

# The dangers and limitations of equality agendas as means for tackling old-age prejudice

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## **ABSTRACT**

This paper presents a critique of both the concept of age equality and of the limited scope it offers as a means for challenging old-age prejudice. The equality constructs that feature in anti-ageism initiatives and in current discourses on intergenerational equity have proved susceptible to political and ideological manipulation, which has led to the illegitimate dissociation of ageism from older age and promoted damaging notions of age equivalence. The consequence has been that old-age prejudice has been de-prioritised, and older people have been de-legitimised socially and as a welfare constituency. The corrective is best sought outside the confines of age equality frameworks, although legal remedies may play a useful role if human dignity is incorporated as an equality criterion. This paper also assesses other approaches to tackling old-age prejudice that avoid the constraints of equality constructs and engage more firmly with its roots. The notion of the ‘third age’ with new social roles merits reconsideration as an affordable alternative to current policies of work obligation and pension re-trenchment. Radical interventions in the labour market in favour of older people may also be needed. Age activism and advocacy will increasingly influence policy on prejudice and well-being in older age, but changed emphases are needed, as from defensive strategies and the ideologies of generational interdependence and solidarity, towards the promotion of organisational, financial and social autonomy in older age.

**KEY WORDS** – ageism, agelessness, equality, intergenerational solidarity, old age, third age, fourth age.

## **Introduction**

The European Union (EU) framework *Equal Treatment Directive* has recently led to the introduction of anti-age discrimination laws across the member states (Council Directive 2000/78/EC). This development has coincided with concerns over the affordability of older people and of

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intergenerational equity in the light of demographic ageing. The concept of 'age equality' has therefore acquired some prominence both as a public policy objective and in the agendas of advocacy groups. The main argument of this paper is that age equality, both as a theoretical construct and in policy application, is highly problematic, especially for confronting the age discrimination that affects older people, who are widely regarded as most prone to this form of prejudice. Accordingly, the current thinking and policies that embrace age-equality constructs may be contributing to, rather than confronting, the marginalisation of older people.

The discussion has four main sections. The first describes how the version of anti-ageism that has been incorporated into United Kingdom and European law and into recent voluntary initiatives is a departure from its original association with older age, and how this has adversely affected the legal scope for challenging *old-age* prejudice. The concepts and constructs embraced in current age equality and anti-ageism thinking in employment and other areas are next considered. It will be argued that they are defective in several respects, not least as a means for advancing well-being in older age, and instead de-legitimise older people socially and as a welfare constituency. An assessment follows of the more direct threat to older people posed by current discourses on the affordability of older people and generational equity.

The second section argues from various perspectives that age prejudice against older people is best regarded as an analytically or ontologically distinct phenomenon that differs significantly in origin, scale and dimensions from that which affects younger adults. As such, it can never be challenged adequately by its crude subsumption as one of many age equality issues. On this basis, the paper's third section explores other avenues of challenging old-age prejudice that will both avoid the dangers and limitations of current equality constructs and engage more firmly with the roots of the prejudice, including the important role that older people might play through 'age activism'. The concluding section synthesises the key features of the analysis and offers some broad pointers as to appropriate policy priorities. The discussion focuses chiefly but not exclusively upon the experience of the United Kingdom (UK).

### **Age equality and the marginalisation of older people**

The UK legislation of October 2006 to combat age discrimination in employment and vocational training has several implications for older people and all retirees. Forced retirement is now outlawed prior to a 'default retirement age' of 65 years, and employees have a right to request

that they continue to be employed beyond this age. Moreover, the UK government plans to review the default age in 2011, with a view to an outright ban on compulsory retirement (Department of Trade and Industry (DTI) 2005: 61). By extending working lives and thereby prolonging earned income and increasing pension contributions, and by challenging outmoded age stereotypes, such measures might be thought to advance financial and social wellbeing in older age. The legislation also outlaws age discrimination in recruitment, promotion and harassment, as well as unfair dismissal and other workplace practices in which older workers are said to be especially disadvantaged. Moreover, the government has not ruled out extending the legislation to the provision of goods, facilities and services (DTI 2005: 18). Nonetheless, the new law does not specifically protect older people, because the anti-ageism that it embraces has departed from its original association with old age.

### *The evolution of the ageism concept*

Three phases in the evolution of the ageism concept are apparent. The first formulations in both Britain and the United States (US) were coined chiefly with respect to retirees and others of advanced age. Indeed, coinage of the term ‘ageism’ is usually attributed to Robert Butler, an American geriatrician, who in 1969 applied it to the prejudice by middle-class white residents against proposals for housing projects for elderly black people. His oft-quoted definition applied exclusively to older people, and specified ageism as: ‘a process of systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish this for skin color and gender’ (Butler 1995: 22–3). In the United Kingdom, ageism was recognised somewhat later as a form of prejudice, but the initial ascriptions had the same focus. A volume published by Age Concern England in 1990 was among the first to challenge this ‘unrecognised discrimination’; the exposition was wholly confined to the discriminatory treatment of older people in health care, social and voluntary services, retailing, consumer services and employment (McEwen 1990).

A second phase in the British usage of ageism came during the 1990s, when it came to be associated mostly with the treatment of older *employees* (especially men). This was a new label for a far from new policy focus. Age discrimination against older workers has been a long-standing if inconsistently asserted policy concern in the UK and elsewhere. Indeed, Macnicol (2003: 14) noted examples of US state laws to protect older workers more than a century ago. The renewed assertion in the UK during the 1990s reflected concerns about the future affordability of

pensions and welfare, given the joint effects of rapidly declining employment participation among older men and the ageing of the population. This ‘hijacking’ of the concept for welfare funding and labour-market management objectives deflected attention from the broader phenomenon. Influential ‘structured dependency’ perspectives in sociology reinforced this process, by treating poverty, social exclusion and other possible manifestations of prejudice in older age chiefly as by-products of employment discrimination, which forced older people out of work and into dependency (Phillipson 1982; Townsend 1981; Walker 1980, 1990). As exemplification, for Walker (1990: 61) compulsory retirement constituted ‘the wellspring’ of age discrimination.

A third phase in ageism’s usage in the UK was evident from the late 1990s, when its reference extended to employees of any age, a version embraced in a voluntary *Age Code of Practice* issued by the government (Department for Education and Employment (DfEE) 1999), and that was later endorsed in an EU Directive that provided the template for the UK legislation. US age-employment legislation is different, in that it applies only to employees aged 40 or more years. Among factors influencing this development was growing evidence that age prejudice also affected younger people and even ‘prime age’ employees – those regarded as neither too old nor too young to have peak physical or intellectual vigour (Age Concern England 1998; DfEE 2001; Loretto, Duncan and White 2000). Age had also become incorporated into equal opportunities agendas by the late 1990s (Cully *et al.* 1998: 13). Moreover, the logic of equal opportunities discouraged an exclusive reference to older employees in British and European law.

### *Age legislation and older people*

The UK legislation not only marks the end of earlier associations of ageism with older age, but specifically excludes older people outside employment and vocational training, on the contestable ground that ‘ageism in the workplace is widely regarded as the most significant and damaging aspect of age discrimination’ (Age Positive 2006). Irrespective of future intentions, the symbolic priority accorded to younger employed people over those beyond state retirement age seems unmistakable. It might be argued, nevertheless, that the uniform application of age legislation to all employees need not lessen relative benefits for older workers; if older employees are disproportionately affected by age discrimination then they should benefit to a greater degree. The empirical evidence tends to suggest a bi-polar incidence of age discrimination in employment, with older and younger workers most affected and the middle-aged less so (Duncan and Loretto

2004; Snape and Redman 2003), but two features of the law may prevent this pattern being translated into a beneficial impact for older people.

First, 'objective justification' for discriminatory treatment, as provided for in UK law and age legislation elsewhere, can more easily be demonstrated in the case of older workers. Indeed, commercial justifications for discriminating against older workers are more numerous than are often recognised (Duncan 2001). These include: the tendency, however exaggerated, for performance to decline and 'burn-out' to increase with age; for older workers to have depreciated or obsolete skills; that many older workers' higher salaries and other benefits of long service may not be matched by higher productivity; older workers' lower job mobility; and succession planning issues. Moreover, some investigations have found that 'pure' discrimination, embracing mistaken beliefs or simple prejudice, is relatively rare and not the major cause of labour-market exclusion (Campbell 1999; McKay and Middleton 1998). Certainly, the US *Age Discrimination in Employment Act 1967*, that applies exclusively to older workers, has not prevented a sharp fall in economic-activity rates among older men as have occurred in most developed economies (Macnicol 2006: 82). Age laws tempered by commercial criteria may therefore do less than anticipated to protect older employees.

It need hardly be said that 'rational' or 'objective' discrimination is as damaging to the affected employees as that based upon simple prejudice, although in contrast to the mandates of disability discrimination legislation, there is no requirement to accommodate older workers through 'reasonable adjustments'. Moreover, even if the law to some extent inhibits employers' interpretation of 'rational' discrimination, as by restrictions on compulsory retirement (a measure which many employers fiercely resisted on business grounds), the alternative of being ejected from the workplace following a humiliating performance appraisal is hardly an advance. Indeed, some employers' associations have warned that their members might resort to 'convoluted' appraisal methods to dismiss older employees, who would otherwise have celebrated their retirement or have accepted generous early-retirement deals. Individual appraisal is likely to increase if the default retirement age is abolished (DTI 2003: 10).

Secondly, the concept of age-neutrality, as implicit in the application of the law to all ages, will motivate employers to examine critically the rationality of all age-related employment practices, including any that hitherto *favoured* older workers. To do otherwise could enhance an employer's vulnerability to discrimination claims from younger employees. Indeed, the UK legislation specifically restricts service-related benefits to five years or less, unless a longer period can be objectively justified, a change unfavourable to long-service employees. There are also fears that

the legislation will reduce redundancy benefits for older workers, and that to achieve age parity they will be levelled down not up.

### *Anti-ageism concepts and constructs*

Embraced in anti-ageism thinking are several concepts and constructs that influence how old age is perceived and treated. Of particular significance is the notion of 'agelessness', which has at least two forms. One is the concept of *age neutrality*, which asserts that age has little relevance in decision-making so that, for instance, application forms should no longer require candidates for employment to specify their ages. The other focuses on older people and holds that the *active adulthood stage of life* extends (or should extend) beyond the customary working ages. During the 1990s, champions of older workers embraced this thinking in seeking to combat age discrimination and early exit from employment, and were particularly active in debunking negative age stereotypes, in particular that personal capability or productivity significantly decline with older age (Taylor and Walker 1993, 1995; Tillsley 1990; Trinder, Hulme and McCarthy 1992). Such thinking is now also widely endorsed outside employment, as with the preoccupation with 'positive' or 'active' ageing in medicine and gerontology. Commercial interests too have exploited and reinforced ageless or age-blind sentiments, including, most directly, the providers of cosmetics and cosmetic-surgery, which profit from the fashionable emphasis upon keeping old age at bay. The 'retirement industry' and general consumer marketing trends increasingly target older people through images of positive ageing and an active lifestyle in old age (Featherstone and Hepworth 1995; Sawchuck 1995).

Notions of agelessness have extended in some accounts to challenging 'old age' itself as a legitimate construct, with terms such as 'old' or 'the elderly' being deemed essentially meaningless and ageist and serving only to fuel age prejudice (Bytheway 1995: chapter 9). The agelessness construct, however, is a double-edged sword. Not only can age-neutrality dilute and downgrade special protection for older people, the positive ageing version can embrace *anti-ageing* as well as anti-ageist sentiments, and thereby on occasion promote and perpetuate old-age discrimination (Andrews 1999, 2000; Gibson 2000). Negative connotations of old age are reinforced as something to be avoided, and at a personal level older people are required to deny who they are, which is 'ultimately disempowering', while the dignity of the self is replaced by self-loathing as signs of bodily age encroach, thereby leading to a 'socially induced schizophrenia' (Andrews 1999: 307–8). The marketing strategies of American 'active adult' retirement communities, as described by McHugh (2003), illustrate

the superficiality and self-deception that agelessness can embrace. The strategies focus on healthy, upper middle-class retirees, who are also family-oriented so that adult children will care for them outside the communities when they get too old and sick and return home to die. Staff guides are also instructed to avoid cemeteries in tours of facilities. Self-deception among ‘the ageless’ is thereby maintained by their spatial segregation from both the young and ‘not ageless’ old: ‘a most alluring mask, the ageless self-located in idyllic settings outside time and change’ (2003:169).

The agelessness construct has also played an important ideological role in supporting welfare and labour-market reforms. This is a prominent theme in the work of Macnicol (2003, 2006). He has argued that UK government policy on age discrimination has been subsumed in broader macroeconomic objectives. The ascendancy of supply-side competitive strategies for increasing the labour supply, lowering wages and boosting profits, has led to workfare-type measures for dormant labour categories, including older people, and a pro-active welfare model that emphasises work obligation and investment in human capital over economic maintenance. The *Welfare to Work Programme* with the *New Deal 50-plus* programme for older workers is a case in point, as is the advocacy to raise state pension and public-sector occupational pension ages. In this context, the ideology of agelessness confers legitimacy upon unpopular reforms: ‘the controversial ideal of an “ageless” society has as its obverse the implication that the protective walls that have hitherto shielded older people ... should be torn down’ (Macnicol 2003: 32). As has been pointed out, however, UK age legislation may do little to protect older employees from being discarded involuntarily from employment on productivity or capability criteria, and in combination with new welfare models, older people could therefore become ‘victims of a different and equally ruthless kind of discrimination’ (Macnicol 2006: 47). Moreover, some argue from historical evidence that the spread of men’s early exit from employment is a long-run and possibly irreversible phenomenon, brought about mainly by the demise of formerly dominant employment sectors such as mining and heavy industry (Beatty and Fothergill 2004; Macnicol 2006: 84–5). From this perspective, the efficacy of supply-side initiatives is questionable, unless the intention is forcibly to enlist displaced or retired men into expanding service occupations at the bottom of the labour market, which for Macnicol (2006: 266) would constitute ‘the ultimate form of ageism’.

Indeed, the protection of the concept of retirement as an adequately-financed ‘reward for work’ and a hard-won labour right seldom features in the agendas of anti-ageism activists who, from both active ageing and

structured dependency perspectives, have focused upon forced retirement and job exclusion as the chief manifestations of old-age prejudice. Yet the vehement opposition by employees and trades unions in Britain, France and Germany to recent proposals to raise public-sector and state pension ages, mounted under ‘work-till-you-drop’ slogans, bears testimony to the importance that employees attach to retirement rights. In the UK, these are perceived as threatened rather than protected by age equality reforms. One rough attempt to quantify the erosion of retirement benefits since the introduction of the United States age legislation estimated that older Americans had experienced a 30 per cent decline in pension income between 1970 and 2003, and reasoned that because life expectancy increased over the same period by only 16 per cent, older Americans had on average lost 14 per cent of ‘old age leisure’, and so had to work longer (Ghilarducci 2004: 6).

#### *Affordability and intergenerational equity*

Running parallel with the elaboration of anti-ageism policies has been a quite separate discourse on age equality, which by questioning older people’s future ‘affordability’ and their share of public resources relative to younger age groups, directly challenges their wellbeing. Concerns over the solvency of pension schemes for the 1960s baby-boom generation have revived such thinking in the UK, as exemplified by Bosanquet and Gibbs’s (2005) call for the reallocation of resources to the ‘IPOD generation’. While the themes of non-affordability and generational inequity are often presented as related consequences of demographic trends, they are actually discrete issues. The former is more easily challenged, not least by reference to historical precedents. Concerns about the growing burden of ‘the elderly’ were prominent in the UK during the 1930s, and again in the late 1940s and early 1950s (Macnicol 2006: 152), yet no social security crisis subsequently ensued. For Mullan (2002) and his associates (Tomorrow’s Company 2005), the ‘myth’ of a ticking demographic time bomb derives mostly from inadequate measures of dependency, which usually rely upon the crudely fashioned ‘old-age support ratio’ – those aged 65 or more years relative to the number in working age (16 or 18 to 64 years). A more accurate measure is the ‘total economic support ratio’, which compares those in work against those who are not, including children. This was 0.48 in 2003 and is projected to decline to only 0.45 by 2041, almost the same as in 1961. Moreover, if productivity grows at 1.75 per cent a year (lower than recent trends), workers will produce twice as much in 2045 as now, making any plausible changes in total economic dependency manageable (Tomorrow’s Company 2005: 6).



Intergenerational inequity is more difficult to substantiate or refute. It is a highly complex syndrome and prone to facile understandings, especially if comparisons at one point in time are made. More relevant, according to some commentators, is the achievement of ‘propositional justice’, that is justice over time between age groups and generations (Laslett 1996: 233; Laslett and Fishkin 1992). Different age groups have different needs, and unequal treatment need not violate justice if each cohort benefits equally over a lifetime. In this respect, age inequality differs fundamentally from gender, race and other forms of discrimination, but this has been inadequately recognised in British law, which instead has extended a pre-existing, time-static, discrimination framework to age equity.

There is also the issue of whether present allocations are appropriate to different age needs. If too much is spent on the old relative to the young, or vice versa, a form of injustice might be said to exist even if everyone experiences that injustice equally as they pass through life. There have been attempts to apply John Rawls’s precepts in determining the just age allocation of health resources in this second sense (Daniels 1988; Wolf 1999). These rely upon the notion that principles of justice are best derived from behind a ‘veil of ignorance’ (Rawls 1972: 17–22), an abstraction that assumes that just principles can only be determined by prudential agents who are blinded to all facts about themselves that will cloud their impartiality, including their ages. Ironically, however, any reallocations so derived would frustrate propositional justice. Propositional injustice occurs if one age cohort or ‘generation’ benefits from welfare transfers or tax changes at various life stages as it proceeds through the lifecourse, a form of inequity that Thomson (1989) claimed to have detected in New Zealand. Cohorts of different sizes can also give rise to propositional injustice. A small cohort that follows a large cohort – such as the 1960s baby boomers – can carry a heavier burden if their benefits are cut or taxes raised to deal with affordability issues. It might also be argued, however, that the (inevitably?) higher living standards of future cohorts, and indeed many other factors experienced differentially by different cohorts, such as wars or economic depressions, should also be taken into account.

Moreover, interdependencies between cohorts or generations question the efficacy of age-equity policies. For instance, if pensions are cut, employees may have to provide for their elderly parents, while raising unemployment benefits may benefit retirees in reducing their children’s reliance upon them. Private transfers within the family are usually downward, from older to younger members, but are generally ignored in discussions of generational equity (Rydell 2005: 28). Finally, the concept of intergenerational equity is problematic on account of the heterogeneity of older people. Indeed *intra*-generational inequality by class and gender

may be more marked than that between generations, and attempts to achieve age equity could well exacerbate such inequalities. For instance, the poor tend to die younger and to receive low aggregate pension income. Similarly, Ginn and Arber (2000) argued that, given gender inequalities in pension provision and the greater role of women in providing informal health care, the consequences of mooted pension and health-service changes to address generational inequity would have a greater negative impact upon women, who constitute the majority of older people.

Needless to say, such complexities seldom surface in sensationalist 'age war' treatments, and a common view is that the main influence on the discourse has been ideological and its chief role has been to facilitate welfare retrenchment (Kohli 2005: 519; Macnicol 2006: 51, 56; Minkler and Robertson 1991). Emerging in the United States during the mid-1980s, the notion of intergenerational inequity was largely promoted by Republicans and business interests. Particularly influential was the formation in 1984 of *Americans for Generational Equity* (AGE), a lobby group chaired by a Republican senator and financed by private health-care and insurance corporations. The terminology that has characterised both the affordability and equity discourses has been most unedifying, in that it has fed upon and exacerbated old-age prejudice. This has been apparent not only with respect to lobby organisations such as AGE, with their loose talk of 'greedy geezers' and 'whingeing pensioners' (Laslett 1996: 238), but also in political and academic circles. For instance, the Swedish Minister of Finance recently referred to the baby-boom generation as a 'mountain of flesh' (Rydell 2005: 4), while Kotlikoff and Burns (2004), prominent US promoters of intergenerational equity, have characterised the current situation as constituting 'fiscal child abuse'. This thinking complements that of agelessness in de-legitimising older people as a welfare constituency.

### **The nature and distinctiveness of old-age prejudice**

Given that anti-ageism movements originated in concerns that older people were more rather than less prone to discrimination, it is ironic and perverse that age-equality agendas in effect de-prioritise old-age prejudice and threaten wellbeing in older age. The priorities of governments in shaping age agendas are partly the reason, but there are also grounds for arguing that old-age prejudice is an analytically distinct phenomenon that has been inadequately recognised and addressed by its subsumption as an age equality issue. At least four features of the age prejudice that affects older people might be considered particular to the age group. First, it

derives in large part from human fear of the ageing process and its association with decline, dependency and mortality. People therefore seek to distance themselves from the labels 'elderly' or 'old' and the associated negative stereotypes, and older people especially therefore become derided and marginalised. Secondly, old-age prejudice seems much more pervasive in its reach than the prejudices that affect younger people. Under-representation or exclusion from employment, the media, advertising and jury service are examples, along with ageist assumptions underlying many aspects of health care, social services and education provision. Drawing upon structured dependency perspectives, Scrutton (1990: 21) dubbed these wider manifestations as 'structural ageism', when ageist attitudes 'become part of the rules of institutions, govern the conduct of social life and blend imperceptibly into everyday values and attitudes that ... have a drastic effect on the way older people lead their lives'.

Thirdly, old-age prejudice can assume a greater intensity and perniciousness than that affecting younger people, extending on occasions to denial of 'personhood' and treatment as a sub-human species. This is reflected, for instance, in the 'fair-innings' argument, that older people have a lesser claim to rationed health care and other resources and, in an extreme expression, that their deaths should be less mourned. The implication is that beyond a certain age threshold, rights to life become diminished. Related thinking underlies the use of QALYs (Quality Adjusted Life Years) and related methods of prioritising health resources, which embrace utilitarian assumptions that legitimise comparisons of the relative worth of different lives, and which in practice tend to devalue the years lived by older people. The retention of the 'epidemiology of ageing' as a medical expression is also symptomatic of the denial of personhood with the implication that old age is akin to a disease. Another manifestation is the tendency towards 'infantilisation' in the institutional treatment of dependent older people. In explaining this phenomenon, Hockey and James (1995) argued that the social construction of childhood in Western societies constitutes a denial of personhood with respect to children too, if more benevolent in intent. The assumptions of immaturity and dependency in childhood provides a comforting template for adult carers; imaging old age as a second childhood bridges the cognitive dissonance between the physical dependency of some older people and independent adulthood. Treating older people as child-like extends beyond institutional settings to become a pervasive patronising concern that challenges older people's competence and freedom, and undermines their independence and morale (Scrutton 1990: 12).

For Thomas Cole (1992), all such features are but symptoms of a more fundamental malaise afflicting old age, a crisis of 'meaning' at the end of

life. In his influential cultural history of ageing in America, Cole traced the transformation of Western ideas about old age between the 16th century and the third quarter of the 20th century. Ancient and medieval understandings of old age as part of the eternal order of things gave way to the secular, scientific and individualistic tendencies of modernity. Old age was gradually removed from its religious and cultural significance as a meaningful end-stage in the ‘journey of life’, and redefined as a scientific and medical problem. By the mid-20th century, older people were confined to society’s margins, culturally disenfranchised, and robbed of vital social roles and sense of purpose. This resulted not only in the negative and degenerative aspects of old age being emphasised and exaggerated, but also in the emergence from the early 19th century of a counterpoint – conceptions of a ‘good old age’ of health, virtue and self-reliance. The latter exacerbated rather than addressed the loss of meaning, however, by promoting the denial and postponement of old age, thereby perpetuating its ontological barrenness.

The resonance of Cole’s work in foreshadowing subsequent critiques of the idea of agelessness is noteworthy. Indeed, under Cole’s formulation of the nature of old-age prejudice, which might usefully be labelled ‘ontological ageism’, both age discrimination and its ‘positive ageing’ policy antidotes denigrate older age because they endorse the same prognosis of the end-stage of life as bereft of purpose and status: ‘The attack on ageism originated in the same chorus of cultural values that gave rise to ageism in the first place – ageism and its critics have much more in common than is generally realized’ (1992: 228). This analysis clearly challenges the legitimacy of current anti-ageism and equality constructs with respect to older age, and supports the view that anti-ageism agendas are currently in something of a crisis. As McHugh (2003: 181) commented with some exasperation, ‘negative images of elders are ageist, so-called positive images of elders are ageist. Bipolar and equivocal views of ageing dominate our age, and regress in an infinite series that leads inexorably to the most perplexing question of all: is non-ageist thinking fathomable or culturally possible?’

### *Ageism and younger people*

While there is evidence that ageism is experienced with comparable frequency by both older and younger employees, such findings need to be treated with considerable caution, and there is still a case for seeing old-age prejudice as special. The supply-side and human capital factors that differentiate the employment conditions and prospects of different age groups may be wrongly perceived as irrational age prejudice, as might a

host of other factors such as poor career advancement on account of performance rather than age. There is evidence, moreover, that older people have a greater tendency to internalise negative age stereotypes and hence are less likely to report or perceive age injustice (Duncan and Loretto 2004). While negative age stereotyping is reportedly experienced across the entire age range, surveys seldom capture differences in the degrees of prejudice or injury visited upon different age groups. Bearing these caveats in mind, it is plausible that young and older people can genuinely be exposed to age prejudice of a similar nature and degree. If denial of personhood is accepted as a feature of both old age and childhood, then vestiges are likely to extend both upwards, into young adulthood and young-adult workers, and downwards to older workers and the 'young-old' in general. For younger adults, however, the problem is temporary, unrelated to fears of ageing processes, and will ease with age, while for older adults the opposite can be expected, with prejudice intensifying into deep old age.

Another explanation for the detection of ageism across all ages, including among 'prime age' employees, might simply be that appropriate age differentiation has been observed. Current formulations of ageism come close to associating any form of age differentiation with *prima facie* evidence of prejudice and injustice, but the use of 'age appropriate' distinctions can be defended. Few could deny that needs and contributions differ by age. The social-care and health-care needs of older people mean that they generally consume a disproportionate portion of such provision and of other social expenditure; and children are deemed unsuited to marry or contribute economically until a certain age is reached, distinctions recognised in law and resource allocations. Moreover, for Neugarten (1981), age-status systems and norms pervade the cultural fabric of any society and secure a high degree of consensus, whether formally sustained in rules and regulations or applied by social sanction. Examples of the latter include social disapproval of those above a certain age frequenting clubs or other social settings geared to youth; or popular disapproval of wide age gaps in emotional or sexual relationships. Furthermore, an age-status system may be viewed as *functional* in providing an essential mechanism of social control in any society:

For the individual, it establishes a series of social positions that provide clarity and predictability, regular movement from lower to higher rungs of the age-status ladder, and a certain coherence as new role patterns are automatically assigned with increasing age. For the society, it provides for an effective division of labor, in the broadest sense of that term, thereby establishing a social mechanism for maintaining the economy, the educational system, the family system, and the military, political and religious systems (Neugarten 1981: 815).

Recognition of age norms or ‘appropriateness’ as a major dimension of social organisation similarly led Macnicol (2002: 16) to conclude that ‘as age is a category we all deploy in order to make sense of the world – a truly “age-neutral” society can only ever be a hypothetical abstraction’.

It is plausible, therefore, that the realisation that age discrimination affects all age categories owes more to the promotion of the ideology of age neutrality *by means of* ageism discourses than to individuals’ experiences. In this connection, it might be noted that the dissociation of ageism from old age did not arise from lobbying by younger people against ageism, but rather from *a priori* reasoning or the ‘logical’ extension of the original concept by academics and equality advocates. Nevertheless, the evidence that it is not just older people who perceive differential age treatment as discriminatory cannot simply be dismissed; it counters the assumption of age-status systems as internalised, functional and having broad support. One explanation is that age systems and norms are fluid and change over time along with such factors as improved health, the changing age structure, and changes in the ages and forms of emotional, sexual and intellectual maturity among younger people. Social and legal conventions that become outdated may be experienced as discriminatory (Neugarten 1981: 816–8). The limitations of using chronological age as a proxy for determining social or functional age transitions is another likely cause. These forms of perceived age discrimination are, however, different from the more pernicious and elaborate forms of age prejudice that affect old people. Indeed, Oswick and Rosenthal (2001) found much evidence of outdated age norms in employment, as embraced in the customary ‘age-typing’ of different occupations, but found no evidence that these norms denoted a more generalised prejudice on the part of employers against any particular age group.

### **Policy implications**

If it is accepted that old-age prejudice should be confronted as a distinctive and pressing problem, then remedies are required that do not embrace damaging notions of age equivalence. This section considers the scope for such responses.

#### *The scope for legal remedy*

The UK *Employment Equality (Age) Regulations 2006* and the European Union Directive from which they derive are deficient in three main respects as a means for challenging old-age prejudice. Most obvious is their restriction

to employment. If age prejudice intensifies with age in broader structural and institutional manifestations, then the exclusion of goods, facilities and services from the scope of the law is clearly perverse. The second defect is the endorsement of ‘formal equality’, or consistency of treatment, as a dominant equality principle to promote the notion of age equivalence. As Fredman (2003) observed, this principle cannot promote appropriate treatment according to age *difference*. For instance, the refusal to allow flexible working may prove more harmful to older than younger workers, but to assert equality does not itself create a right to flexible working. Nor does this criterion assist in distinguishing invidious prejudice from appropriate age differentiation, and its application to achieve age parity may result in older workers losing benefits if they are levelled down not up. A third limitation is that there are no requirements under EU or UK law to accommodate older workers whose labour-market characteristics or personal capability are judged inconsistent with business exigencies, though displacing such labour is now subject to fairly stringent ‘objective justification’ criteria.

United Kingdom equality law is currently in ferment, however, with plans for a single *Equality Act*, and the establishment in 2007 of the new Commission on Equality and Human Rights (CEHR), which replaced existing commissions and is to oversee implementation of the *Human Rights Act 1998*. Motivating this process have been long-running concerns over the complexity and inconsistency of current discrimination laws, fears of competition for victim status from an overcrowded equality agenda, and the envisaged problems of dealing with individuals who have encountered ‘multiple discriminations’. This has prompted the search for a ‘grounding’ principle that can rationalise and bind together different forms of discrimination, and incorporate human rights legislation. Most discussed in this context has been the notion of ‘equal human dignity’ (Disability Rights Commission 2006; Fredman 2003; Hepple 2003), a principle long recognised in human rights adjudication. Rooted in the Kantian notion of inherent human worth, the concept of dignity has already made inroads into equality laws, including in the EU Race and Employment Directives to define harassment, and has been especially associated with court proceedings in Canadian and South African courts, countries often cited as models for a dignity-based equality jurisprudence.

Should discrimination law progress in this direction, older people might secure better protection. Equal respect for the dignity of people of different ages will on occasion require treating different age groups differently. Indeed, the age lobby has long campaigned for a richer concept of age neutrality on this basis, one that eschews damaging notions of agelessness in favour of equal dignity in protecting age-related special

needs (Age Concern England 1999: 24–33). Moreover, as equality based on dignity must enhance rather than debase individuals, it is difficult to argue that a levelling down solution is as good as one that levels up, thereby protecting age-based interventions that favour older people. It is possible too that the dignity criterion could help elevate age protection relative to commercial rationality in determining the treatment of older workers.

For Fredman (2003), the benefits of this approach crucially rely not only upon extending the law to goods, facilities and services, but also upon a more pro-active approach than is possible under a complaints-based litigation model, including the use of mainstreaming and enforcement of public obligations through compliance orders. This argument is supported by the limited impact of the *Human Rights Act 1998* with respect to the institutional and health-care treatment of dependent older people. The Act enshrined dignity criteria and human rights, and created obligations for organisations that carry out public functions, but to date the responses have been described as minimalist and reactive, focused only upon avoiding litigation; moreover, vulnerable older people have lacked the means, confidence, skills and stamina necessary to pursue complaints (Butler 2006; Harding 2005). Nevertheless, the CEHR will not have the power to enforce public duties or to issue compliance notices in the case of age (DTI 2004: 72).

Townsend (2006) argued that the human rights route provides the greatest legal and institutional scope for tackling discrimination against older people, including that of ‘institutionalised ageism’ derived from structured dependency, and that the ‘universalism’ of human rights can better address multiple manifestations of discrimination and deprivation than current targeted approaches. He shares the view that the indivisibility of human rights provides a valuable grounding principle with which to integrate and simplify anti-discrimination frameworks. Although the influence of human rights upon equality agenda has evolved very rapidly and is having a substantial impact upon the law, progress is being seriously hampered by the inadequate methodology of human rights implementation, which is in its infancy. New and imaginative research methodologies are therefore required to define and measure affronts to human dignity and identity that currently go unrecorded. Only by measuring and operationalising such concepts can reliable evidence be produced of violations and the institutions and policies required in response.

As well as the limited impact of the *Human Rights Act*, the evidence that is emerging from judicial processes is consistent with Townsend’s analysis. One recent review of case law in Canada and South Africa has shown that perceptions of dignity are undefined, amorphous and subjective and that



this has provided broad scope for value judgements and perverse decisions that frustrate equality principles (O'Connell 2006).

*Tackling 'ontological ageism'*

It might be inferred from Cole's (1992) analysis that legislative measures can deal at best with the symptoms rather than the essence of old-age prejudice. Indeed for Cole, the solution lies in 'social criticism and public dialogue aimed at creating socially just, economically sound, and spiritually satisfying meanings of aging' (1992:239). Few practical suggestions as to appropriate policies have been forthcoming, however, at least in the secular sphere. Cole's work has nevertheless generated valuable debate on the relationship between meaning and wellbeing in older age, with *Generations*, the journal of the *American Society of Aging*, devoting a special issue to this theme in 1999. Ageing identity and 'genuine ageing' have now become prominent themes in the field of social gerontology (particularly in the work of Biggs 1993, 2005), and have important implications for how professional carers and practitioners should interact with older people. In terms of broader social policy, however, the implications remain unclear, apart from Cole's preference for policies that emphasise communitarian values and intergenerational solidarity and that might help reconnect older people to society. Hence, in adjudicating upon United States welfare reforms, a social insurance model is favoured over the promotion of individual retirement accounts, because the latter promote individuality and disconnect people from 'a higher spiritual or ethical purpose' (Cole and Stevenson 1999: 76). The reasoning and terminology are unlikely to convince hard-nosed policy-makers.

*Age activism and the third-age movement*

As a guide to policy, Cole's historical analysis has been seen as somewhat irrelevant in view of the massive improvements in average life expectation over the last century and the tripling of older people's share of the all-age population. These demographic conditions have no historical or cultural precedent that might inform policy. The 'ontological ageism' and prejudice that face today's 'old' therefore require new, more urgent and proactive remedies than can be achieved through a metaphysic on the meaning of life (Laslett 1999). For Laslett (1996), the emergence of a new 'third age', located between the 'second age' of family responsibility and work life, and the 'fourth age' of final dependency and decline, could be a period of personal fulfilment and the 'crown of life' for older people. While the health, national wealth, longevity and demographic conditions required for the emergence of the third age had been met in Britain by

around 1950, conceptions of older people were still dominated by the negative stereotypes of dependence and inactivity, which rendered third agers as 'a generation in limbo', subject to prejudice and forced into 'indolence'. A somewhat idealistic manifesto for third agers was therefore proposed, which aimed to confront old-age prejudice by re-engaging them with society through new social roles, especially in the educational sphere and as custodians of the cultural inheritance. An institutional catalyst was to be the 'Universities of the Third Age' (U3A), financed and run by and for third agers and organised through a federal structure of local branches. Their goal was to foster activity through education, and to raise third-age consciousness, confidence and autonomy.

Laslett's ideas were initially of considerable influence, and led in the UK to the institution of a remarkable three-year research project by *The Carnegie Trust* into third age matters during 1989–92, followed by a three-year *Carnegie Third Age Programme* to promote third age issues to policy-makers. This coincided with the emergence of the anti-ageism bandwagon in the early 1990s, however, and Laslett's vision of active ageing was quickly over-shadowed by, and even enlisted in support of, anti-ageism perspectives inimical to his vision. Damaging notions of agelessness geared chiefly to promoting employment opportunities for older people, and culminating in the current ideologies of work obligation and pension retrenchment, torpedoed significant progress in this direction. This was despite a vigorous defence by Laslett of the affordability of the third age, and his and his followers' insistence (*e.g.* Gibson 2000) that recognition of the third age did not condone agelessness nor anti-ageing sentiments. He also insisted that the second age could not easily be prolonged by political decree because, in common with Macnicol (2006), he doubted that the demand for labour would ever be sufficient for older workers to remain in employment. Other controversies generated by Laslett's work included: whether the lived experience of personal ageing, which for many entails gradual transformations and a progressive diminution in the quality of life, is realistically represented by discrete lifecourse stages (Siegel 1990); whether elevating the third age relative to the fourth as a partial solution to the denigration of all older people might intensify rather than reduce prejudice against even more marginalised fourth agers (Young and Schuller 1991: 181); and scepticism about the 'grandiose expectations' implied by the new social roles envisaged for third agers (Laslett 1996: xii).

In retrospect, it is not surprising that an apolitical campaign of this kind, resting upon a curious mix of advocacy, reason and idealism, should fail to make much progress even though third age activism remains very much alive – in 2006, the United Kingdom national U3A website boasted

a membership of 350,000. Moreover, proposals continue to be made for a more autonomous and influential role for older people. For instance, Ben-Israel and Ben-Israel (2002) drew parallels between the emergence of the third age and that of the industrial proletariat during the 19th century, and argued that both third and fourth agers have yet to achieve ‘social dignity’ comparable to that achieved by organised labour, as manifested in labour law and collective bargaining rights. They proposed a new legal discipline or “senior citizens’ law” that would regulate their status and provide protected rights, including freedom of organisation and social collective bargaining. Agency-shop arrangements could overcome the difficulty of organising a scattered, ageing constituency, with an organisation tax deducted from old-age pensions and paid to the most representative organisation. Such organisations could then reach legally binding social-collective bargaining agreements, with legally protected sanctions in the form of consumer boycotts, pickets and protests.

Such proposals are not wholly fanciful, given the increased political clout of an ageing electorate, and some evidence that ‘generational consciousness’ characterises current third agers (Gilleard and Higgs 2002). Indeed, the *American Association of Retired Persons* (AARP) with its membership in excess of 35 million is often cited as the most powerful lobby group in Washington. In Britain, representational membership-based groups for older people are small and few, but this may change. In 2006, a new membership organisation, *Heyday*, was launched with support from *Age Concern England* for people planning for or in retirement. It was explicitly modelled on the AARP and *Dane Age* in Denmark, and targets the ‘younger old’ or third agers, although Age Concern plans to reorient its activities towards fourth-age issues.

### *Policy towards older workers*

In contrast to the current model of workfare solutions, an alternative approach to confronting the harsh labour-market conditions that face many older workers would be a radical package of imaginative measures to subsidise work at older ages. For Macnicol (2006: 114–5), these could include additional in-work benefits, older worker employment quotas, the extension of pensions to all those aged 50 or more years with no retirement condition, and changes in work conditions to reduce stress. Though this would be expensive and wholly against the grain of current policies and ideologies, it is argued that in the long run there would be net savings from a reduced requirement for social security support. Policy in this direction would also offer a genuine choice between working and retirement. Moreover, as benefits would be extended to younger age groups rather

than being removed from older people, the material basis for a positive third age is preserved.

## **Conclusions**

Anti-ageism has something of the character of a principle in search of a cause. Though emerging from concerns over the treatment of older people, who continue to experience age prejudice in its most virulent forms, its recent incorporation into several voluntary and statutory equality agenda has reoriented concerns towards simplistic and unrealistic notions of age equalisation and equivalence, goals that originate neither from social movements nor from the demands of oppressed minorities. This rootlessness has also rendered age-equality agendas prone to ideological manipulation, by which they are invoked to undermine the interests of older people, both within and outside employment. Arguably, then, current anti-ageism agenda are in crisis.

The distinct origins and many manifestations of old-age prejudice transcend simple equality constructs. Equality agenda that treat older people as 'prime age' adults or ageless beings deny and downgrade their distinctive needs and actual and potential contributions, and question the legitimacy of old age *per se*, and they especially denigrate those who cannot conform. Moreover, the fear, negativity and absence of meaning with which old age is often regarded, gives rise to a brand of age prejudice that is scarcely equivalent to that which affects younger adults. A shift in equality agendas towards human rights constructs such as 'dignity' may work in favour of older people by endorsing differential treatment on the basis of differential age-related needs; as by challenging utilitarian criteria in the allocation of scarce medical and other resources; and by confronting the demeaning attitudes and treatment that follow from the perception of older people as in certain respects less than human. Movement in this direction is by no means certain, however, and to be of significant value, will require the extension of age-discrimination law beyond employment, and more pro-active means of compliance and enforcement than now seem likely.

It might be argued, moreover, that legislation of any kind can do little more than tackle some of the symptoms of old-age prejudice, because its causes lie ultimately in denial of mortality or the human condition. The resulting ontological barrenness of older age and associated prejudice may, however, be lessened by policy approaches that seek to re-connect older people to mainstream society, and to this end, welfare and pension approaches that emphasise communitarian values and intergenerational

solidarity have been advocated. The notion of intergenerational solidarity has secured further support as a counter-ideology to protect older people's welfare rights against intergenerational inequity and age-wars perspectives, and is widely endorsed by the international age-awareness and human rights lobbies. Hence, Age Concern England established a UK-wide 'intergenerational network' in 1999 and runs several programmes to promote solidarity. The issue has been taken up at European level, with a European Commission Green Paper that promotes solidarity (Commission of the European Communities 2005), while the United Nations' 'International Youth Day' in 2004 had its chief theme 'youth in an intergenerational society'.

On the other hand, this emphasis could undermine more autonomous and pro-active challenges to old-age prejudice on the part of older people themselves, who now constitute a large, mostly active and potentially powerful political constituency. Indeed, for Laslett (1996: 253), notions of intergenerational solidarity have little historical legitimacy, and denote a patronising and controlling attitude towards older people. Instead, older people should seek a degree of financial and social autonomy. In terms of pension reforms, and in sharp contrast to Cole and Stevenson (1999), he therefore advocated a personal retirement-fund model that entailed an element of compulsory saving along the lines proposed by Falkingham and Johnson (1995). This combines earnings-related funded pensions with tax-financed minimum pension provision in a single system, one that would allow people visibly and adequately to pay for their own third age. It would help identify and address generational inequity and would ensure a greater degree of intra-generational justice (Laslett 1996: 247–49). Moreover, Falkingham and Johnson (1995: 215) estimated that the scheme would result in net savings to the Treasury.

A second schism in thinking about how to tackle old-age prejudice is of course the dichotomy between promoting employment and the vision of a new third age characterised by personal fulfilment and new social roles. The latter construction of active ageing has been all but subverted by the anti-ageism bandwagon and the associated work obligation ideologies; these continue to threaten the material basis for a productive third age, and indeed there has been little political or academic discussion of the concept since the Carnegie Trust initiatives over a decade ago. Revisiting the third age concept therefore seems merited, including discussion and resolution of some of the major controversies initiated by Laslett but which were never resolved. Clearly, the harsh labour-market conditions facing older workers also merit attention. Yet if, as argued by Macnicol (2006: 96–101) and others, the historical evidence is that 'the lump of labour fallacy' – the notion that the number of jobs in an

economy is fixed or constant – is not fallacious with respect to older workers, then Laslett's vision (or a modification of it) seems eminently preferable to what otherwise may be in store for many older people forced by economic necessity to re-enter employment at the bottom end of the labour market. Radical measures to subsidise employment at older ages is a further option that could provide genuine choice between work and retirement while preserving the material conditions for a productive third age.

Activism by or on behalf of older people is likely to intensify in the face of the current threats, and will no doubt be boosted by the growing influence of an ageing electorate. This could prove to be a conservative and reactive force, geared chiefly to defending pension and welfare arrangements designed for a previous era, and weakened by recourse to equality constructs that inadequately reflect and confront the roots of prejudice. Alternatively, such activism could contribute to a climate for change towards newer, more positive visions and experiences of older age both within and outside the employment sphere. For this more comprehensive and constructive path to be taken, new thinking and changes of emphasis will be required by advocacy groups, policy-makers and the academic community. The key requirements include a policy shift on the part of the 'age lobby' from defensive strategies and ideologies of generational interdependence and solidarity towards promoting organisational, financial and social autonomy in older age. Pension reform might also be usefully informed by the same criteria. Greater recognition is also required by equality advocates that older age is poorly served by current anti-discrimination templates, not only with respect to the weaknesses inherent in their endorsement of age equivalence, but also given the time-static adjudication framework. Extension of age laws beyond employment is a minimum requirement, and the legitimacy of policies and statutes directed specifically to old-age prejudice needs consideration. With respect to research agendas, a focus upon the methodology of human rights is clearly required. Another priority is to resume conceptual and empirical work on new 'third age' social roles, a line of inquiry that continues to be undermined by the current over-emphasis upon labour market issues as the first step in tackling old-age prejudice.

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