

to seniority schemes) or by making them redundant (Cheung et al. 2010). The research evidence from recent years, however, shows that while younger people in many EU countries have faced severe difficulties in finding jobs since the crisis of 2008, employment rates of prime-age and older workers have remained remarkably stable (Eichhorst et al. 2013).

6.3.3 *The Political Economy of Old Age*

Despite the key role of modernisation and globalisation processes discussed above, the crucial role of state policies can shed light on the way older workers started to be perceived as unattractive and a burden rather than as capital to the economy and welfare systems. The political economy of old age describes the complex and dynamic relationship between the situation of older people and the social and political organisation of labour, retirement, and social assistance. The role of the state is central to the understanding of how the political economy of old age operates and thus the implications of certain state policies need to be analysed separately. According to Alan Walker (1981), the state regulated boundaries of productive economic activity (in the form of fixed retirement age) lead to high levels of dependency of older people in capitalist societies. The evidence for this process comes from theoretical deliberations on *structured dependency* - a term used to describe how the dependency of older people came to be artificially structured or deepened as an effect of various state policies (Townsend 2006). Among the most significant are policies dating back to the 1960s and 1970s, such as a fixed age for retirement; the minimal subsistence afforded on the state pension; substitution of retirement status for unemployment; near-compulsory admission to residential care of people whose abilities were fairly intact; the dependence of many residents in homes and of patients in hospitals and nursing homes; and the conversion of domiciliary services into commodity services (Townsend 2006). When it concerns age discrimination, however, the early retirement schemes introduced in many industrialised countries impacted the status of older workers the most (Breda and Schoenmaekers 2006; Neumark and Button 2014), and thus will be discussed below in more detail.

Early retirement represents a long-term process, the first attempts of which can be traced back to the 1950s for some industrialised countries. In the economically prosperous period of the 1950s and early 1960s, most societies still practiced a full labour force participation of older workers. It was only in the 1970s that early retirement started to significantly increase in most Western societies (Hofaecker 2010). The reason for early retirement schemes was attributed to the expansion of welfare systems that provided financial security for old age and worked to pull older workers out of active labour participation. Second, higher unemployment rates for older workers in the late twentieth century represented a push factor for early retirement. High unemployment rates were also grounds for the introduction of early retirement

policies in Eastern European countries in the 1990s,² and also eased the effects of the end of guaranteed employment after the collapse of Communism (Zimmer and McDaniel 2016). The effects of early retirement policies triggered changes in retirement behaviours of older workers, but also influenced the image of older workers in general, as well as employers' attitudes towards them. Employers increasingly started to perceive workers aged 50 and over as redundant and unemployable, and accordingly tended to disadvantage them in recruitment, training, and retirement practices. Moreover, companies became used to early-exit policies as an "easy solution" for personnel management, especially in times of radical change in the global economy (Baars et al. 2006; Bytheway 2007). Workers even in their 40s are often seen as a risky investment and are therefore subjected to age discrimination in the workplace.

The reversal of early retirement options has proven a difficult path for many governments. In recent years, policy makers are increasingly developing strategic goals for raising employment rates among older workers. The most prominent examples of this have been the so-called "Stockholm" and "Barcelona" targets introduced by the European Union, which aim to reach an average employment level of 50% among older workers aged 55 to 64 years, as well as a 5-year postponement in the typical age of retirement (Hofaecker 2010). From 2002 onwards, the employment rate of people aged 55–64 in the EU has grown steadily to reach 55.3% in 2016, compared with 38.4% in 2002 (Eurostat 2017). Any increase in the number of employed older persons does not on its own necessarily indicate that the levels of age discrimination have decreased, but certainly points to a steady direction of greater inclusion of older workers into productive labour.

6.4 The Consequences and Costs of Ageism in Employment

The negative consequences and costs of ageism and age discrimination in the labour market can be divided into individual, institutional, economic (pecuniary), and societal (Minichiello et al. 2000; Palmore 2005; Taylor et al. 2012). Each category is discussed below.

6.4.1 *Individual and Institutional Costs and Consequences*

The negative consequences of age discrimination for older workers themselves include barriers to recruitment and hiring, diminished conditions of work and employment, limited career development and, in the absence of legislation, diminished employment protection and rights. Negative effects can be observed not

²Although some aspects of these policies had been introduced before the 1990s.

only in career paths and occupational opportunities, but also increasingly in family life, wellbeing, health outcomes, with increased stress levels, lower self-esteem, and loss of a sense of control (North and Fiske 2012). These negative consequences can in turn lead to self-inflicted discrimination, as victims of prejudice and discrimination sometimes adopt the dominant group's negative image of the subordinate group, start to behave accordingly, and thus further reduce their chances in the labour market (Palmore 2005). Research also shows that age discrimination reportedly leads older persons to consider changing their occupation or retraining, to give up looking for work altogether, or to consider early retirement (Australian Human Rights Commission 2015).

The institutional cost of age discrimination for employers is also on the rise. Demographic analyses show unequivocally that older workers are the fastest growing labour pool. One in four workers will be over 55 in 2020, versus one in six in 2007 (Hofaecker 2010). Employer- and manager-level prejudice and bias against older workers results in company loss of experienced workers and decreased efficiency in the workplace (Ghosheh 2008; Stypińska 2014). Employers that do not hire on merit, in other words, risk their own survival as they compete among themselves for a shrinking pool of younger workers.

6.4.2 Social and Economic Costs and Consequences

The social costs of ageism and age discrimination can be understood as the effects of long-term exclusion from the labour market that result in social, economic, and cultural segregation, which are detrimental for individuals and societies at large (Simms 2004). Social isolation which might result from economic inactivity among older workers can impact the integrity of families and local communities, pose a great threat to their wellbeing, and impose an additional burden on the welfare state.

The costs of an ageist environment can be detrimental to the financial situation of any company. Workplaces that embrace age diversity, and that are perceived as doing so, tend to have higher levels of employee engagement, and motivated employees are more productive, profitable, safe, create better customer relationships, and are more loyal to the company (Parry and Tyson 2011). In contrast, less engaged or motivated workers cost businesses in lost productivity, workers' compensation claims, and wasted time. Assessing the costs of age discrimination to a single company's economic performance is not easy. Some estimates are available, however. According to a Gallup study, in a 10,000-person company, disengagement of the workers due to unequal treatment represents 5000 unexcused days of absence, and about \$600,000 in lost salary per annum (Wilson 2006). Calculations concerning the Australian labour market suggest that an increase of 5% in paid employment of Australians over the age of 55 would result in a \$48 billion impact on the national economy every year (Australian Human Rights Commission 2015).

6.5 Policy Responses to Ageism

The remaining space of this chapter is dedicated to specific policies targeting ageism in employment. Anti-discrimination legislation and active ageing policies are discussed in particular.

6.5.1 *Legal Solutions and Responses*

One policy tool that is receiving growing attention concerns age discrimination legislation. Its main function is to safeguard access of older workers to employment and hiring opportunities under conditions of equality with other age groups. Second, it protects the employment status and training/career development opportunities of those already employed (Ghosheh 2008). In the European context, until only recently, age discrimination did not receive recognition and attention to the same extent as other forms of discrimination based on gender or nationality (Mikołajczyk 2013). This lack of acknowledgement is due to two facts: first, age discrimination has different characteristics from other types of inequality, because it applies to a social group with less clearly identifiable features than women or ethnic minorities, for instance. Age distinctions are more fluid as there is no fixed upper or lower boundary at which the worker can be defined as old. Second, not all age distinctions in employment necessarily constitute age discrimination, which makes recognising them particularly challenging.

Whereas recognition of age discrimination by the European Union is quite a recent fact, the United States started acknowledging, identifying, and tackling the problem much earlier. American anti-discrimination legislation came into force in 1967 with the adoption of the Age Discrimination in Employment Act (ADEA). It was part of an unprecedented turn in the 1960s, when public policy started advancing toward economic and social justice by defending the rights of vulnerable social groups (Rothenberg and Gardner 2011). In the first instance, the law covered workers between 40 and 65 years old. With the abolition of the mandatory retirement age in 1986, the regulatory means gained a new momentum and older workers were also covered (Friedman 2003; Macnicol 2006). The actions prohibited by the law pertained only to the employment field and covered discriminatory job advertisements, discrimination in pay, and discrimination in the use of company facilities (Friedman 2003).

Several authors have suggested that the European legislation was modelled on the American law, but with additional distinctive features (Friedman 2003; Lahey 2010). The approach adopted to combat age discrimination in the European Union labour market is important due to two factors. First, the legal provisions existing in the European law are binding for all member states and must be implemented in national legal systems. This means that employers in all member states can be held accountable for them. The proof that the legislation is not a dead letter law can be seen in the systematically growing number of age discrimination cases in national

courts, as well as in the European Court of Justice (Rothermund and Temming 2010; Umhauser-Enning 2013). Second, these regulations are crucial, because although ageism and age discrimination may occur in a range of fields, including health care, financial services, housing, and education, it is the labour market which has been given priority in the legal system of the EU (Mikołajczyk 2015).

Discrimination in the labour market can take many forms. EU legislation makes a distinction between *direct* and *indirect discrimination*, *harassment*, and *instruction to discriminate* (Ghosheh 2008). Direct age discrimination occurs when a person is treated less favourably than another person in an analogous situation due to his or her age. Indirect age discrimination happens when an “apparently neutral provision, criterion or practice would disadvantage people on the grounds of age unless the practice can be objectively justified by a legitimate aim” (Furunes and Mykletun 2010, p. 125). Harassment is defined as “unwanted conduct related to ... age with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment” (European Commission 2009, p. 29). Instruction to discriminate occurs when, using existing power dependencies, such as employer–employee, a person is told to discriminate against another person (Ghosheh 2008).

The effects of anti-discrimination legislation are difficult to measure (Loretto et al. 2000; Mikołajczyk 2015; Neumark 2009). Existing studies show that legislation could increase employment levels of older workers, but that there is no positive impact on the hiring practices of protected workers as their contracts are more difficult to terminate (Neumark 2009). Other studies have found that a minor number of reported cases of age discrimination go to trial and an even smaller number terminate in compensation. This is due to the difficulties of proving age discrimination in court (Rothenberg and Gardner 2011). Moreover, severe labour market distractions, such as the economic crisis, make it difficult to recognise discrimination and can weaken the effects of stronger state age discrimination legislation (Neumark and Button 2014). It has also been found that anti-discrimination legislation can raise awareness of the problem among older workers and employers (Amiriaux and Guiraudon 2010). However, as noted by Amiriaux and Guiraudon (2010), the social fluidity of discrimination contrasts with the boundaries of its legal existence, which calls for more interaction between the two spheres to enhance the efficiency of the legislation and to increase its social impact.

6.5.2 Active and Productive Ageing Policies of the European Union

The second leg of European policies aiming at reducing age discrimination in the labour market consists of policies in the realm of active ageing, or, as it used to be called, “productive ageing.” The history of active ageing policies can be traced back to the 1960s in the United States, where it was argued that the key to successful ageing was the maintenance of the activity patterns and values typical of the middle age. This approach came to be known later as activity theory (Walker 2002). In

relation to the area of employment, active ageing measures might include age management; lifelong education and continuous training; reconsideration of policies that stimulate early exit; abolishing mandatory retirement age; and introducing flexible options for pre-retirement employment (e.g., half-time contracts). A more recent approach consists of policies targeted at combating age discrimination, age boundaries in the labour market, and motivating employers to recruit and retain older workers. Walker (2002) noted that “age discrimination is the antithesis of active ageing,” and thus concerted efforts should be made at work in order to combat it. He claimed that raising pension ages without fighting ageism in the workplace would only result in more social isolation and poverty in old age. On the other hand, policies targeting activity in older age have been systematically criticised since their implementation. Moulart and Biggs (2012) called such policies “a new orthodoxy of ageing subjectivity” (p. 3), which restricts the social contribution of older adults to work and work-like activities and propagates a one-size-fits-all model for a very heterogeneous population of older adults.

In the EU, the most recent focus of Active Ageing as part of the Europe 2020 strategy is to enable older people to contribute fully both within and outside the labour market. These policies envision older people as empowered to remain active as workers, consumers, carers, volunteers, and citizens (European Commission 2012a). A special policy programme titled “A European Year for Active Ageing and Solidarity Between Generations” was introduced in 2012. It presented tools for improving the situation of older persons and preventing their exclusion, including a new index, the Active Ageing Index, that monitors the situation of older people in society. The index measures the extent to which older individuals can realise their full potential with regard to employment, participation in social and cultural life, and independent living. It also measures the degree to which the environment they live in enables seniors to lead an active life. Attempting to evaluate the impact of the reforms within the Active Ageing programmes is limited because they were introduced relatively recently. As a result, only a few evaluations of their actual impact have been carried out to date. Nevertheless, some countries have observed increased participation of older workers in the period since the reform was introduced (European Commission 2012b).

6.6 Conclusions

The aim of this chapter was to give an overview of conceptual distinctions between ageism and age discrimination in the labour market, and to examine the impact of macro-structural processes on the status of older workers in modern economies. Age discrimination in employment is not only an effect of the individual prejudices and stereotypes of the employers, but rather, has a longer history in industrial relations, and is firmly embedded in the structural components of global labour markets. The strong relation between the status of older workers and economic situations and state policies propagated in the past explain the structured nature of ageism and age discrimination in the labour market. The critical question remains, however: can

ageism and age discrimination decrease let alone disappear from the workplace over time? The overview of policies introduced in the EU during the last decade suggests that a certain improvement in the situation of older workers can be observed, especially with regard to their increasing employment rates. A further chance for improvement comes from the fact that an ever-growing older population will inevitably change the social structure of age. This means that as older people become increasingly difficult to ignore, perceptions of older employees will need to adjust to the same measure and the relationship between work and retirement will need to be reconsidered.

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