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#379: Old and in the way? Aging workers and generational battle lines in the workplace

VOICEOVER

This is Up Close, the research talk show from the University of Melbourne, Australia.

LYNNE HAULTAIN

Hi. I'm Lynne Haultain and welcome to Up Close. In many parts of the world, the ageing population has been a frequent topic of discussion for years. Longer life expectancy and lower birth rates add up to a very different looking society to the one we've been used to. There's also considerable debate around the impact of these profound demographic changes in the world of work. What does it mean for workers and for workplaces and for 21st century economies?

We are living through some dramatic changes in work and wealth, certainly in the west, so how does the ageing population play into this? What's the role of government in supporting mature workers and how does that look in tough economic times? It's a complex interplay of economics, culture, and individual aspiration which our guest today has spent many years looking at.

Professor Mia Rönnmar is Dean and Professor of Private Law at Lund University in Sweden. She is the President-elect of the International Labour and Employment Relations Association and has done research for the International Labour Organization, the European Union and many others. Her current research is in collective bargaining, elder law and age discrimination, critical issues in many parts of the world including Sweden and Australia.

Professor Rönnmar is in Melbourne to speak at the 2016 Isaac Industrial Relations Symposium, held by the Melbourne Human Resource Management Unit and the Australian Consortium for Research on Employment and Work. Professor Rönnmar, welcome.

MIA RÖNNMAR

Thank you for having me.

LYNNE HAULTAIN

Let's start with some basic numbers and set the scene here. Can you give us a sense of the changing demographics, in Europe for example, which is your home territory? How are the baby boomers moving through the demographic ages?

MIA RÖNNMAR

Yes, as you said previously, we have been talking for quite some time about the ageing population, but now this trend or this development is really becoming crucially important. In Europe, in all member states, we see that increasing life expectancy and decreasing birth rates is really putting pressure on welfare states. We often measure the sensitivity of welfare states in relation to ageing populations in so-called economic dependency ratio, so how many persons aged 65 or above relative to those aged 15 to 64? So how many people do you need to support the elderly?

Projections show that in 2060 in the EU, there will only be two working persons per elderly instead of four working persons per elderly today. So it is really crucially important to find solutions to new regulation and adaptations of social systems.

LYNNE HAULTAIN

That change has happened very rapidly. The increase has been significant over the last sort of 10 years as I understand it.

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

It's moved quite quickly.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

From 25 per cent in 1990 to 30 per cent?

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

?population over the age of 65 in 2010 in Europe.

MIA RÖNNMAR

Also in Japan and Australia and other developed economies. In the EU, the European Commission and the policymakers and the governments are realising that this is a crucial issue to tackle. So in 2012, that year was named the European Year of Active Ageing and Intergenerational Solidarity, trying to put a new emphasis on this problem and finding new solutions.

LYNNE HAULTAIN

As you've said, the western countries are seeing this very significant ageing, but there are parts of the world that are quite young - Africa, parts of Asia, South America. They have young populations.

MIA RÖNNMAR

Yes. Of course, this creates in those societies tensions between generations and the need for other kind of policy measures to promote young people being included in the labour market, getting access to education and training skills that is crucially important. For example in South Africa, I conducted together with colleagues a comparative study on age discrimination and that was clear that that was sort of the exception in relation to other continents. The very youthful population.

LYNNE HAULTAIN

Which as you say, presents a very different set of challenges?

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

?but challenges nonetheless. So in terms of the number of people in work, given that we've got this increasing dependency ratio for people over the age of 65, how many people over 65 are working? Do we know?

MIA RÖNNMAR

I can't say any exact numbers but what we can see, that there is a promising development towards increasing employment rates and there is an increased average retirement age. So the trend is moving in the right direction and my own country, Sweden, is actually looking very good because in Sweden, people above 55 are having an employment rate of 73 per cent and we have an average retirement age of 65. So that is in comparative terms European and also I think globally, relatively good numbers for an ageing population engaging in the workforce. Even so, we know that this is simply not enough. We have to do much better.

LYNNE HAULTAIN

As I understand it Mia, in Australia we have around 13 per cent of people over the age of 65 who are still in work, but compared to the number of people that that accounts for in the population, as you say, that's still a small number and we will see as that baby boom generation moves through the ranks?

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

?that disparity becomes greater and greater.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

The implication of that for the economy as you've said is profound and I suppose the sort of commentary that we've heard over the last 10 or 20 years is that that number of people who will be left to carry the bulk of the economy reduces, so the pressure on them in terms of income tax to provide the resources to support healthcare and pension programs and all that becomes increasingly intense on a fewer and fewer number. Is that the real issue in terms of big economic impacts?

MIA RÖNNMAR

That is surely the case and the costs for healthcare and elder care, apart from pensions because at least in Europe we have focused a lot on talking about the sustainability of pension systems, reforming pensions, and that is clearly an important issue but also the rising costs for healthcare and elder care is important. What is so complex about pensions is the intricate links between labour law and social security law but also the very normative foundations or perceptions underlying pensions. So there are specific pension norms and in many countries in the EU, there is a norm that compulsory retirement is in place and there is a specific age when you need to retire, are obliged to retire or have a right to retire and to change that norm into something else - so for example, you should work as long as you can, or you should have a right to work as long as you want to - it's not so easy to do.

What we can see for example in Sweden is that you can't just change the state pension scheme. You have to adapt occupational pensions, other social security systems. They all have to be in tune and coordinated in order to promote an extended working life and that is surely not the case in the EU.

LYNNE HAULTAIN

Mia, what it seems to me we have is an urgent problem and very long term solutions.

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

So we've got a disjunct.

MIA RÖNNMAR

That is so difficult in politics of course to pursue these long term issues and what we have seen in the EU since the economic crisis, the Global Financial Crisis turning

into the Euro crisis is of course the problem of high unemployment and youth unemployment and this is an even more pressing issue, getting young people into work and of course then there becomes a tension between those two interests.

LYNNE HAULTAIN

It seems to me there are a couple of dimensions in the immediate term. We've got the tensions within economies as you've described between older and younger workers?

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

?and then as you've said, the effects of globalisation, which create tensions between countries, and then you get labour flows out of one and?

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

?two other economics that might be performing better. Against this, we have the Global Financial Crisis which has just put a rapid fire burn underneath these issues. All of that is creating an even more complex circumstance. It seems to be?

MIA RÖNNMAR

Yes. Yeah definitely yes. Definitely.

LYNNE HAULTAIN

So where do we begin?

MIA RÖNNMAR

Actually, a very main aim of the EU is to work towards achieving intergenerational solidarity, but it's not so easy at the individual level or between groups with different interests. I guess many young people in the EU, in the countries that were particularly hit like Spain, like Greece, Italy, the Baltic states, they feel a sense of unfairness not to be getting entry into the labour market where you have perhaps youth unemployment rates of about 40, 50 per cent. So there is a sense at individual level to get those old people out of the labour market so that we can get in, but at the same time, we know and economic research is very clear that there is no such trading game. It's a labour fallacy.

So because people move out of the labour market when they turn 65, there is not automatically openings for younger workers. They are not replaceable and you can't create new jobs. So what is needed is a realisation that you have to pursue two different policies at the same time. So promote labour market inclusion of younger people in terms of training, education and skills, and at the same time not give up on working towards extended working lives. So you have to do both at the same time. So this is a pedagogical issue and it's an issue I think of dialogue and dialectics between different groups in society.

LYNNE HAULTAIN

How well accepted is that dual approach? Because it would seem to me that people will say, that's crazy.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

We can't.

MIA RÖNNMAR

It is a true challenge and even the highest court in the EU, the Court of Justice, they are actually justifying compulsory retirement exactly with that argument, that you should retire the old people in order to create new jobs for younger people. So if even the highest court haven't accepted this dual approach, then it's difficult of course. I conducted research together with colleagues in five other member states on intergenerational bargaining and we posed precisely that question. This is a challenge. Can we look towards trade unions and employers? Have they tried to face this challenge and tried to find different measures?

We saw in some countries that they manage to conclude collective agreements creating intergenerational renewal, perhaps part time retirement for older workers, making room for younger workers and then having training and mentoring between the older and the younger. So the older could sort of have a more slow pace in working life, enabling them to work longer and the younger people could get entry into the labour market and mentors in training. So those kinds of initiatives are worthwhile looking into and exploring further I think.

LYNNE HAULTAIN

Professor Mia Rönmar is dean of private law at Lund University in Sweden and she's my guest today on Up Close where we're looking at the place of mature workers in rapidly changing societies. Mia, we're talking about other players in this, because we tend to sheet this back to government as their responsibility?

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

?but in fact there are a number of other agencies and individuals and corporations that can play their part. So how actively engaged are they?

MIA RÖNNMAR

It depends on the nation and on the industrial relations system. So in the EU, in many countries, we still have quite strong trade unions and employers' organisations and they could play a role in this kind of policy making and also in making new regulation. In other contexts, it might be NGOs or organisations promoting the older workers' interests for example. What governments try to do, at least in recent years, is to put in place a ban on age discrimination as one way of fighting ageism and trying to make it easier for older workers to stay in the labour market.

LYNNE HAULTAIN

Is it just a question of there simply being not enough jobs?

MIA RÖNNMAR

I don't think so. I think it's about ageism. There are studies conducted showing quite

significant impact of ageism in the workplace, in working life, both towards older workers but also towards younger workers, all kind of perceptions and misperceptions of these workers. So it's not only a lack of work or a lack of tasks to conduct, but also changing mindsets.

LYNNE HAULTAIN

Because young people would say, there aren't enough jobs. I'm 22 in Greece and the unemployment rate is well over 40, nearly 50 per cent. So where do I look? They look overseas and they move.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

So then we get the brain drain.

MIA RÖNNMAR

Yeah, yeah.

LYNNE HAULTAIN

Does that not advantage mature workers in places like Greece?

MIA RÖNNMAR

I don't think it's easy to be a worker in Greece today at all.

LYNNE HAULTAIN

That's a good point.

MIA RÖNNMAR

Because I think wages, pensions, collective bargaining, has really been deregulated but I think that is the role of governments, not to give up or to give up on their task of

trying to create new jobs. Of course after years and years of economic crisis it's easy to be discouraged, but still, that is the role of policymakers and governments to try to have that progressive outlook towards the future.

LYNNE HAULTAIN

Are there places that you've studied that are doing this well? Is there a government or governments that are tackling this effectively in your view?

MIA RÖNNMAR

I think you can find bits and pieces of policies all over. I think in the EU as a whole, at least there is an emphasis on active ageing. There is an attempt to try to analyse different measures of what is working and what is not working. What is difficult in the EU is that there is no money at EU level underpinning that kind of work, so it's up to each member state to do that. Moving beyond the EU, you can look to Japan for an interesting example of trying to actively promote extended working lives and maintaining older workers in the workplace.

LYNNE HAULTAIN

Japan is fascinating and it comes out of a very different cultural landscape.

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

Can you tell us a little bit about their approach? It doesn't rely so much on sanctions as promotion.

MIA RÖNNMAR

Yes. I think it's first and foremost based on their traditional model of employment, often referred to as lifetime employment which is based on permanent employment, seniority based wages but an absolute end with compulsory retirement. There is a very limited ban on age discrimination in place because the culture in the workplace is not prone to taking individual disputes to court. More about achieving consensus. So when Japan was faced early on by an ageing population, they found themselves in need of finding new measures and they decided to focus on promotion, soft law

measures, economic incentives, sort of taking employers by the hand and moving them towards promoting elder workers in the workplace and this was absolutely necessary because as time went by, there was a gap between compulsory retirement at a quite early age and receiving pension benefits at a later age.

So there were years when a worker would be without maintenance. So then they put in place measures that step by step, promoted extending working lives and then made them obligatory. This was all about finding ways to communicate with employers, finding different solutions to choose from. So either abolish compulsory retirement or maintaining other kinds of employment after compulsory retirement.

LYNNE HAULTAIN

Were employers open to this or were they directed?

MIA RÖNNMAR

They were open to this, as I understood. I am not myself that intimately familiar with Japanese labour law, but in this comparative project that we conducted, we had a professor who studied this carefully and I think that moving step by step and introducing what they call a duty to endeavour, a duty to try to promote older workers in the workplace, they were successful. At the same time, this was an age conscious policy, so I mean it was focusing on the older workers and their specific solutions and in some jurisdictions, that would be seen as age discriminatory, favouring a specific group in the labour market.

LYNNE HAULTAIN

So it was positive discrimination.

MIA RÖNNMAR

Yes, in a sense, yes. Active measures at least.

LYNNE HAULTAIN

As you say, the Japanese experience is quite different in that they have a very strong and lengthy tradition of lifelong single employer employment.

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

So to take somebody through their employment period and just extend it would not seem to be as challenging?

MIA RÖNNMAR

No.

LYNNE HAULTAIN

Perhaps as it might be in the west where people change jobs and employers more frequently.

MIA RÖNNMAR

Yeah and what is really challenging with older workers, if you get redundant for example, if you get unemployed at the age of 55 or above, it's very challenging to find new jobs and that is hard to tackle through age discrimination laws so you need other measures and you need to engage with employers and fight those myths and fight ageism. That is what is difficult but what is needed.

LYNNE HAULTAIN

I'm Lynne Haultain and today on Up Close we're looking at the ageing population and what that means in the workplace with Mia Rönnmar, dean and professor of private law at Lund University in Sweden and we're talking now about discrimination and the reasons why older workers perhaps fall out of the workplace and find it increasingly difficult to return if they are 55 plus. As you say, that redundancy at that age and stage can be extremely challenging. There are as you point out, a number of myths that surround older workers, that they cost a business, that they're more likely to be unwell, that they are less adaptive to new technologies or new processes, that they are not as quick to pick things up. Perhaps that spending money and resources developing their skills is not as much of value to the business as might be if you're younger.

All that stuff is constantly rebutted, but it sustains.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

People still believe it. So why is this?

MIA RÖNNMAR

It's difficult for me as a lawyer and a legal researcher to answer that question. Why is this? So I can just refer to what we can do as lawyers or as regulators to try to fight this and of course, introducing age discrimination laws is really emphasising the value of human dignity and the right to equality and that the right not to be discriminated against on age is equally important as gender, sexual orientation or disability, but this is challenging because many people have the feeling that age is a less suspect ground of discrimination. This also influences the content and the interpretation of age discrimination laws.

So in age discrimination law we see a very clear conflict between human dignity and equality and market and tradition. So we know that normally and traditionally, we have afforded an important role to age in labour markets. It's convenient to have age and compulsory retirement. Then you don't have to performance manage people out of working life. You can have a set system in place. It's convenient and deemed to be fair to pay attention to seniority, length of service, and these traditions, they still have a strong hold in the labour market. So even though we have introduced age discrimination law, in almost all jurisdictions, we have opened a wide scope for justification.

So we ban age discrimination, but we can justify differential treatment.

LYNNE HAULTAIN

When it comes to individual cases, how do you prove that it was age that was the factor that resulted in your redundancy?

MIA RÖNNMAR

That is always so difficult and we try to make it easier for individuals to claim their right to equality by introducing the shifting of the burden of proof, for example in EU law in the seventies and onwards, but it's always so difficult. In the area of age, of course if you accept compulsory retirement, that is direct age discrimination.

LYNNE HAULTAIN

It's fundamentally discriminatory.

MIA RÖNNMAR

Yeah but we accept that. So of course then it's very difficult when it comes to redundancy, but in my country Sweden, we still have in place a seniority role in redundancy, so we have the principle last in first out, which actually favours older workers in comparison to younger workers.

LYNNE HAULTAIN

So if a company is reducing its workforce, it will make later arrivals redundant before older employees?

MIA RÖNNMAR

Yes. That is a statutory principles that is also in place in many other countries. That has been a tradition and a sense of fairness in the collective of workers. Older workers, they are in need of more protection. They will have greater difficulty finding a new job. So that's why they should stay, but of course, such a role also increases intergenerational tension, so why shouldn't you pay attention to qualifications, to capability? So we see that the age issue permeates all kinds of labour market practices and makes it difficult.

LYNNE HAULTAIN

Then you get a contest of merit.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

Because younger workers would say, but I have a much greater grasp of new technologies and understanding of global markets, however my older colleague doesn't and the colleague might say, but I have the wisdom of decades of experience?

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

?and understand the stakeholder engagement much better than you do. So making that work on an enterprise level.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

Very challenging.

MIA RÖNNMAR

Really challenging. What we do in Sweden is that we don't take this principle as the only rule but we open up for collective bargaining actually, so trade unions together with employers looking at the crucial situation that the company is facing. So in a difficult situation, you need to maintain qualifications for the future and then you can choose differently and make another type of selection of workers.

LYNNE HAULTAIN

In Australia we have three pieces of legislation that have a bearing on work and age issues around work, which seems ridiculously fragmented for something that needs, as we've discussed, a much more coherent response. Is that sort of fragmentation common?

MIA RÖNNMAR

Actually it is. We see it also in the EU and in other countries. It can be age discrimination, regulation in the constitutional framework in a country, but also in non-discrimination law, ordinary labour laws. Sometimes it's in criminal law, there might be a criminal penalty imposed when there is a case of age discrimination. So you could think that this kind of protection would be layer on layer on layer, making it even firmer and stronger, but I think that the fragmentation risks creating gaps and uncertainty.

LYNNE HAULTAIN

So even at a policy level, there isn't clarity around this sort of response to the workplace. Does there need to be?

MIA RÖNNMAR

I think there needs to be further research and further discussions at all different levels and also perhaps a realisation of the fact that it's not something that governments can do by themselves, not employers by themselves, not organisations. So there needs to be a coordinated approach and when it comes to changing attitudes and extending working lives, we also need to face the fact that we need to accommodate workplaces like we do with disabled employees. So we need to accommodate work organisation, working time, and work environment and this is challenging to employers because it's challenging managerial prerogative.

We also see that different workers have different possibilities to stay in working life. So for white collar workers, professional workers, academics, we could continue on working easily for quite some time but if you work in a factory, if you work in healthcare, with very strenuous tasks, then you need more accommodation.

LYNNE HAULTAIN

Yes. So it varies across the?

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

?spectrum of employment. It intrigues me, Mia, that we talk about work in this very broadest context as a human right and therefore the anti-discrimination element emerges from that sense of rights based law.

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

Which has that very strong underpinning that work is more than just a pay packet.

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

And that it has a fundamental human need dimension to it.

MIA RÖNNMAR

Yes.

LYNNE HAULTAIN

Do you think that's well enough woven through the policy and the legal response?
That it is?

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

?such an important dimension to our existence?

MIA RÖNNMAR

I think it's not enough attention or importance put to that dimension because of course it's about value. It's about social cohesion, being part of a collective, being part of a society. That is crucial and I don't think that we pay enough attention to that and it's also age discrimination laws are in most jurisdictions confined to work life, the working life sphere, but that could also be a way of extending age discrimination laws to other spheres like social security, healthcare, goods, services. Then we would perhaps be able to fight ageism in an even better way, if we had a broader scope for a ban on age discrimination.

LYNNE HAULTAIN

Mia, I feel as if we have just scratched the surface?

MIA RÖNNMAR

Yeah.

LYNNE HAULTAIN

?but thank you very much indeed for your time.

MIA RÖNNMAR

Thank you so much.

LYNNE HAULTAIN

Today I've been speaking with Professor Mia Rönmar, Dean and Professor of Private Law at Lund University in Sweden. You'll find details of some of her publications on the Up Close website, together with a full transcript of this and all our other programs. Up Close is a production of the University of Melbourne, Australia. This episode was recorded on 25 August, 2016 and was produced by Eric van Bommel with audio engineering by Gavin Nebauer. I'm Lynne Haultain. Thanks for listening and I hope you can join us again soon.

VOICEOVER

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