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**Mr. Joonas Räsänen, University of Oslo, Norway.**

## **Further defence of legal age change: a reply to the critics**

### **Abstract:**

*In ‘Moral case for legal age change’, I argue that sometimes people should be allowed to change their age. I refute six immediate objections against the view that age change is permissible. I argue that the objections cannot show that legal age change should always be prohibited. In this paper, I consider some further objections against legal age change raised by Iain Brassington, Toni Saad and William Simkulet. I argue that the objections fail to show that age change should never be allowed.*

### **INTRODUCTION**

In ‘Moral case for legal age change’, I claim that sometimes people should be allowed to change their age.<sup>1</sup> I consider six objections (1–6) against legal age change and find them lacking. Iain Brassington<sup>2</sup>, Toni Saad<sup>3</sup> and William Simkulet<sup>4</sup> have proposed further objections against legal age change.

In this paper, I respond to the following counter-arguments my critics have raised: age change should not be allowed because 7) there are better ways to fight ageism than age change, and 8) age change is lying and one should not lie in official documents.

### **MORE OBJECTIONS AGAINST LEGAL AGE CHANGE AND THE REPLIES**

Iain Brassington and William Simkulet both raise the following objection against legal age change.<sup>1</sup>

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<sup>1</sup> See the first six objections against legal age change which I considered and refuted in ‘Moral case for legal age change’.

## **Objection 7**

Ageism is not a reason to allow age change but a reason to require that age is not asked while recruiting employees. Age change should not, therefore, be allowed because there is an easier way to solve the problem of discrimination: restricting access to one's birthdate.

### **Reply**

Restricting access to one's birthdate is not a better way to fight ageism. In fact, at least in some ways, it is *worse* than age change. There are two ways in which hiring could be arranged without revealing candidates' ages but they are both unsatisfying.

According to the first option, revealing one's age in a job application would be optional but not mandatory. If one does not want to reveal her age, employers should not demand that. But this option is not helpful for someone who is being discriminated against due to her age. If one were not to reveal her age, that might signal the person has something to hide – her (old) age – and therefore, the person who would otherwise face discrimination because of her age would now face discrimination because of not revealing her age. Thus, hiding the age solves nothing.

The second option is to prohibit everyone from revealing their ages in job applications to ensure that no-one can be discriminated against because of age. This option might reduce discrimination but the cost is too high. Age is an important part of people's identities. If we do not allow people to reveal their ages to others, we are committing a serious moral wrong because we are restricting their freedom on something that matters to them greatly. It is better to allow some people to change their age when it does not harm or restrict the freedom of others than to restrict the freedom of all by forcing everyone to hide their age.

Simkulet claims that if age change is allowed it is sometimes child's play to determine a person's chronological age; for instance when a person graduated from college before she was legally born. But this remark simply shows that age change is not always a perfect solution; it does not show that age change cannot sometimes be a reasonably good choice.

## **Objection 8**

Changing age is lying because it would require changing the birthdate in the identification documents. However, people should not lie in identification documents; therefore, age change should not be allowed. This objection, raised by Toni Saad, states that age change is a form of nihilism that should not be allowed because it involves falsifying the record of one's date of birth.

### **Reply**

We are interested in people's date of birth (almost) solely because that makes us able to count how old people are. For instance, if a young-looking fellow is buying alcohol and the waitress wants to see his ID, she is not primarily interested to see whether the person is born in May or December or on the first or the last day of the month. She wants to see the date of birth only because her primary interest is to find out whether the person is over 18 (or whatever the legal age for buying alcohol) and she does that by counting the age based on his birthdate and the current date.

With modern technology, we could fairly easily move to use a system of digital IDs where our passports and driver's licences would be just applications on our smartphones. One could, therefore, have his age showing in the identification app directly rather than showing the birthdate. This would make the task a bit easier for clerks, waitresses, border guards and all others who might be interested in our age because they would not have to make the calculations in their heads.

This 'age' in mobile IDs would make it possible for legal age to correspond with biological age (instead of chronological age), for those who have reasons to match their age that way, without falsifying records or lying in the ID – because there would be no date of birth in the ID.<sup>ii</sup>

I have a feeling that Saad, and others raising this objection, would have difficulty accepting that age change could be allowed in cases where our ID's were just apps on our phones that had 'age' instead of 'date of birth', while denying that age change should ever be allowed with the current system. Therefore, I believe that the opposition against legal age change is not really based on the claim that after age change, the birthdate in the ID would not correspond with the person's actual date of birth.

## CONCLUDING REMARKS

My critics claim that the terms I use are problematic. Saad would prefer physiological age instead of biological age, Simkulet would rather speak of physical and emotional maturity and Brassington seems to deny the existence of biological age altogether.

Simkulet criticises my definition of biological age because it includes both the age of one's body and the age of one's mind. However, there is a reason for this. There is an extremely rare genetic disorder called progeria, which causes rapid ageing. While a child with progeria suffers symptoms generally absent in the non-elderly population, his mental development is very similar to a healthy child. Progeria children should not be allowed to legally change their age into the elderly despite their physical condition because they are mentally children. This 'real-life thought-experiment' shows that although one's body is biologically older than one is chronologically, it is not a sufficient criterion for legal age change.<sup>iii</sup>

While I added mental development in the definition of biological age to exclude progeria patients, I did not pull the concept of biological age like a rabbit out of a hat. Although there is no consensus on how exactly biological age should be measured, it is a commonly used term in geriatrics, and biological age is at least as widely used as physiological age.<sup>5</sup>

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<sup>ii</sup> This would not work if one were to deny that 'age' can refer to anything other than chronological age. But it can. Consider Scotch whiskey bottled ten years ago after maturing 21 years in a cask. The age of the Scotch is still 21 years. But if, despite my argumentation, one stubbornly claims that 'age' *is* 'chronological age' and nothing else, I probably cannot convince them to believe that people should be allowed to change their legal age. To use an analogy, I cannot convince someone to accept same-sex marriage if they keep saying: "marriage *is* marriage between different sex couples, and nothing else, because marriage is precisely that."

<sup>iii</sup> Some might not be sure how to think about age or (age change) when it comes to progeria children. Such people could consult their intuitions after watching a documentary movie *Life According to Sam*, which is based on the life of Sam Berns, a boy suffering from progeria.

Different calculations, such as frailty index<sup>6</sup>, have been proposed to define biological age, and according to a research group from Sweden, new indicators of biological age (such as epigenetic clock) are also emerging.<sup>7</sup> Therefore, I am inclined to side with Arthur Caplan that science will one day come up with an objective measure of ageing.<sup>8</sup> Until that, biological age should simply be an estimate that would form the base of legal age change.

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<sup>1</sup> Räsänen J. Moral case for legal age change. *J Med Ethics* 2019;0:1-4. doi:10.1136/medethics-2018-105294.

<sup>2</sup> Brassington I. What a Drag it is Getting Old: A Response to Räsänen. *J Med Ethics* 2019;0: doi:10.1136/medethics-2019-105494.

<sup>3</sup> Saad T. Against the Nihilism of ‘Legal Age Change’: Response to Räsänen. *J Med Ethics* 2019;0: doi:10.1136/medethics-2019-105475.

<sup>4</sup> Simkulet W. On Legal Age Change. *J Med Ethics* 2019;0: doi:10.1136/medethics-2019-105445.

<sup>5</sup> Mitnitski AB, Graham JE, Mogilner AJ, *et al.* Frailty, fitness and late-life mortality in relation to chronological and biological age. *BMC Geriatrics* 2002;2:1-8.

<sup>6</sup> Goggins WB, Woo J, Sham A, *et al.* Frailty Index as a Measure of Biological Age in a Chinese Population. *J. Gerontol* 2005;60:1046-1051.

<sup>7</sup> Jylhävä J, Pedersen NL & Hägg S. Biological Age Predictors. *EBioMedicine* 2017;21:29-36.

<sup>8</sup> Kirkey S. If 50 is the new 40, should we be allowed to change our birth certificates? *National Post* accessed 25th of April 2019. <<https://nationalpost.com/news/canada/if-50-is-the-new-40-should-we-be-allowed-to-change-our-birth-certificates>>.