

# **Age in the working life**

## **A comparative study between the Swedish and the American labor markets**

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# Sammanfattning

Alla har en ålder som oavsett om vi vill det eller inte ökar och påverkar oss olika i diverse situationer i samhället beroende på i vilken ålder vi befinner oss i. I media har den höga arbetslösheten bland ungdomar benämnts som Sveriges största samhällsproblem vilket gjorde mig intresserad av att undersöka ålderns vikt genom våra arbetsliv på arbetsmarknaden. Kandidatuppsatsen genomsyras av en komparativ studie mellan Sveriges och USA:s arbetsmarknader för att bredda diskussion och kunna se likheter och skillnader mellan två väldigt olika arbetsmarknader och rättsystem. Historien bakom utvecklingen av de två ländernas senare arbetsmarknads relationer beskrivs, för att sedan gå vidare med att redogöra för den rådande situationen och de påverkande aktörerna på arbetsmarknaderna. Vidare redogör jag för vad ålder är och vad åldersdiskriminering innebär på de två nämnda arbetsmarknaderna. Efter att denna kunskap har delgetts tas diskussion vidare en nivå var ålderns vikt i samband med våra arbetsliv skildras. Här redogörs det för situationer och lagar som ger unga eller äldre fördelar vid en individs ingång på arbetsmarknaden, medan man har en anställning och till sist när man ska avsluta sitt arbetsliv. Till sist klagörs diskussion kring de olika frågorna som legat till grund för undersökningen, och om alla kan anses ha lika möjlighet till framgång på arbetsmarknaderna, och om yngre eller äldre kan anses ha en starkare position på dagens arbetsmarknad.

Sökord: Diskriminering, Arbetsmarknadsrelationer, Dagens arbetsmarknad, Ålder, Åldersdiskriminering och Ungdomsarbetslöshet.



# Summary

Everyone has an age that whether we like it or not increases and also influences us differently in various situations in our society depending on our current age. In today's media, the high unemployment rate amongst younger individuals has been mentioned as Sweden's main social problem, which made me interested in investigating the importance of age through the working life in the labor markets. My bachelor thesis is characterized by a comparative study between the Swedish and the American labor markets. This should be viewed to broaden the discussion and make me able to see similarities and differences between two very different labor markets and legal systems. The history behind the development of the two countries' later industrial relations are described, and then I proceed to explain the current situation and the influencing actors in the labor markets. Furthermore, I describe what age is and what age discrimination means for these two labor markets. Once this needed knowledge has been given, I discuss age importance through the working life. I describe the situations and laws that favor or disfavor younger or older individuals on the two labor markets. The focus is situations and regulations connected to when we enter the labor markets, while we have a job and finally when we leave the labor markets. Finally, the discussion about the various questions for this research is clarified, and if everyone should be considered to have an equal opportunity for labor market success, and whether younger or older have a stronger position on today's labor markets.

Search words: Discrimination, Industrial relations, Today's labor market, Age, Age discrimination, and Youth unemployment.





# Abbreviations

ADA	Title I of the Americans with Disabilities Act of 1990
ADEA	The Age Discrimination in Employment Act of 1967
BLS	The Bureau of Labor Statistics
BFOQ	Bona fide occupational qualification
DL	The Discrimination Act - Diskrimineringslag (2008:567)
DOL	The United States Department of Labor
EEOC	The Equal Employment Opportunity Commission
EU	European Union
FLSA	The Fair Labor Standards Act of 1938
LAS	The Employment Protection Act - Lag (1982:80) om anställningsskydd
LO	The Manual Workers' Federation - Landsorganisationen I Sverige
NIRA	The National Industrial Recovery Act of 1933
RF	Instrument of Government - Regeringsformen
SCB	The Statistics Sweden Agency - Statistiska Centralbyrån
SFS	The Swedish Code of Statutes - Svensk författningssamling
SN	The Confederation of Swedish Enterprise - Svenskt Näringsliv
US	United States of America

# Translations of acts and actors on the Swedish labor market

Employment (Co-Determination in the Workplace) Act	Lag (1976:580) om medbestämmande i arbetslivet
The Council for the European Social Fund in Sweden	Swedish ESF Council
The Equality Ombudsman	Diskrimineringsombudsmannen
The Government Bill 2007/08:95, <i>A stronger safeguards against discrimination</i>	Regeringens proposition 2007/08:95, <i>Ett starkare skydd mot diskriminering</i>
The Government Bill 1973:129, <i>Proposed Employment Protection Act etc</i>	Regeringens proposition 1973:129, <i>Förslag till lag om anställningsskydd m.m</i>
The Government Bill 2001/02:72, <i>Changes in The Instrument of Government–Cooperation in EU etc</i>	Regeringens proposition 2001/02:72, <i>Ändringar i regeringsformen–samarbetet i EU m.m</i>
The Institute for Labour Market Policy Evaluation	Institutet för arbetsmarknadspolitisk utvärdering
The Labour Disputes (Judicial Procedure) Act	Lag (1974:371) om rättegång i arbetstvister
The National Mediation Office	Medlingsinstitutet
The Swedish Agency for Government Employers	Arbetsgivarverket
The Swedish Association of Local Authorities and Regions	Sveriges Kommuner och Landsting
The Swedish Confederation of Professionals Associations	Sveriges akademikers centralorganisation
The Swedish Confederation for Professional Employees	Tjänstemännens centralorganisation
The Swedish ILO Committee	Svenska ILO-kommittén
The Swedish Labour Court	Arbetsdomstolen

The Swedish Ministry of Employment	Arbetsmarknadsdepartementet
The Swedish Public Employment Service	Arbetsförmedlingen
The Swedish Work Environment Act	Arbetsmiljölagen (1977:1160)
The Swedish Work Environment Authority	Arbetsmiljöverket
The Swedish Social Insurance Agency	Försäkringskassan
The Swedish Unemployment Insurance Board	Inspektionen för arbetslöshetsförsäkringen
TRR	Trygghetsrådet
Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act	Lag (2002:293) om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning

# 1. Introduction

Through the centuries of time, our work has developed to become a greater part of our identity as human beings. Everyone needs a job to support themselves; however, work also provides opportunities for skills development and an active social life. Furthermore, the structure and boundaries in the labor market has developed to be stronger influenced by our age. There were almost no boundaries concerning age during the period of the agricultural society. As a child, you started to help out as much as possible on the farm where the effort increased with the years. This continued until you were not able to physically work anymore, and then you had no other choice than to retire. A certain age had a minimum influence on one's transition to and from the working life.<sup>1</sup>

Later, during the industrial society, between the 18<sup>th</sup> and 19<sup>th</sup> century, boundaries' became clearer and more defined as the years went by. In the service-based society that we currently live in, we can see that these boundaries are very structured and clear. Today, a person's life in the labor market can roughly be divided into three major parts. First, there is the time before we begin working. We are fighting our way through the educational system to the primary objective of making the transition to the labor market as smooth as possible. Secondly, there is the time while working, where we are combining interests such as making money, developing our knowledge and skills, and fostering a career. Lastly, the time when we are leaving the working life, and the time after we have finished our journey through the labor market.<sup>2</sup>

My interest in this thesis is to research the importance of individuals' age through their working life within the Swedish and the American labor market. Additionally, I aim to find out for whom today's labor markets are more suitable, a younger or an older worker?

## 1.1 Subject and Background

I have chosen to examine the importance of individuals' age in relation to their working life on the Swedish and the American labor market. This is a current topic in today's labor markets, and in media around the world. For example, the low retirement age in Greece has been in focus for the recent Euro crisis. This debate is also current in Sweden where for example our Prime Minister, Fredrik Reinfeldt, is of the opinion that the current view on retirement at age 65 is a problem for our social welfare system. We are facing a similar problem within the upcoming 20 years, since the labor force is expected to be similar to today's, however, individuals over the age of 65 years are increasing with more than 600 000 individuals during this period of time. As Reinfeldt states, if the view on retirement age does not change, two workers will later theoretically have to provide for one retiree.<sup>3</sup> Meanwhile, there is an ongoing discussion about the need to keep the older workers in the labor force longer, we are struggling with a very high unemployment rate

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<sup>1</sup> Rasmusson, 2005, p. 167.

<sup>2</sup> Rasmusson, 2005, p. 167.

<sup>3</sup> Sydsvenskan, *Reinfeldt vill se längre arbetsliv*, (08022012). Online.

amongst younger workers. Sweden's average unemployment rate amongst younger workers is far above the rest of the European Union's (EU). Furthermore, Sweden has the largest difference concerning unemployment rate between younger and older citizens.<sup>4</sup> The Confederation of Swedish Enterprise (SN) has stated that unemployment among younger workers needs to be a focus during 2012. Moreover, they have referred to it as Sweden's main societal problem.<sup>5</sup>

All of these ongoing discussions in media have influenced my view on today's labor market. My friends and I are of the opinion that today's tough economy makes it increasingly hard for younger individuals to enter into the labor market after graduating. On the other hand, our parents are afraid of changing their work situations since they feel that they are the weaker part. As a result, I find age very interesting since it is something we all have and could be affected by. And the most fascinating aspect is that we all eventually will have been in both the young, and the elder worker's position in the labor market. I will look into what age and age discrimination is, and in what kind of situations an individual could be disadvantaged or favored because of their age in the labor markets? I would like to see if a certain age category of younger and older workers has a weaker or stronger position in today's labor market in comparison to each other? What kind of regulation is there on these labor markets concerning individuals' age, either restricting or favoring a certain age? The main goal is to see if everybody, based on his or her age, has the same opportunity to interact within the labor market? I am of the opinion that this problem has been, and will probably always be, in focus on the labor markets. However, this area of the labor law has been relatively unexplored during my studies at Lund University, which have influenced my interest in research it. Furthermore, a major factor in my choosing to study at the University in 2009 was that Sweden had the highest rate of unemployment among younger workers in Europe. Since I am soon entering the labor market full time, I am interested in developing an understanding for how all of this could affect me.

I will also make a comparison to the United States' (US) labor market. I believe this comparison is of interest since the labor market is very large, often trend setting, a lot of the most successful companies origin from the US, and their economy affects the entire world. In US media, there is an ongoing discussion that the American workforce is getting older, and discrimination because of age is more in focus than unemployment among younger individuals. For example, CBS Chicago wrote that in 2010, Americans over the age of 65 outnumbered those under the age of 20 for the first time since 1948.<sup>6</sup> The US labor market is also regulated very differently from Sweden's, which hopefully will be interesting and contribute with a new perspective and dimension on the topic. I will be able to see some similarities and differences between the two labor markets, which will increase my understanding and enrich the discussion. Furthermore the US regulated their labor market concerning age early on, and has been a role model for all European regulation on protection against discrimination in the working life. To get the information and knowledge needed for a comparative study I would like to explore how the Swedish and American later industrial relations have developed, and what main influencing actors there are in these labor markets?

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<sup>4</sup> Svenskt Näringsliv, *Minska Ungdomsarbetslösheten*, (08022012). Online.

<sup>5</sup> Bengtsson, *Ungdomsarbetslösheten årets viktigaste fråga*, (15012012). Online.

<sup>6</sup> CBS Chicago, *Older Workers Staying On The Job Much Longer*, (10022012). Online.

I have also chosen to do this research after these questions rose for me while I was writing my B-level essay; “Age discrimination in the working life; a comparative study between the Swedish and the American regulation against age discrimination.” So now, I would like to take advantage of the knowledge and experience I got from writing this essay, which is needed for a comparative study. I would also like to take advantage of all that I gained from my exchange semester in the US. There, I had the chance to gain a greater understanding of the American legal system after studying law courses, and conducting interviews with professors at Appalachian State University in North Carolina.

## **1.2 Methods, Materials and Criticism of Sources**

The phenomena of industrial relations can be found in all countries where individuals work for others in paid employment. The term has developed to have a broad meaning, where the relations between the different actors to the employment relationship are in focus. The relationship between the employer and the employee plays the central role; however, it also includes relations between the government and its relevant institutions, and also other actors such as trade unions and employee organizations. The term industrial relations do not only possess the interests of the employers and the employees, nevertheless, does it also possess the economic and social goals at large, which the Government addresses.<sup>7</sup> The factual environment and background, in which labor law functions, must always be taken into consideration. Furthermore, a realistic approach is essential if studies of labor law are to be of any value.<sup>8</sup> Industrial relations’ appear in different shapes, includes different organizational set-ups, and combines different relations of power from country to country. Further it is crucial to take into account the industrial relations in order to be able to understand the development of the working of labor markets, of work-place relations, as well as of the development of society and the economy at large.<sup>9</sup> The concept of industrial relations will serve as an outer frame of method for my thesis.

Further, it is my goal to achieve an ongoing comparison between the two different labor markets and the two categories of age, which I will define later. This I will do through a comparative method of the labor law. If only focusing on the words comparative law, it can easily be understood that law is the object and comparison is the process. This could of course be done within a nations legal system, but comparative law refers to a comparison of different legal systems of the world.<sup>10</sup> The term comparative law can be expressed as “a study of the relationship ... between legal systems or between rules of more than one system”.<sup>11</sup> A comparative method can be summarized to include: first a scientific analysis of law and practice, which will enable me to set the two nations regulations side by side, through stating similarities and differences; second this method contains an attempt to explain these established similarities and differences; lastly an effort to identify eventual trends and overall developments are made, which operates

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<sup>7</sup> Kaufman, 2006, p. 1–3.

<sup>8</sup> Adlercreutz, and Nyström, 2010, p. 29.

<sup>9</sup> Elvander, 2002, p. 1.

<sup>10</sup> Kötz and Zweigert, 1998, p. 2.

<sup>11</sup> Fahlbeck, 1999, chapter 2.

across national boundaries.<sup>12</sup> Additionally, this will be done both on a macro and on a micro level of comparison, since I will have to study the procedures by which the rules are in fact applied, in order to be able to understand why the US system solves age-related problems in the labor market in the way they do.<sup>13</sup>

Focus in this thesis will be on the comparative research method so-called “What” questions, which aim to provide further ascertainment. Therefore it is the first step in the comparative method mentioned above that is of most interest and therefore in focus. This includes the method of legal dogmatism, which is focusing on stating and interpreting the law as it is, and proposing solutions connected to the topic of research. The material needed for this comparative study is, to mention a few, statutes, case law and legal writing. The area of knowledge needed is also similar to the traditional legal dogmatic research approach of the own legal system, since legal research, legal argumentation and analysis of the legal material will be in focus.<sup>14</sup> The legal dogmatism, as mentioned, is a method used to describe the stated law as it is and its structure. Furthermore, it includes interpretations of the law where normative positions are developed, which are criticizing and justifying the stated law. Based on this, the method includes valued positions. A legal dogmatism free from valued positions has been claimed to only be a dream, the values should instead be seen as the most essential element of the method. The legal dogmatic is not entirely descriptive, and neither entirely normative, but rather descriptive normative.<sup>15</sup>

This thesis will also include empirical material that will help to describe the situation in the two labor markets, and to compare and draw conclusions. It should be considered as an interactive jurisprudence where the legal dogmatic approach is the base, however, with insight of empirical material to state tendencies in the labor market for an example. The empirical material will consist of official statistics, so that it can be guaranteed that the studies have been correctly performed and result in trustworthy data. For the Swedish labor market, statistics from The Statistics Sweden Agency (SCB) will be used and for the American labor market, the statistics from The Bureau of Labor Statistics (BLS). These statistics are a result of thorough research by the respective official bureaus and professionals in this field, which will benefit the quality of my thesis. This empirical material will be used to establish background information, establish relevance for the problems that are discussed, and to try to find and analyze effects of different actions in the labor markets.<sup>16</sup>

The comparison with the US regulation should be viewed to enrich the discussion on how we are solving the problems in our labor market, compared to how another labor market quite different from ours, is handling the same problems. It will also contribute to a better understanding of our legal system. After I have been researching another legal system I will hopefully gain a new perspective on ours, and can from an enriched point of view see our system with new insights and angles. A whole new dimension is added.<sup>17</sup> However, we need to keep in mind that the countries are very different from each other in their social and industrial structure, in their political and legal system, and perhaps most

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<sup>12</sup> Blanpain, 2010, p. 4–5.

<sup>13</sup> Kötz and Zweigert, 1998, p. 4–5.

<sup>14</sup> Fahlbeck, 1999, chapter 3.

<sup>15</sup> Peczenik, 2005, p. 249–250.

<sup>16</sup> Sandgren, *Om empiri och rättvetenskap del I*, 1995/96, p. 733–737.

<sup>17</sup> Blanpain, 2010, p. 5.

of all, their size and amount of population. A comparative study is more or less needed to be able to fully understand the own regulation. The comparative law is also very useful in the way of *de lege lata* and *de lege ferenda*, since we could take advantage and learn from other legal systems' solutions to different problems.<sup>18</sup>

Since the Swedish and the American law are divided under different legal families, they therefore solve legal problems differently. The Swedish belongs to the Scandinavian civil law, while the American belongs to the common law system. Because these countries belong to different legal families, their view on labor has taken different models and developed their labor law differently.<sup>19</sup> This will make the comparison a bit more complicated, since the regulations structure could be very different, nevertheless, also a lot more interesting. However, the basic of all comparative law is functionality, which means that the only things that are comparable with each other, is the law that fulfill the same functions.<sup>20</sup> So it is important for me to be careful while reviewing the American system, since I am not as familiar with this system as the Swedish. But with help from my prior experience of the American law and my contacts in the US, I will be able to guarantee a high quality. Additionally, I have chosen to write my thesis in English since I am more familiar with the Swedish legal system than the American. It is easier for me to give a correct translation of the Swedish regulation into English, than the other way around. This will ensure the highest quality level of this paper that I am striving for. I will also get a broader spectrum of readers, which is beneficial since some of my professors from the US are interested in reading this thesis. I do not see the need in having to explain further the importance of the English language in our globalized world, which made me take this opportunity to write in English even if the process becomes harder and more time consuming.

When gathering material for this research, I will particularly focus on the official sources of law such as the Swedish and American acts, Swedish Government's bills and some American case law. Nevertheless, the legal writing will of course also function as material for this thesis. The doctrine will help me identify different opinions on my research topic, but most importantly give me new perspectives on it that will be crucial since I am writing this thesis on my own. Quite a lot of Internet sources will be used for this research, mostly government owned websites so I for example can get the most current statistics. Especially when writing about the actors' in the labor markets, the information directly from the actors' homepage will be used instead of the doctrine. They are able to describe themselves and their business better than any other part since they are experts in their field, and the information is more current than the doctrine. However, I will be very skeptical and always have a critical standpoint on these sources so I can guarantee a high quality of my work. Internet is not always a reliable source, which is why I will be sure to review the publisher of the websites, articles, and statistics very carefully. Nevertheless, Internet is an incredibly large part of our society today and should therefore not be seen as an inferior source as long it is examined as carefully and critically as any other source.

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<sup>18</sup> Bogdan, 2003, p. 26–32.

<sup>19</sup> Bogdan, 2003, p. 76–80.

<sup>20</sup> Kötz and Zweigert, 1998, p. 34.



### **1.3 Delimitations**

The described method for this research is needed to get the understanding and knowledge of another legal system, and to be able to draw qualified conclusions and comparisons. With choosing this approach, I will later be able to extend my research in a future master thesis to include the “Why” questions and turn the focus to the second and third part of the above stated comparative method when I have a greater knowledge and experience concerning this research topic. My research, and this thesis, is primarily directed to readers with prior knowledge and experience in labor law, since it is mostly professors and fellow classmates that will be reading it. This means that I will not explain the most basic concepts used in this thesis, since I expect my readers to already have that basic knowledge. However, I will try to find an agreeable severity, since I am of the opinion that this thesis and research could be of interest for more than just those individuals educated in the field of labor law.

As mentioned before, I have decided to restrict my thesis to compare the Swedish labor market with the American. First, I thought of comparing the European labor market with the American, but I am of the opinion that this would be too broad and it would not be a fair comparison resulting in the answers that I am looking for. It is difficult to consider the entire European labor market since the countries and their own labor markets vary greatly, both in status and in ways of conducting it. Even if the European labor market affects us all in the EU, I am of the opinion that it is fairer to compare two countries with each other. However, I do need to keep in mind the huge differences between these two countries, and in what way this will affect my research. I have also chosen to focus more on the private market than on the public. A federal perspective will be in focus while discussing the US since the States’ laws vary greatly from each other. In the US, a separation is made between the terms labor law and employment law. The latter indicates law generally applicable to all workplaces, whether unionized or not, including federal antidiscrimination and occupational safety laws. It also includes state tort and contract laws limiting the employment-at-will doctrine. Labor law does on the other hand indicate law that concerns the union-employer relations.<sup>21</sup> In my thesis there will not be such separation.

I have chosen to define younger worker as individuals between the ages 15–24, and older workers are defined to be the rest of the workers in the age of 25 and above. I have made this categorization, first of all, based on the Swedish and American educational system, and since it is a reasonable age to begin working. I have also looked at the statistics that are available, and have found that it is common to use these similar intervals of age. Furthermore, I would like to focus on my own perspective, as a younger worker, since that will be of the most interest for me.

### **1.4 Outline**

The idea for this research came to me after dissatisfaction from two different perspectives in the labor markets’ way of handling the age problem. This led me to conduct this research and pose the stated questions in the beginning of this thesis. It is most

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<sup>21</sup> Darby and Keller, 2009, P. 33a-1.

appropriate in a comparative study to first lay out the essentials of the law, country by country. This will not only give me, as the author, the knowledge I need to be able to make a qualified comparison, but will also be necessary so the readers can get the knowledge to be able to follow this comparison. After this, when the above-mentioned conditions have been satisfied, a comparison is possible to be able to see similarities and differences between the labor markets and younger and older. Then, hopefully in the end I will be able to present conclusions regarding my research and my questions at issue from the start of this process.<sup>22</sup> Since I have a very broad research area for my thesis and the purpose is rather to explain the regulation than to analyze it, my part of conclusions will be more focused on clarifying than to analyze.

## **2. The Swedish and American labor market**

### **2.1 The Swedish labor market**

#### **2.1.1 The industrial relations development in Sweden**

The so-called December Compromise, made in 1906, after a widespread industrial conflict is seen as the founding stone of the “modern” Swedish industrial relations. It also paved the way for the later arising “Swedish Model” for industrial relations, together with the 1938 Saltsjöbaden Agreement and the 1946 agreement on the institution of works councils. The agreement was settled in a very turbulent time when there were a lot of disputes between workers and employers in our labor market, as well as in the international market.<sup>23</sup> The agreement was established between today’s SN and Manual Workers’ Federation (LO). The outcome of the agreement was that the employers accepted unionism by recognizing an unrestricted right for the employees to organize. They also accepted collective bargaining and regulation of employment conditions by the terms of collective agreements. On the other hand, LO acknowledge the right of employers to be able to hire and fire at will and to direct and organize the firms operations. This is known as the employer’s prerogative or the section 32 rights.<sup>24</sup>

The agreement concluded in 1938, Saltsjöbaden Agreement, was also established between the previously mentioned actors and seen as an important milestone for the development of Swedish industrial relations, and the “Swedish Model”. The agreement was a response to the threat of legislation from the government authorities, since they were tired of the turbulent relationship. However, the involved actors wanted to maintain the freedom to regulate their own mutual affairs without interference from the government. Therefore the agreement came to establish rules about collective bargaining, termination of the employment contract, industrial action, and disputes that are

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<sup>22</sup> Kötz and Zweigert, 1998, p. 6, 34 and 43–47.

<sup>23</sup> Eurofond, *Sweden – SAF*, (15012012). Online.

<sup>24</sup> Fahlbeck and Mulder, 2009, p. 13–15.

threatening the public interest. One of the main goals of the agreement was to reduce the amount of industrial conflicts, by establishing mandatory procedures for bargaining before any industrial action could be taken. The Saltsjöbaden Agreement came to not only play a big role concerning the formal rules it established, but also created a special spirit that affected the industrial relations in Sweden for decades. It was characterized by mutual respect, willingness to co-operate and co-exist, as well as striving to arrive at peaceful solutions based on compromise and a sense of responsibility for developments in the labor market.<sup>25</sup>

This spirit later resulted in the Development Agreement on the private sector in 1982. This agreement recognized the businesses' need for flexibility and the continuous process of adaption for both companies and employees. Further they agreed on the importance of continuous learning and a rewarding and fulfilling professional life for the employee. Another milestone in the Swedish Industrial Relations development is even more connected to the 1938 agreement. The private sector's 1997s Industry Agreement is a development of the Saltsjöbaden Agreement, which tended to reinforce orderly procedures and uphold an industrial peace in the labor market. Collective bargaining was the main focus of the agreement and it aimed to create a stronger role for neutral mediators or arbitrators in interests' disputes.<sup>26</sup>

The "Swedish model" can be summarized as a large privately owned industrial sector and a large public sector financed by taxes, where both interact with the large trade union movement. Furthermore the state plays an active role in labor market policies, and has the ambition of achieving an even distribution of income and wealth.<sup>27</sup> Even though the different actors have had a long history of bitter confrontations, two totally different standpoints, and a strong ideological gap between them, the Swedish labor market has been able to develop with contingency. This is also due to the fact that Sweden has not been to war or been affected by other comparable concerns throughout the 20<sup>th</sup> century.<sup>28</sup> In the legal scene, common practice of the labor market's organizations lead the way independently of legislation for a long time, which resulted in collective agreements' strong influence on the Swedish industrial relations. Finally, it should be added that similar agreements were established between the actors at the public sector.<sup>29</sup> However, the passivity from the legislator came to an end during the 1970s after an increase of conflicts in the labor market again, which changed the attitude towards a labor market without any legislation. Issues that earlier had been left to the actors in the labor market were now being regulated by the legislator, and laws such as Employment Protection Act of 1982 (LAS), Employment (Co-Determination in the Workplace) Act of 1976, and the Labour Disputes (Judicial Procedure) Act of 1974 were enacted.<sup>30</sup> Lastly, Sweden has had an open market for labor since 1954 for the Nordic countries, and since Sweden joined the EU in 1995 it has been open for all EU members. Membership in the EU has helped us to interact more in the European labor market, and is supposed to make it easier for all workers and other parties to do business with and within fellow member countries. It has

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<sup>25</sup> Fahlbeck and Mulder, 2009, p. 13–15.

<sup>26</sup> Fahlbeck and Mulder, 2009, p. 15.

<sup>27</sup> Ekonomifakta. *From War to the Swedish Model*, (07022012). Online.

<sup>28</sup> Fahlbeck and Mulder, 2009, p. 14.

<sup>29</sup> Hasselbalch, 2002, p. 19 and 20.

<sup>30</sup> Sigeman, 2008, p. 15–20.

also developed our labor law in certain directions since we are obligated to follow EU's decisions and directives.<sup>31</sup>

### **2.1.2 Today's labor market in Sweden**

Sweden is classified as a democratic welfare regime with a comprehensive social security system that gives all citizens a basic security, but also with compensation related to previous labor market activity. The Swedish labor market can be described as highly coordinated, where wage negotiations are centralized to a relatively large extent and active labor market policies are in place. Further, the labor market can be described to provide more employment security rather than job security.<sup>32</sup> In January, the population of Sweden was defined to be almost 9.49 million people<sup>33</sup>, 1.67 children were born per woman,<sup>34</sup> and average lifetime expectancy from birth was estimated to be 81.07 years old.<sup>35</sup> The Swedish labor market is constantly changing due to increased internationalization where Sweden is becoming more dependent on what happens in the outside world. However, Sweden has been able to handle the recent finance crisis very well, in fact, as one of the best countries in the European Union. Several factors contributed to the strong financial recovery, where exports contributed as a dominating factor. According to the Swedish Riksbank the employment forecast was predicted to decline by nearly 300 000 workers in 2009, and the unemployment rate was predicted to be as high as 11 percent on average, in both 2010 and 2011. Moreover, in 2009, employment decreased by around 100 000 workers, which is much lower than earlier forecasted. Nevertheless, it was still the largest decline in Sweden since 1993 and the outcome turned out to be an unemployment rate of 8.5 percent in 2010. This was a result of the amount of temporary jobs increasing, which gradually increased the permanent jobs also. Except for the economy, new inventions and technological innovations are also changing the general need for labor radically. The criteria used on the employees' are as a result of these developments constantly changing, and the need for flexible, adaptable and multi skilled workers is increasing. Moreover, employment in general has tended to become less stable overall.<sup>36</sup>

In February 2012, the Swedish labor force consisted of nearly 4.97 million people, where around 4.58 million were employed, and less than 390 000 individuals were unemployed. Sweden had an unemployment rate of 7.8 percent of the labor force, while the civilian labor force participation rate was 69.9 percent. In total, the employment rate was 64.5 percent of the population. Younger workers had undoubtedly the highest unemployment rate, where 147 000 between the age 15–24 were unemployed, which corresponds to an unemployment rate of 25.2 percent. The statistics further show us that the unemployment rate is decreasing strongly with the following age groups. For the individuals between the ages 25–34 the unemployment rate is 7.7 percent, which continue to decrease for the ages

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<sup>31</sup> Seth, 2009, p. 9–11.

<sup>32</sup> Blossfeld et al, 2008, p. 235.

<sup>33</sup> SCB, *Befolkningsstatistik*, (29032012). Online.

<sup>34</sup> The Work of a Nation - The Center of Intelligence. *The world Fact Book – Total Fertility Rate*, (30012012). Online.

<sup>35</sup> The Work of a Nation - The Center of Intelligence. *The world Fact Book – Life time expectancy at birth*, (30012012). Online.

<sup>36</sup> Medlingsinstitutets årsrapport, *Avtalsrörelsen och lönebildningen 2010*, p. 15–23.

35–44 were the rate is 4.8 percent, which slightly more or less continue to be the numbers for the rest of the age groups. In Sweden 22.6 percent of the total amount of unemployed individuals were classified as short-term unemployed, which means less than 5 weeks. The statistics further shows that 27.5 percent of the unemployed individuals were long-term unemployed, which means unemployed 27 weeks or longer.<sup>37</sup>

In 2010 the number of noticed conflicts was only 24, where eight came into force.<sup>38</sup> So today's Swedish model has developed to be characterized by orderly and peaceful ways for the actors to negotiate and try to settle disputes. This model of industrial relations is still based on a mutual understanding, strong level of trust, and willingness to co-operate between the employer and employee actors. The "Saltsjöbaden Spirit", developed more than 70 years ago, still exists and influences the industrial relations in Sweden. In most cases in the labor market, a steady and longstanding relationship has developed between the employer or employer organization and the union. This includes the whole way from the top to the bottom level, where an individual employer or company is dealing with shop floor union.<sup>39</sup>

In Sweden, it is common for both adults in a family to work and contribute to the family. Sweden is considered as a small power distance and individualistic, slightly more than collectivistic, country. Individuals in former socialist societies are more likely to rely on public agencies and asking friends/relatives when searching for employment. The Swedish labor market is also showing a tendency to prefer when prospective employees are friends or relatives whom already are employed, and we value trustworthiness, reliability, and loyalty to some extent over performance-related background.<sup>40</sup> The Swedish educational system basically consists of three parts where Compulsory Primary School is the first (9 years), then Upper Secondary School (2–3 years), and then University College or University studies (often 2–5 years). The Swedish educational system includes no tuitions fees, and study grants and loans are regulated in the Swedish regulation. The education in Sweden is often broad and general, rather than a very specific vocational education. There are also many opportunities for re-education in Sweden, and adult education has a strong tradition.<sup>41</sup> Individuals usually enter the labor market full time after graduating Upper Secondary School (regularly at the age of 19) or after graduating from University studies (regularly from 21 and above, depending on length of studies). A tendency has been noticed in Sweden that more individuals are studying, and for a longer period of time during recent years. In 2001 the amount of individuals studying was almost 890 000, and in 2010 the same statistics' showed almost 990 000 individuals.<sup>42</sup> However, we have to bare in mind that there are a lot of younger individuals that enter the labor market earlier, through working extra on holidays or in conjunction with their studies. The average retirement age in Sweden is judged to be around 61 years old,<sup>43</sup> while the statutory full retirement age is 67 years old according to

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<sup>37</sup> SCB, *Arbetskraftsundersökningarna (AKU); Grundtabeller AKU, 15-71 år*, (29032012). Online.

<sup>38</sup> Medlingsinstitutets Årsrapport, *Avtalsrörelsen och lönebildningen 2010*, p. 4.

<sup>39</sup> Fahlbeck and Mulder, 2009, p. 14.

<sup>40</sup> Cullen and Parboteeah, *Multinational Management: A Strategic Approach*, 2011, chapter 2.

<sup>41</sup> Blossfeld et al, 2008, p. 236–237.

<sup>42</sup> SCB, *Studiedeltagande för befolkningen 16–64 år höstterminen 2001–2010*, (27012012). Online.

<sup>43</sup> Olofsson. *Age, Work and Retirement in Sweden – Views, Policies and Strategies of key Actors*, 2012, p. 5, (02022012). Online.

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The population is expected to rise to 10.3 million in 2030, where the age group of individuals' age 65 and older is growing the most. The supply and demand for persons with post secondary education is expected to increase sharply. However, the demand in the labor market will not increase to the same extent as the supply, which will result in a surplus of the labor force with post secondary education in 2030. Otherwise, it is in particular the groups of older workers and foreign-born individuals that will improve their position in the labor market.<sup>44</sup>

### **2.1.3 Today's actors influencing the Swedish labor market**

Collective bargaining plays a central role in the "Swedish Model" and in 2009 covered about 90 percent of the employees in Sweden. The strong position has been established because of the high rate of unionization for both employees and employers. Collective bargains' are often central between the unions and includes pay and general conditions of employment, and can set aside the majority of Sweden's acts. There are over 110 central actors in the Swedish labor market, 50 employers' organizations and over 60 trade unions, which together sign more than 650 agreements. In today's labor market these collective bargaining agreements are estimated to cover 3.5 million employees, plus employees at 37 000 companies that have adaption agreements.<sup>45</sup>

The employers' organizational level has been relatively stable over the last years and there are three larger employer organizations in the Swedish labor market. On the private market SN represent 50 employer organizations' that have almost 60 000 companies and about 1.7 million employees. In the public sector, The Swedish Association of Local Authorities and Regions represent Sweden's 290 municipalities, 18 county councils, and two regions, which together has 1.1 million employees. The last large party on the employer side is The Swedish Agency for Government Employers, which represents 270 state agencies with 240 000 employees.<sup>46</sup>

On the other side, the unions' member density have declined in Sweden since the middle of the 1990s, however, it is still very high from an international perspective. There are also three larger trade unions that are dominating in the Swedish labor market. LO is the central organization for 14 trade unions, and have about 1.5 million blue-collar members. The Swedish Confederation for Professional Employees is the central organization for 16 trade unions with 1.2 million white-collar members. The Swedish Confederation of Professionals Associations consists of 23 trade unions and professional associations with more than 600 000 members that are University graduates or professionals with a College degree. A consequence due to the stable employer organizations' membership and the declining trade unions' is that the employers' organization rate in both the private sector and overall is now significantly higher than the unions' density. In 2009 the trade unions' member density was 71 percent compared to the employers' density of 82 percent, for both the private and public sector.<sup>47</sup>

The list of agencies and other organizations that influence and play a major role on the

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<sup>44</sup> SCB, *Trender och Prognoser 2011; befolkningen utbildningen arbetsmarknaden med sikte på år 2030*, (27012012), p. 13. Online.

<sup>45</sup> Medlingsinstitutets Årsrapport, *Avtalsrörelsen och lönebildningen 2010*, p. 24, 31,32 and 35.

<sup>46</sup> Medlingsinstitutets Årsrapport, *Avtalsrörelsen och lönebildningen 2010*, p. 24 and 32–35.

<sup>47</sup> Medlingsinstitutets Årsrapport, *Avtalsrörelsen och lönebildningen 2010*, p. 27 and 32–35.

Swedish labor market is long. The Swedish Ministry of Employment has the main responsibility for the Swedish labor market, where the Minister of Employment currently is Hillevi Engström. Their responsibilities include dealing with: the labor market policy, the working life, integration, discrimination issues, human rights, Swedish citizenship and national minorities. The Ministry deals with a very broad area in the labor market from employment strategies, unemployment benefits, work environment and work hours, to introducing new arrivals into the labor market, and establishing a society free from discrimination. To be able to handle all this, the Ministry of Employment is responsible for nine administrative agencies and some committees, which are responsible for the day-to-day operations. The first relevant agency for this thesis is the Council for the European Social Fund in Sweden, which administers the program of the European Social Fund in Sweden. This is EU's most important tool for promoting employment in its member countries. Additionally, The Institute for Labor Market Policy Evaluation, a research institute with focus on conducting evaluations on the functioning of the labor market and the effects of labor market policies. Next, the Swedish ILO Committee represents UN's International Labor Organization in Sweden, which seeks social justice and internationally recognized human and labor rights. The Swedish Unemployment Insurance Board supervises the 38 Unemployment Insurance Funds. It also monitors to ensure that the unemployment benefits are given out properly, and also represents the Government in court cases concerning unemployment insurance. Another important agency is the Swedish Work Environment Authority. Its main objective is to reduce the risks of health problems and accidents at the workplace and to improve the work environment in a general perspective, from the physical, mental, social, and organizational viewpoints.<sup>48</sup> Furthermore, the National Mediation Office works for an efficient wage formation and is responsible for mediation in labor disputes.<sup>49</sup> The Swedish Public Employment Service offers a broad service that contributes to a well functioning labor market, by matching those who need employees, with those who are seeking employment. In 2010, this service resulted in almost 430 000 unemployed individuals obtaining some kind of work.<sup>50</sup> Other agencies that play an important role are the Swedish Social Insurance Agency, since the social insurance is an important part of the Swedish social security system and the "Swedish model". It covers everyone that lives or works in Sweden, and it provides financial protection for: families and children; and persons with a disability, in connection with illness, work injury, and pensions. This agency has another very important assignment, which is to help those who are on sick leave get back to work as quickly as possible. It coordinates contact between the individual, the employer, and the doctor, and if necessary also with the previously mentioned Employment Service.<sup>51</sup> The agency TRR mainly helps companies through the transition process in the event of redundancies with support, training, and expertise. It also supports employees that face a dismissal with support, training, and trying to find a new job for them.<sup>52</sup> Then, the Equality Ombudsman (DO) is a government agency that

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<sup>48</sup> Regeringskansliet; Government Offices of Sweden, *Ministry of Employment; Agencies*. (01022012). Online.

<sup>49</sup> Medlingsinstitutet, *Welcome to the National Mediation Office*, (01022012). Online.

<sup>50</sup> Arbetsförmedlingen, *About us*, (01022012). Online.

<sup>51</sup> Försäkringskassan, *Om Försäkringskassan*, (01022012). Online.

<sup>52</sup> Trygghetsrådet, *Services in brief*, (01022012). Online.

seeks to fight discrimination and promote equal rights and opportunities for everyone in the labor market. It aims to ensure that all actors are complying with the Discrimination Act of 2008 (DL), and represent individuals for free in cases that could benefit the public at large. In addition, the DO monitors how the education, employers, and institutions live up to the requirements of the DL requiring active measures against discrimination.<sup>53</sup> The last and maybe the most important actor in the labor market is the Swedish Labor Court (AD), which came into existence in 1929. Only labor related disputes can be brought before this special court, and a labor dispute is defined to be “any dispute which affects the relationship between employers and employees”. The court handles about 400 to 450 cases each year, and delivers roughly 150 to 160 judgments. So a relatively high number of cases are withdrawn early in the process as the parties reach an amicable settlement.<sup>54</sup>

## **2.2 The American labor market**

### **2.2.1 The industrial relations development in the US**

The American labor market has developed very differently from the Swedish. Collective agreements have not been in focus between the labor actors. Instead, the executive, judiciary and the legislative power have influenced the American development of industrial relations the most. The division between state and federal authority, and the ongoing conflict of interest between them, has had a major influence throughout the country’s history. In the early history, each individual state authority regulated its own labor market and it often prohibited collective alternatives to use industrial action. The employment relationship was contractual and terminable at-will, which did not limit the employer much, since at this point it meant that the contract could be terminated at any time for any reason.<sup>55</sup> The common law was also already favoring the employers since the English law stated that employee organizations with the purpose of improving the employment situation were forbidden and considered as criminal conspiracies. It should also be mentioned that employer organizations could be criminal if they were viewed as limiting the free market. Furthermore, the judiciary power has been favoring the employers throughout the history, which has given the trade unions a very tough time. The courts often imposed injunctions that made it possible for the employer to easily prohibit a strike, because they wanted to limit the employers’ risk of irreplaceable damage or that the public interest of trade were damaged. However, the courts’ also came to accept so-called “yellow-dog” contracts, where the employee had to sign a standard employment contract stating he would not join a trade union. This was a tough battle between the employers and the trade unions, where the employers had a strong advantage because of the courts’ actions.<sup>56</sup> Many violent industrial conflicts took place in the late 1880s and early 1890s. Workers were fighting for the right to work in a safe environment, for fair pay, to be able to be employed at all, and to have a chance to fulfill the “American Dream”. All of these things were hard to achieve, and many suffered in the fight to

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<sup>53</sup> DiskrimineringsOmbudsmanen, *About the Equality Ombudsman*, (17022012). Online.

<sup>54</sup> Arbetsdomstolen, *PRESENTATION OF THE SWEDISH LABOUR COURT*, (01022012). Online.

<sup>55</sup> Leslie, 2000, p. 1–4.

<sup>56</sup> Reinhold, *Industrial Relations i USA*, 1988, p. 19–21.



accomplish a better situation for the workers. For example, in one of the better-known strikes, the Haymarket massacre, which took place in Chicago in 1887, a total of twelve people lost their lives and many more were injured after a pipe bomb exploded. Eight protesters were arrested and all were found guilty of murder, even if it was not known who had thrown the bomb, and seven of the defendants were sentenced to death. The case is one of the most famous miscarriages of justice in US history.<sup>57</sup>

The following years of the American industrial relations development came to be characterized by a strong federal interference, in an effort to even out the relationship among the actors in the labor market. In 1890 the federal legislator acted for the first time, which included the Sherman Antitrust Act of 1890 (SA) that aimed to protect the society and its citizens from detrimental restriction of competition. The tough competition between the trade unions and employers was assumed to come to an end, and the actors were supposed to be united and work together in the labor market. Instead, in 1908 the US Supreme Court established the famous Danbury Hatters case (Loewe v. Lawlor, 208 U.S. 274 1908) in which trade unions could be seen as detrimental restriction of competition according to the SA, which therefore could be used to forbid traditional activities such as strikes. A lot of individuals became upset and a public opinion rose, expressing that the courts should not be able to establish prohibiting orders in conflicts within the labor market. The Democratic Party joined this view, and got the Clayton Antitrust Act of 1914 passed in the Congress that is complementing the SA. This act was supposed to establish that trade unions should not be seen as detrimental restriction of competition, and therefore there is no legal support to forbid the trade unions existence or to restrain its' members. The trade unions also gained the right to conduct lawful boycotts, peaceful strikes and collective bargaining without interference from the courts. Finally, the trade unions thought that they would gain a stronger influence, and that the courts' interference in the labor market was over.<sup>58</sup>

However, the expected breakthrough never came for the trade unions, the courts continued to rule injunctions with the motivation that the unions' actions were not peaceful, lawful or legitimate. The legislative power's attempt to even out the relationship in the labor market was once again ignored by the courts, and the employers continued to be apprehensive. However, eleven years later a response came to the courts' misapplication of the law. The Norris-LaGuardia Act of 1932 was aimed at stopping the industrial chaos and the abuse that the federal judiciary, together with the employers, had exercised over the employees and unions. The act was established when the US was in its deepest financial crisis in history and the view of the American dream was severely threatened. The breakthrough that the trade unions had been waiting for finally came and the employers' advantage ended. The battle between the legislating and the judging power had taken a drastic turn. The act also aimed to increase the collective bargaining between the labor market's actors, being described as "The faith of Norris-LaGuardia is collective bargaining". All the traditional actions from trade unions were given stronger protections, and the courts' ability to rule injunctions was now, once and for all, almost completely forbidden. The law had two main outcomes: first, the number of industrial actions increased; and second, injunctions were ruled very rarely from this point

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<sup>57</sup> The Majlessi Law Firm, *Labor-Management Conflicts In American History*, (15022012). Online.

<sup>58</sup> Reinhold, *Industrial Relations i USA*, 1988, p. 21–22.

forward.<sup>59</sup>

Next, Roosevelt's so-called "New Deal" had a huge impact on American industrial relations and changed the American society's structure at large, with an explosion of new major federal involvement. The federal laws now dominated the regulation in most aspects of employment, through acts such as The Social Security Act of 1935, FLSA, the Federal Unemployment Tax Act of 1939, and the two following described acts. The National Industrial Recovery Act of 1933 (NIRA) was enforced, which aimed to give the industrial production and economy a new start through industrial codes concerning prices and production volumes. A remarkable situation rose where both the employer organizations and the trade unions stood behind this action. The employers' received a reduced detrimental restriction of competition and the employees' were promised collective bargaining and freedom of association. In the end the employers were not interested in participating in collective bargaining and the attempt with a voluntary system of collective labor failed totally when the US Supreme Court determined that NIRA was not legal according to the US Constitution. However, Roosevelt had already planned a new regulation, the National Labor Relations Act of 1935, which introduced a system of major federal involvement in industrial relations. The legislating power was once again receiving a lot of resistance from the judiciary power, claiming that this act also was unlawful according to the US constitution. However, the act was accepted in 1937 after Roosevelt had more or less threatened to expand the amount of judges to more than nine in the US Supreme Court, forcing a change in opinion. This law does not state anything about the contract of employment, but instead, only states how to get there through collective bargaining. The act was only protecting the unions and its operation, while the employers were left out of the regulation. The employees were given freedom of association, as well as the right to bargaining and to take industrial action. The main purpose was to increase the individuals' bargaining power through the individuals' increased salaries, which they saw as possible if they got the chance to act collectively. This was supposed to spur the economy, stimulate the production and investments, and create a situation of new hiring. This resulted in an increase in trade union membership from 3.7 million in 1935 to almost 12.2 million in 1945; finally, the unions had the strong position in the labor market that they had been fighting for. Then, in 1941 when the US entered the Second World War, The National Labor Relations Act of 1935 was out of function and the trade unions advantage partially ended, since industrial conflicts did not take place and the collective bargaining was therefore made under industrial peace.<sup>60</sup>

After the war ended in 1945, the trade unions wanted to make up for their lost time and started several industrial conflicts that made the American citizens upset. This meant that the industrial relations once again took a drastic turn when the Congress accepted the Labor-Management Relations Act of 1947. The earlier NIRA's one-sided protection of the trade unions was gone as the new act was enforced to equal the relationship within the labor market again. The trade unions time of unlimited industrial conflicts was over and the courts were once again able to rule injunctions, though, still quite limited. The history of the Industrial relations in the US took a final turn when the Labor-Management Reporting and Disclosure Act of 1959 was established and made some amendments to the

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<sup>59</sup> Reinhold, *Industrial Relations i USA*, 1988, p. 22–26.

<sup>60</sup> Reinhold, *Industrial Relations i USA*, 1988, p. 26–34.

Labor-Management Relations Act of 1947. It was the dissatisfaction with the trade unions, after they had been accused of forgetting its members' interest and a high rate of corruption within the unions had been revealed, that led to enactment of the new act. This act focused on taking advantage of society's interest at large, and wanted to be able to make sure that the trade unions were equal, democratic and conducting business as they should. The trade unions have never been able to take back the advantage over the employers and they probably never will be. Union influence also began to wane because of immigration in the 1980s and 1990s when the pool of low wage labor increased, which competed with higher paid union workers. The member density was now very low and the collective labor law was considered to be a fading history on the American labor market, while the single employees rights were in focus instead.<sup>61</sup> The trade unions will probably not be able to influence the industrial relations again, and it looks like the employer will continue to have an advantage over the unions and that the legislature, judiciary and executive powers will continue to be the regulating actors of the American labor market. Additionally, it should be mentioned that the US removed most barriers to trade and investments with Canada and Mexico when the North American Free Trade Agreement was established in the beginning of 1994. This agreement has created the world's largest free trade area, which now links 450 million people producing \$17 trillion worth of goods and services.<sup>62</sup>

### **2.2.2 Today's labor market in the US**

Today, The US is viewed to have an extremely liberal economic and welfare regime strategy, with relatively passive labor market policies and public sector, and a marginal social safety net. Open employment relations are typical for the labor market and job security is generally on a very low level where employees have a high level of economic and temporal uncertainty.<sup>63</sup> In January 2012, the population of the US was defined to be nearly 312.8 million people,<sup>64</sup> 2.06 children were born per woman during 2011,<sup>65</sup> and the average lifetime expectancy from birth is estimated to be 78.37 in the US.<sup>66</sup> The US civilian labor force consisted of about 152.6 million individuals in February 2012, where 138.1 million were employed, and nearly 14.6 million individuals were unemployed. The US employment rate was 57.8 percent of the population and the civilian labor force participation rate was established to 63.9 percent. The US had an unemployment rate of 9.5 percent.<sup>67</sup>

The US economy is improving after the so-called "Great Recession" that began in December 2007; however, the labor market still has a long way to go before it reaches pre-recession employment levels. Since the "Great Recession" began, 5.6 million jobs have been lost, and if the jobs continue to grow by an average of 152 000 jobs per month,

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<sup>61</sup> Reinhold, *Industrial Relations i USA*, 1988, p. 34–38.

<sup>62</sup> Office of the United States Trade Representative, *NAFTA*, (15022012). Online.

<sup>63</sup> Blossfeld et al, 2008, p. 207–210.

<sup>64</sup> The U.S Census Bureau, *Census Bureau Projects U.S. Population of 312.8 Million on New Year's Day*, (15012012). Online.

<sup>65</sup> The Work of a Nation - The Center of Intelligence. *The world Fact Book – Total Fertility Rate*, (30012012). Online.

<sup>66</sup> The Work of a Nation - The Center of Intelligence, *The world Fact Book – Life time expectancy at birth*, (30012012). Online.

<sup>67</sup> BLS, *THE EMPLOYMENT SITUATION — FEBRUARY 2012*, (29032012). Online.

as in 2011, pre-recession levels will not be reached until February 2015. However, the recovery plan that the Obama administration has enforced has now produced 23 straight months of job growth in the private sector, with a total of 3.2 million jobs since the labor market bottomed out in February 2010. A broad-based recovery is being made with new jobs across a wide range of industries and sectors. Manufacturing, construction, business services, education and health services are some of the industries that are continuing to add new jobs. The American labor market is, however, still struggling in some areas, showing large declines of employment in the public sector that have been dragging total employment growth down. Further, there is an especially high unemployment rate for younger individuals and an almost record high long-term unemployment, the two largest concerns in the American labor market.<sup>68</sup> In the US, 15.6 percent of the total amount of unemployed individuals was classified as short-term unemployed, which means less than 5 weeks. The statistics further show that 41.7 percent of the unemployed individuals were long-term unemployed, which means unemployed 27 weeks or longer. Furthermore, younger workers had undoubtedly the highest unemployment rate, with an unemployment rate of 23.9 percent for ages 16–19. The unemployment rate decreases to 15.3 percent when looking at the age group 20–24, and it continues to decrease while looking at older age intervals. For the individuals between the ages 25–34 the unemployment rate was 9.4 percent, for the ages 35–44 the rate was 7.4 percent, which slightly decreases to 7.0 percent for the 45–54 and lastly to 6.5 percent for those aged 55 and above.<sup>69</sup>

As an effect of the financial crisis and problems in the labor market, the people powered movement Occupy Wall Street has spread to 100 cities in the US and 1500 global cities, since its start in September 2011. The protests are against social and economic inequality, high unemployment, corruption and the undue influence of corporations on government. The protesters' slogan, “*We are the 99 percent*”, refers to the growing income inequality and wealth distribution in the US between the wealthiest 1 percent and the rest of the population. The protesters are fighting for more jobs, more equal distribution of income, bank reform, and a reduction of the influence from corporations on politics.<sup>70</sup>

However, in the US it is common to graduate High School when you are 17 or 18 years old, at which point you either enter the labor market full time, or continue studying in College. Education is very unstandardized, highly decentralized, and it includes no vocational training. Tertiary education in the US costs a lot of money, which makes grants and scholarships almost a must to be able to afford it with your own savings and loans. College students often graduate after four or five years and then enter the labor market fulltime (around 22–24).<sup>71</sup> The US is seen as a very individualistic country where managers tend to rely more on online and printed newspapers, because some fear that employee referrals and personal contacts will result in the recruitment of individuals with similar backgrounds and result in group biases.<sup>72</sup> Further the social security provides full benefits for retirees from the age of 67 and onwards if born in 1960 and later. An earlier year of birth than 1960 reduce the retirement age 2 months for every year going down to 1937, where the full retirement age is 65, which applies to all other individuals born

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<sup>68</sup> Madland, (17022012). Online.

<sup>69</sup> BLS, *THE EMPLOYMENT SITUATION — FEBRUARY 2012*, (29032012). Online.

<sup>70</sup> OccupyWallStreet; The revolution continues worldwide!, *About*, (17022012). Online.

<sup>71</sup> Blossfeld et al, 2008, p. 208–210.

<sup>72</sup> Cullen and Parboteeah, *Multinational Management: A Strategic Approach*, 2011, chapter 2.

earlier. This is a direct effect of the increased lifetime expectancy from birth. The average age of retirement is estimated to be 62 years old in the US for female individuals while it is estimated to be 64 for men.<sup>73</sup> By 2036, the US Social Security Administration projects that there will be almost twice as many older Americans as today, from 41.9 million to 78.1 million. Currently there are 2.9 workers for each Social Security beneficiary, which will be 2.1 workers by 2036.<sup>74</sup>

Further, the US population is projected to increase to 392 million by 2050. Despite this large increase in the number of persons, the actual rate of population growth is decreasing.<sup>75</sup> The US labor force is projected to increase by 10.5 million individuals in the next decade, which is lower than the previous 10-year period (2000–2010) when the labor force grew by 11.3 million. The slower growth of the labor force is primarily the result of a slower rate of growth in the US population and a noticeable decrease in the labor force participation rate. The American labor force and the total population are also facing an increase of age because of the aging of the baby-boom generation, those persons born between 1946 and 1964. In the labor force, the younger workers' share will decline, while the older ones' participation rate will increase, especially those workers 55 years and older. In 2010, the labor force consisted of 20.9 million individuals of the age 16 to 24, which accounted for 13.6 percent of the total labor force. The BLS projects that this group will decrease to 18.3 million in 2020 and only represent 11.2 percent of the labor force. On the other hand, workers aged 55 and older are forecasted to increase from 30 million in 2010 to 41.4 million in 2020, which represents an increase from 19.5 percent to 25.2 percent of the total labor force.<sup>76</sup>

### **2.2.3 Today's actors influencing the American labor market**

Collective bargaining does not play a central role in the American labor market. About 16.3 million workers were covered by collective bargaining agreements, which represent 13 percent of the civil labor force. In 2011 the union membership density was 11.8 percent, corresponding with 14.8 million individuals of the labor force. Further many more public sector workers are members of a union, about 37 percent, while in the private sector only 6.9 percent of the workers are members of a union. Further, the membership amongst the older workers is almost triple that of younger workers.<sup>77</sup> Today most unions are aligned with one of the two larger umbrella organizations that exist in the American labor market, which represents the workers in the world of politics concerning legislation. The oldest and largest one is the American Federation of Labor and Congress of Industrial Organizations, which is a voluntary federation of 57 national and international labor unions. The union organization represents 12.2 million members, including 3.2 million members from the affiliated community Working America. They represent a range of occupations such as teachers, firefighters, farmers, engineers, pilots, doctors, painters and much more.<sup>78</sup> The second is the organization Change to Win, which has

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<sup>73</sup> US.News; Money, *Average Retirement Age Grows*, (02042012). Online.

<sup>74</sup> The US Social Security, *Social Security Basic Facts*, (20022012). Online.

<sup>75</sup> The U.S Census Bureau, *Population Profile of the United States*, (20022012). Online.

<sup>76</sup> BLS, Tossi, *Employment outlook: 2010–2020; Labor force projections to 2020: a more slowly growing workforce*, (20022012). Online.

<sup>77</sup> BLS, *Union Members 2011*, (16022012). Online.

<sup>78</sup> AFL-CIO; Americas Union Movement, *About Us*, (16022012). Online.

more than 5.5 million workers connected to them with a focus on the workers in the American industries.<sup>79</sup> Some of the largest individual unions are The National Education Association with about 3.3 million members,<sup>80</sup> the Service Employees International Union with about 2.1 million members,<sup>81</sup> and lastly the United Food and Commercial Workers International Union with 1.3 million members.<sup>82</sup>

Since the Unions do not have a strong position in the American labor market, it is up to the Government to regulate the American labor market. For example, FLSA covers minimum wage, overtime pay, youth employment, and recordkeeping for over 130 million workers in more than 7 million workplaces. The Secretary of Labor, Hilda L. Solis, is the head of the US Department of Labor (DOL),<sup>83</sup> which is responsible for the administration and enforcement of over 180 federal statutes. This covers a variety of workplace activities for 10 million employers and 125 million workers. Administering certain health, safety, training, compensation, and pension programs make up the majority of responsibilities, as do unemployment insurance and strengthening collective bargaining.<sup>84</sup> Their mission is “To foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.”<sup>85</sup> They are also in charge of international activities and collecting, analyzing and publishing labor statistics. The agency carries out its functions through a number of offices and other agencies, such as the Bureau of International Labor Affairs, Bureau of Labor Statistics, Employee Benefits Security Administration, Employee Standards Administration, Employment and Training Administration, Occupational Safety and Health administration to mention a few.<sup>86</sup>

Further, the Labor-Management Relations Act of 1947 established the administrative agency National Labor Relations Board, which is responsible for administering and interpreting the unfair labor practice and any alleged violation against the act. The agency consists of a board with 5 members and a General Counsel, which are all appointed by the President and confirmed by the Senate. Whether the board has an anti or pro view of unions depends on the president’s view on trade unions. The General Counsel oversees the investigations, prosecutions, and represents the board in court. The agency receives about 50.000 filed charges per year, with between 30.000 and 40.000 concerning unfair labor practice. The Federal Mediation and Conciliation Service is an independent agency also established by the the Labor-Management Relations Act of 1947. Among other things, they work for preserving and promoting peace between the workers and employers in the US, they offer conflict resolutions service, programs to prevent and minimize conflicts, and to improve the overall job security.<sup>87</sup>

Another agency is The US Equal Employment Opportunity Commission (EEOC), which is responsible for enforcing federal laws concerning discrimination such as The

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<sup>79</sup> Change to Win, *About Us*, (16022012). Online.

<sup>80</sup> Union Facts, *National Education Association (NEA)*, (16022012). Online.

<sup>81</sup> SEIU.ORG: Service Employees International Union, *About SEIU*, (16022012). Online.

<sup>82</sup> UFCW: a VOICE for working America, *About UFCW*, (16022012). Online.

<sup>83</sup> DOL; Office of the Secretary. *Meet Secretary of Labor Hilda L. Solis*, (16022012). Online.

<sup>84</sup> Matthew W. Finkin in Darby and Keller, 2009, p. 33a-15.

<sup>85</sup> DOL; Office of the Secretary. *Our Mission*, (16022012). Online.

<sup>86</sup> Matthew W. Finkin in Darby and Keller, 2009, p. 33a-15.

<sup>87</sup> Matthew W. Finkin in Darby and Keller, 2009, p. 33a-29–33.

Age Discrimination in Employment Act of 1967 (ADEA), Title I of the Americans with Disabilities Act of 1990 (ADA), and the Equal Pay Act of 1963 to mention a few. The EEOC's mission is to fairly and accurately investigate charges of discrimination against employers who are covered by the law. If discrimination has occurred, the EEOC will try to settle the charge before filing a lawsuit in order to protect the rights of individuals and the interests of the public. They also work to prevent discrimination before it appears through education and technical assistance programs, and they try to assure federal agencies' and departments' compliance with EEOC's regulations.<sup>88</sup> Furthermore, The Federal Labor Relations Authority is an independent administrative federal agency created by Title VII of the Civil Service Reform Act of 1978. The statute allows certain federal employees to organize, bargain collectively, and to participate through labor organizations in the labor market. The authority promotes stable, constructive labor relations that contribute to a more effective and efficient Government.<sup>89</sup>

The federal courts also play a major role in the American labor market, with the US Supreme Court along with the legislator as the dominating source of law concerning the relations in labor markets. We also have to bear in mind that aside from the part of the labor law that regulates the collective labor law and the anti-discrimination legislation the State's law is in focus. Each state has their own agencies, courts and laws related to worker rights and protections.<sup>90</sup>

## **3. Age as a ground of discrimination**

### **3.1 Definition of age**

A chronological perspective on age will be natural when the legal aspect is in focus, since a lot of regulations are based on age limits and different role expectations in our society are set by age. Chronological age is defined to be the amount of years from birth, and it could function as a measurement for individuals; however, it does not tell us a lot about an individual as a person. An important aspect of age is that the individual differences often grow as age increase, and this can be seen as biological, psychological and social. Ageing has its own dynamic process and is mainly beyond human control, however, it is also a subject to the constructions by which each society makes sense of age and must therefore be seen in its actual context. An individual is always seen as young or old, and younger or older in relation to someone else. Individuals can be divided into different groups that classify, categorize and divide individuals as a function of chronological age. This function can be seen as positive since it is working as an instrument for structuring our society; however, it can also be dangerous since the predictions and generalizations could be wrong and therefore restrain individuals. Generalized attributions could wrongfully be connected with an age group, and expected similarities and differences for different age groups can easily mislead us to not see whom the individual really is, which

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<sup>88</sup> EEOC, *About EEOC*, (16022012). Online.

<sup>89</sup> FLRA.GOV; Federal Labor Relations Authority. *Introduction to the FLRA*, (16012012). Online.

<sup>90</sup> Reinhold, *Industrial Relations i USA*, 1988, p. 79.

can then easily lead to discrimination.<sup>91</sup> Further, age acts as a criterion for admission, which for example can be a legal criterion stating at what age we are allowed to start work. There are also different rules in each specific context establishing so-called hidden criterions of a certain age: it could be long experience in the case of a professor, while for an IT technician a current education might act as a criterion. As an example, experience often favors older workers since time and experience are connected, while a current education often favors young workers, since they are more likely to have finished school recently. In 1973, James B. Parsons, an US District Judge, already expressed how to handle this age problem very well according to me:

“I believe strongly that functional capacity and not chronological age ought to be the most important factor as to whether or not the individual can do a job safely. This determination must be made repeatedly throughout the employee’s employment experience. The human variances involved are myriad;- there is no way to generalize its to the physical capability and physiological makeup of an individual. Nor is there a way to project how an individual will be affected by the aging process.”<sup>92</sup>

### **3.2 Common age-based beliefs about older and younger workers**

According to a study undertaken by Alecta (an occupational pensions specialist) with different managers, older workers are often believed to be dependable, stable, secure and calm. Nevertheless, some of the negative characteristics of older workers were lower mobility and level of energy, fear of change and viewed as more expensive to hire. In the same study the positive attitudes towards younger workers were established to be energetic, motivated, higher value of performance and a better ability to adapt and learn new skills. The negative attitudes towards younger workers were defined to be the lack of experience, irresponsible, impatient, and that they were more likely to start a family and therefore have a higher rate of absence. There are and have always been assumptions about younger and older workers, some more true than others; however, it is up to the companies and the managers to find a way to maximize the workers’ performance and to place competence above age.<sup>93</sup> The most common beliefs about younger and older workers can be summed up from the literature, and the public opinion to be more or less that younger individuals are seen as energetic, flexible, adaptable to new technology, and well-schooled, while not being as reliable, committed, experienced and hard working as older individuals.

### **3.3 Definition of age discrimination in the working life**

Several studies through the years have shown that age discrimination is a common problem in the working life. It has also been shown that age discrimination can result in negative feelings such as uselessness, powerlessness and lower self-esteem to mention a

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<sup>91</sup> Johansson, 1997, p. 27–28 and 31–32.

<sup>92</sup> Church, 1973, p.1.

<sup>93</sup> Vallerius and Uggelberg, 2007, p.104–105.



few. Today the working life also works as the main social arena for many individuals, which further states how important it is to combat and terminate the practice of discrimination in the working life. Protection against discrimination should, according to United Nation's articles and conventions, be seen as a human right since we are all born as free individuals with equal rights. This is expressed in the Swedish Constitution and more exactly in the Instrument of Government (RF), where it is stated that public power should be exercised with respect for all human beings. Further, society at large should work for equality and participation for all individuals and combat discrimination, where age is declared as one of these grounds.<sup>94</sup> According to the Government's Bill, the enumeration of various unlawful grounds of discrimination is not exhaustive, and it should only be seen as the groups of individuals currently at risk or actually suffering from discrimination in our society. They also state that the older individuals should be in focus since they are currently seen as the weaker part.<sup>95</sup> Civil discrimination regulation was established for the first time in the beginning of 1980; however, today the regulation has developed through our membership in EU. Through the directive 2000/78/EC, a general framework for combating discrimination together with equal treatment in employment was established, and age was defined as a ground of discrimination for the first time in Sweden (Chapter 1, Section 1 DL). The directive was supposed to be enforced and fully implemented as a law in each member country in 2003. Sweden, however, had the deadline thrust forward due to their failure to find a way to implement discrimination on the basis of age since our labor market was characterized by some strong age-related provisions, both in legislation and in collective agreements.<sup>96</sup> A direct definition of age is not given in the directive, however, in article 6.1a it is indirectly stated that both low and high age is protected. According to the Court of Justice of the European Union, discrimination is the application of different rules to comparable situations (direct discrimination) or the same rule to different situations (indirect discrimination).<sup>97</sup> This is stated in Section 2 DL where direct discrimination is established to be when someone is disadvantaged by being treated less favorably because of age than someone else is being treated, has been treated or would have been treated in a comparable situation. Indirect discrimination is stated to be when someone is disadvantaged by the application of a provision, a criterion or a procedure that appears neutral, although it may put individuals of a certain age at a disadvantage, unless the provision, criterion or procedure has a legitimate purpose and means which are appropriate and necessary to achieve this purpose. The third form of age discrimination in the Swedish regulation is harassment based on age that violates a person's dignity.<sup>98</sup>

So eventually the Government's Bill 2007/08/95 successfully amended EU's directive through DL. The Government's Bill supports the earlier described definition of age, where age is defined to be the current length of life. They believe that the natural interpretation of age, in this context, is a natural person's living age that is calculated from his or her birth. The act therefore protects everyone, since all persons' have an age. They further state that the need for protection might be different for different ages and will

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<sup>94</sup> Chapter 1, Section 2 RF.

<sup>95</sup> Government Bill 2001/02:72, p. 49–50.

<sup>96</sup> SULF, *Bara Sverige saknar lag mot åldersdiskriminering*, (07032012). Online.

<sup>97</sup> Government Bill 2007/08:95, p. 62, 96 and 130.

<sup>98</sup> Chapter 1 Section 3–4 DL.

have different meanings.<sup>99</sup>

In comparison to the regulation in the Swedish RF, the American regulation against discrimination has its foundation in the US Constitution, primarily from the Fifth Amendment in the Bill of Rights. According to this amendment, the federal government cannot deny an individual of life, liberty or property without complying with the law. This amendment also guarantees each person's right to equal protection under the law. Further, The Fourteenth Amendment declares that the state must respect all of the legal rights that are owed to a person according to the law, in other words, due process. The US Constitution also expresses a protection for current or former employees and job applicants against discrimination from state and local governments.<sup>100</sup> Furthermore, the US regulation against age discrimination is much older than the Swedish since ADEA was already introduced in 1967. The Act originates from the Secretary of Labor's report, the Older American Workers - Age Discrimination in Employment from 1965, which is a study about the problem of age discrimination in employment and contains recommended legislation.<sup>101</sup> The Congress establishes, in the Act, that older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs. Further, the Congress is of the opinion that when the incidence of unemployment occurs, especially long-term unemployment, the result of deterioration of skill, morale, and employer acceptability is more likely to negatively affect older than younger workers. Therefore, Congress only promotes employment of older persons and states that their ability should be in focus rather than their age. This aims to prohibit age discrimination in employment, and to help employers and workers find ways of meeting problems that may arise from the impact of age on employment.<sup>102</sup> The American Government has therefore chosen to only forbid age discrimination against individuals who are aged 40 or older in companies with 20 or more employees; however, some states' do have laws that protect workers under the age of 40. Age discrimination involves treating someone less favorably because of his age, yet the regulation does not make it illegal to favor an older worker over a younger one, even if both workers are age 40 or older.<sup>103</sup>

Because of various age-correlated disabilities the ADA should also be mentioned, which protects individuals against being treated unfavorably because of a disability. An individual should be seen to have a disability if he or she has a physical or mental condition that substantially limits a major life activity, such as walking, talking, seeing, hearing, or learning. A person may be disabled if he or she has a history of a disability, such as cancer that is in remission.<sup>104</sup> Disabilities are also regulated in the Swedish regulation where it is defined as a permanent physical, mental or intellectual limitation of an individual's functional capacity.<sup>105</sup>

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<sup>99</sup> Government Bill 2007/08:95, p. 97,129–130.

<sup>100</sup> Amendment 5 and 14 The US Constitution.

<sup>101</sup> Player, 1988, p. 506.

<sup>102</sup> SEC. 621. [Section 2] ADEA.

<sup>103</sup> SEC. 631. [Section 12] ADEA.

<sup>104</sup> EEOC, *Disability Discrimination*, (13032012). Online.

<sup>105</sup> Chapter 1, Section 5 DL.

## 4. Age's importance in the labor markets

### 4.1 Age importance on the transition into working life

As mentioned earlier, our transition to working life is often done gradually, with a job over the summer or working extra in addition to our studies. The first age limit we come in contact with is the age at which we are allowed to start work. The Swedish Work Environment Act, together with the Swedish Work Environment Authority's guidelines, has restricted individuals that have not yet turned 13 to only be able to work with very simple chores. When you are older than 13 you are allowed to have a simple and harmless job, such as a simple office or garden job. It is not until an individual reaches the age of 16 and they have completed the compulsory school attendance (finished 9<sup>th</sup> grade) that a minor is allowed to hold a normal, yet harmless, full time job. The quite large regulation on when, where, and how minors are allowed to work is supposed to ensure that attendance at school is the main priority, as well as to protect young workers from being used or injured on the job. When individuals reach the age of 18, and are not considered minors anymore, the same regulations apply as for the rest of the working adults.<sup>106</sup> Similar to the Swedish regulation, the FLSA contains restrictions that individuals are only allowed to be employed after they have turned 14 years old, and only in jobs that are not in mining, manufacturing or declared to be hazardous by the Secretary of Labor. However, school attendance should be the focus and therefore there are rules for when and how long younger individuals are allowed to work in addition to school. Furthermore, an employee must be at least 16 years old to work fulltime and at least 18, and thus no longer a minor, to work in jobs that have been declared hazardous. However, at any age youth may babysit, do minor chores, deliver newspapers or perform in radio, television, and movie for example. Several states have their own laws stating a minimum age of employment where the higher minimum age standard should be obeyed.<sup>107</sup> Both countries have similar regulations concerning when individuals are allowed to enter the working world. In Sweden it is very common to start work early in life; however, it is even more common in the US since they often have to earn money on their own to be able to afford the increasingly expensive tuitions for College. Further, I also believe that it is easier for younger individuals to start work in the US because of the expansive restaurant industry. The restaurant industry is a large supplier of jobs for younger workers, since the work hours are suitable for students and the qualifications needed are achievable. If we compare it to Sweden, we definitely do not have the same "eating out culture" and therefore neither the same frequency of restaurants. This might be one of the reasons why the US has a lower unemployment rate than Sweden among younger workers.

The transition from school to first employment is often seen as a hard and demanding process. It has been argued that Sweden's combination of institutional features makes the

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<sup>106</sup> Chapter 5, Section 1–5 Work Environment Act and AFS 1996:1.

<sup>107</sup> DOL; Office of the Secretary, *Youth & Labor* (07032012). Online.

school to work transition especially difficult, with high entry barriers to the labor market because of the combination of having a regulated, instead of a flexible, labor market together with a weak, instead of a strong, occupational orientation of the educational system. The minimum wages in each industry's collective agreements also act as a barrier for employers to hire.<sup>108</sup> Nevertheless, the governing party in Sweden is trying to lower these high barriers into the labor market for younger employees. They have reduced the employer fee for employees' under the age 26 to half of the regular fee, and if an individual has been unemployed for 6 months or longer there is no longer an employer fee at all for that individual. They have also chosen to lower the value-added tax in the restaurant industry to increase this business and create new situations of employments. And since it is an important industry for younger entrants, they are hoping to lower the unemployment rate among younger workers through this action. The US Government is also trying to lower the unemployment rate among younger workers. They have chosen to create different federal funded programs that are supposed to lower the barriers for younger entrants to the labor market. They have also created different programs that provide job training, educational opportunities and summer jobs.<sup>109</sup> In the US, the lack of employment protection results in high job instability and insecurity. However, the positive aspect is that students who finish/leave school have better opportunities in finding a comparably quick entry into the labor market. Employers are not afraid to hire workers on a trial basis to screen their work potential, since termination is not very costly for them, if a new employee turns out to not be a good match for the position. An individual's early years within the labor market are critical for further life opportunities. Research has shown that initial job characteristics are important for one's further career in the labor market. Long-term negative effects for an individual's initial labor market situation, for example early unemployment, can lead to the concept of scarring. Scarring's effects imply increased risks of future unemployment, low relative wage growth, repeated temporary employment contracts, and lower chances of upward labor market mobility. Another term is career mobility, which refers to the fact that individuals start at jobs below their level of qualification at the beginning of their labor market careers in order to get experience and training from the labor market which they can use and gain from later. A closely related term is job shopping, which means that young individuals change jobs and employers often in order to learn about different jobs, receive feedback on their abilities, develop preferences, and to gain relevant knowledge and experience for a future career. Employment careers in the US are often characterized by high mobility, which is reflected by frequent job and occupational changes and recurring unemployment spells. This is especially noticeable amongst younger workers, due to the recurring mismatch between individuals and their first work. In other words, this is due to incapacity of the educational system to match the labor market's needs and demands.<sup>110</sup>

In both of the labor markets discussed there is a large discussion about whether the increased use of temporary employment contracts acts as a permanent bridge into the labor market or only as a restriction. Employers use part-time workers as a flexibilization strategy and to save costs. Its frequency has definitely increased because of the bad economy in recent years, and it is often younger individuals that hold this form of

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<sup>108</sup> Blossfeld et al, 2008, p. 236–237.

<sup>109</sup> DOL; Office of the Secretary, *Youth Services Competitive Grants* (12032012). Online.

<sup>110</sup> Blossfeld et al, 2008, p. 210–211 and 234–237.

employment according to several studies.<sup>111</sup> According to the Organization for Economic Co-operation and Development, Sweden's overall strictness of employment protection is ranked to be 2.2 out of 6, which places Sweden in the middle among the 34 compared countries, while the US is ranked last of the countries with a rate of 0.7. Further Sweden is ranked in the top when considering regular employment protection with the rate 2.9 while the US has a 0.2 rate. However, Sweden's rate of strictness decreases drastically when considering temporary employment; Sweden can then be found among the last countries with a rate of 0.9 and the US continues to be ranked very low, with a rate of 0.3.<sup>112</sup>

Sadly, official statistics are only available from the Swedish labor market. According to SCB statistics, younger individuals are employed a lot more with temporary employment contracts than other age groups. In the age group 15–24, 52.7 percent are employed temporarily and in the next age interval 25–34, 16.8 percent are employed temporarily. This continues to decrease until the age group 65–74, where it increases to 23.1 percent of the total workers in that age interval.<sup>113</sup> The reason for the last age interval's increase of the amount of temporary employments is most likely because of Section 5 in LAS, which states that once an employee has turned 67 years old, a temporary employment contract can be established. The entrance back to the labor market after a time of unemployment at older age is often hard. Older workers are seen to be less attractive to employers since it often could be more expensive for them to hire an older worker near retirement age, which also could be one of the reasons for the increase. In a lot of the collective agreements, there are regulations stating that older workers over 65 should get 6 extra months notice of termination of employment and there are some regulations that give the last employer disproportionate responsibility of the employee's pension.<sup>114</sup> However, we do have to keep in mind that the younger workers often combine their employment with school, which can be one of the reasons for this large difference. Another reason is most likely to be that the employer wants to try the new employee before they fully hire them, since employment protection is so strong in Sweden and the cost for terminating an employee is expensive. Because of the central wage setting system in Sweden and the relatively strong employment protection, temporary employment contracts definitely reduce the employer's financial risk. In the Swedish regulation there are protections against both direct and indirect discrimination of employees working part time and employees with fixed-term employment, regarding pay, conditions and other terms.<sup>115</sup> In the federal American regulation, temporary and part-time employment is not addressed; instead, this relationship is generally a matter of agreement between the employer and the employee. Whether an employee is considered full-time or part-time does not change the application of the federal laws.<sup>116</sup> However, according to the judging power, an employment contract can be for any specified period agreed by the parties. When we are talking about temporary or seasonal employment it is supposed to only last for a couple

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<sup>111</sup> Blossfeld et al, 2008, p. 234–237.

<sup>112</sup> OECD, *OECD Employment Outlook 2011; Compare your Country* (29032012). Online.

<sup>113</sup> SCB, *Arbetskraftsundersökningarna (AKU); Grundtabeller AKU, 15-71 år, månad*, (29032012). Online.

<sup>114</sup> Vallerius and Uggelberg, 2007, p.107–110.

<sup>115</sup> Section 1–4 Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act.

<sup>116</sup> DOL; Office of the Secretary, *Part-Time Employment*, (07032012). Online.

of months.<sup>117</sup> In comparison to Sweden where the state is providing social benefits such as health insurance and partial pension for everyone, no matter employment form, the consequence of not being fully employed in the US is much more unsure. A temporary job does not entitle an employee to receive health insurance, unemployment or pension benefits, which lowers the employer's financial risk a great deal.<sup>118</sup>

Furthermore, both younger and older individuals who are applying for a job are protected in the Swedish DL against direct and indirect discrimination. When a decision on employment is made, differential treatment based on age is allowed if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose. If a job applicant has not been employed or selected for an employment interview, the applicant can request written information from the employer about the qualifications that the person who was selected for the employment interview or who obtained the job had.<sup>119</sup> In the American labor market, the US regulation states that it is unlawful for an employer to fail or refuse to hire an individual over 40 years old because of the individual's age. Likewise, as the Swedish regulation, it should not be considered unlawful for the employer if age is a bona fide occupational qualification (BFOQ) reasonably necessary to the normal operation of the particular business.<sup>120</sup> The relevant facts surrounding each particular situation will be in focus to establish that the BFOQ or the differential treatment is allowed. Both regulations make it clear that each concept will have a limited range and application in the respective labor markets, and employers cannot rely upon stereotyped assumptions, but must have a factual base instead.<sup>121</sup> In the Swedish Government's Bill, some examples are given on when it might be acceptable to consider age when hiring job applicants. Some types of jobs are typically designed for younger individuals and less experienced workers to help them enter the labor market. Positions such as apprentices and trainees should therefore not be seen as being discriminating when they are reserved for younger workers. Further, a job applicant that has reached the age of retirement or only has a short time left can be turned down because of his age. This is if it would be unreasonably expensive for an employer to employ the person for such a short time and provide training for the job. Considering age in other situations should generally be said to not be legitimate. For example, a demand of a certain age could not be made just so that the job applicant would seamlessly fit into the group. They also mention that businesses that turn to the general public, like airlines for example, should not put up age as a criterion for training or hiring flight attendants,<sup>122</sup> which also have been established in the US case *Diaz v. Pan Am. World Airways*.<sup>123</sup>

## 4.2 Age importance while employed

Recently explained regulation concerning age discrimination gives the exact same coverage as described before to an employee in the situations of promotion, education,

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<sup>117</sup> Frances E. Scott in Darby and Keller, 2009, p. 33b-4–33b-7.

<sup>118</sup> Blossfeld et al, 2008, p. 233–235 and 237.

<sup>119</sup> Chapter 1, Section 1–4 DL.

<sup>120</sup> SEC. 623. [Section 4] ADEA, SEC. 631. [Section 12] ADEA.

<sup>121</sup> SEC. 623. [Section 4] ADEA, SEC. 631. [Section 12] ADEA and Chapter 1, Section 1–4 DL.

<sup>122</sup> Government Bill 2007/08: 95, p. 180.

<sup>123</sup> Craver et al. 2005, p. 286 and 287.

termination of employment and concerning wages.<sup>124</sup> The Swedish regulation also protecting an employee from harassment from fellow colleagues, managers and other actors connected to the employment. A wage difference between older and younger is often hard to compare since older workers have had the chance to gather more experience through their years of working. This has in particular been rewarded in Sweden, where the experience and loyalty that comes with the age often have been the focus for establishing salaries. In the US actual job performance has instead been the focus for establishing the salary. However, the lack of legal as well as union regulation in the US has not only lead to the earlier described job insecurity, but also to a large number of low wage jobs. The US has a very low minimum wage established through the FLSA, which currently is set at \$7.25 per hour. If an employee is under the age of 20, the minimum wage is set at a \$4.25 per hour until the employee turns 20 years old, or has been employed for 90 consecutive calendar days with the employer. The regulation further prohibits employers from taking any action to displace employees in order to hire employees at the youth minimum wage rate. Partial displacements such as reducing employees' hours, wages, or employment benefits are also covered by the act.<sup>125</sup> Sweden has no regulation that covers a minimum wage, but this is instead something that each industry regulates through collective bargaining. Further, there are often minimum wages for younger workers in these collective agreements. Since younger workers often have a weaker bargaining position when entering the labor market, this is supposed to ensure that younger workers wage is not set too low and avoid wage dumping. However, it is not certain that regulations like this are always compatible with the discrimination regulation. In the Government's Bill to the Swedish DL, it is stated that it cannot be considered reasonable that the minimum wages for new and inexperienced young employees, differ noticeably to those in similar age, if the only difference between the workers is years of life.<sup>126</sup> In today's Swedish labor market, there is a wide discussion about whether younger workers' entrance wage should be lowered to increase their attraction, within the labor market. I am of the opinion that this is not the way to proceed, even if it might lower the unemployment rate among younger workers, since I believe that this will only put younger workers in a weaker position in the labor market in the long run. Special youth wages will increase the chance of them being used in the labor market and it would certainly hurt their wage growth. Younger workers' wage is often already lower than older workers, which is often reasonable since their skills are untested and they likely have less experience. However, I am of the opinion that individuals with similar background, skills and experience should have the same wage, and that the performance should be the focus for the development of the wage, where age should not be a consideration.

The Fourth European Working Conditions Survey has shown that older workers generally receive the least training of all in organizations, and have more limited access to technologies than younger workers. Workers aged over 55 have a high level of job autonomy and comparatively low levels of work intensity, and there is also a trend towards a reduction in exposure to physical risks with increasing age. One conclusion that is drawn from the research is that the improvement of working conditions is crucial to

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<sup>124</sup> SEC. 623. [Section 4] ADEA, SEC. 631. [Section 12] ADEA and Chapter 1, Section 1–4 DL.

<sup>125</sup> DOL; Office of the Secretary, *Youth & Labor*, (07032012). Online.

<sup>126</sup> Government Bill 2007/08:95 p.180.

ensure better job sustainability over the lifecycle and prevent early exit from the labor market. In order to have a more employable and adaptable workforce, and thus to increase employment and participation rates, skills development and access to training need to be further encouraged especially for older workers.<sup>127</sup> I am of the opinion that the older workers probably receive less opportunities of development on the job because of the managers' view of this development as an investment. Therefore, it is likely that a lot of employers invest training and education in younger workers, which they can benefit for a longer period of time since they are not as close to retirement. I also think that employers believe it is easier and faster to introduce a younger employee to a new task or technology because they are generally seen to have an easier time of adapting and learning new skills.

In the Swedish regulation, according to the Work Environment Act; the employer has quite an extensive obligation to adopt the nature of the work or other appropriated measures to an individuals' age in the planning and arrangement of work. For example, work conditions shall be adapted to individual's differing physical and mental capabilities.<sup>128</sup> The responsible agency the Swedish Work Environment Authority, has also published a large amount of policies that are supposed to regulate that the work is adapted to individuals in certain areas, such as work in strong heat, loud noises, and the workplace formation in general.<sup>129</sup> Likewise in the US regulation, the Occupational Safety and Health Act of 1970 states that employers' are responsible for providing a safe and healthy workplace. The Occupational Safety and Health Administration's mission is to ensure safe and healthful workplaces by setting and enforcing standards, and by providing training, outreach, education and assistance.<sup>130</sup>

In a situation of notice of termination because of redundancy in the Swedish labor market, older workers are highly favored over younger since age is established as a criterion to differentiate the workers from each other, when the order of termination is determined. The main rule is that employees with longer employment times shall have priority over employees with shorter employment times. In the event of equal employment time, priority is given to the older employee.<sup>131</sup>

According to the Government and the discrimination committee to the DL, this regulation is not in conflict with the EU directive 2000/78/EC. Further, the Government states that the interest of promoting older workers opportunities to get and keep a job is important, and also an accepted principle of Swedish employment policy. Further states the Government that younger workers' interests should continue to be subordinated to the interest of favoring the elderly in these circumstances. The method of favoring workers with longer seniority and higher age, to achieve this purpose, should therefore be considered to be both appropriate and necessary. SN believes it is highly questionable whether the regulation favoring older workers can be said to have a legitimate purpose according to the previously mentioned directive. The unemployment among younger individuals has increased drastically and the need for favoring older workers is not as

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<sup>127</sup> EWCO; European Working Conditions Observatory, *Ageing and work*, (13032012). Online.

<sup>128</sup> Chapter 2, Section 1, Chapter 3, Section 2a, and Chapter 3, Section 3 Work Environment Act.

<sup>129</sup> See further the AFS 1997:2, AFS 1992:10 and AFS 2000:42.

<sup>130</sup> DOL; Office of the Secretary, *Safety and Health Standards: Occupational Safety and Health*. (13032012). Online.

<sup>131</sup> Section 22 LAS.



obvious as before. They are especially of the opinion that this rule makes it difficult for younger individuals to establish themselves in the labor market.<sup>132</sup> LAS have also been criticized to reduce the mobility among older workers and therefore lower their employability in case of unemployment at older age. I believe a lot of the older workers with long employment time at the same employer are afraid to change their situation even if they are unhappy, since they have a secure position in case of notice of termination because of redundancy at their current workplace.

Job security in the US is generally on a very low level, since employment protection is very limited as shown earlier, and a strong hire and fire mentality is central. Unlike many civil law countries where employment for an undefined period is not classified by the law, when a contract of definite time is not stated, the at-will principle is in force. Employment contracts are established individually, based on the principle of a voluntary contract, which is founded deeply in the common law doctrine of employment at-will. The case of *Western & Atlantic Railroad Co* established that if there is no contractual agreement between the parties then the employment could be terminated any time for any cause by each party. This doctrine has been slightly modified throughout the years with a growing number of exceptions from the principle. For example the earlier regulations such as the National Labor Relations Act of 1935 have made it unlawful to discharge an employee only because of his or her union activities and the various antidiscrimination regulations forbid lay-offs due to discrimination. This, together with the earlier described weak development of labor unions, has led to a very high numerical flexibility for employers and weak protection for employees.<sup>133</sup>

### **4.3 Age's importance on the transition out of working life**

The last age limits we come in contact with during the working life are the regulations concerning our pensions. The Swedish regulation states that an employee has the right to remain in the employment up to the month when the individual attains the age of 67 years old. However, when a person reaches the age of 67 the employment protection in LAS is reduced substantially.<sup>134</sup> According to the Government's Bill to the DL a defined age when the statutory employment protection changes and the employer is allowed to terminate an employee that has reached the age of 67 without the requirement of showing objective grounds for dismissal should be seen as justified. They further mean that the age of 67 years old is chosen well.<sup>135</sup> Further, the rights in Sections' 22, 23, 25 and 25a no longer apply, which for examples removes the right to priority for re-employment.<sup>136</sup> The motive behind this is that workers over the age of 67 no longer have the same need for protection. And in the Government's Bill it is further stated that if these restrictions after the age of 67 did not apply it would only lead to the case in which employers would not consider keeping or hiring these employees.<sup>137</sup> Pension benefits can be claimed at the earliest at the age of 61 years old in Sweden, and both the DL and the ADEA protect the employees from being denied their benefits. The Employee Retirement Income Security

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<sup>132</sup> Government Bill 2007/08:95, p. 179 and 183.

<sup>133</sup> Frances E. Scott in Darby and Keller, 2009, p. 33b-2–33b-7.

<sup>134</sup> Section 32a and Section 33 LAS.

<sup>135</sup> Government Bill 2007/08:95, p. 183.

<sup>136</sup> Section 32a and Section 33 LAS.

<sup>137</sup> Government Bill 1973:129, p. 134, 160 and 162.

Act of 1974 also gives some protection if you have a pension or health plan established in the US. In the US mandatory retirement is generally unlawful according to the ADEA, after an amendment that removed the rule of mandatory pensions at the age of 70. However, state and local governments are permitted to establish maximum hiring ages and mandatory retirement ages for public safety personnel based on their age.<sup>138</sup> According to the US Social Security Act of 1935, you can retire at any time between age 62 and full retirement age that is defined to be 67 year old. However, if you start benefits early, your benefits are reduced a fraction of a percent for each month before your full retirement age. Full retirement age had been 65 for a long time, however, beginning with individuals born in 1938 or later, that age gradually increases until it reaches 67 for those born after 1959.<sup>139</sup>

Within both the Swedish and the American labor markets, a tendency has developed that fewer workers are supposed to support a growing number of older individuals. The background of the problem is a combination of the improved health of today's elderly compared to previous generations, together with the fact that individuals are leaving the workforce earlier. This is a large problem since it could be devastating for the labor markets in loss of valuable skills and experience, and it can threaten the economy at large. At the same time, there are a lot of employers who believe that older workers are not keeping up with technological developments, and that older employees are not as well educated as the younger generation. In the future it will be important to have more individuals working until the full retirement age to avoid large financial problems. Earlier retirement had a negative meaning, it was something that happened to a worker who was worn-out and could not contribute anymore. Today this view on retirement has changed dramatically. It is now a period that everybody looks forward to, a period of freedom and relaxation. We have to change this view once again to be able to increase the participation rate among older workers. I believe the best way to do so is for employers to believe in the older workers, invest in training for them, and provide a varied and stimulating job everyday. I am of the opinion that it is important to give older workers a chance for personal development and the feeling that their work is important, since this is always the focus for our own motivation.

## 5. Conclusions

In the beginning of this thesis, I expressed that I was supposed to explore how the Swedish and American later industrial relations have developed, and what main influencing actors there are within these labor markets? The above discussed labor markets have quite different histories concerning the development of industrial relations, which has lead to two very dissimilar labor markets. The Swedish labor market has during the more recent industrial relations developed to a large extent with; first of all more continuance since they have not been to war; second during more stability since

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<sup>138</sup> SEC. 623. [Section 4] ADEA.

<sup>139</sup> The US Social Security Administration, *Retirement Age*, (12032012). Online.

their regulations' purpose have not been going back and forth; third with a larger unanimity since the trade unions and employer organizations influenced a lot and still are; and lastly during more peaceful circumstances than the American labor market. Collective bargaining has played a major role for the development of industrial relations in Sweden, and it is still playing a major role on our labor market. Unions along with employer organizations are two major actors in the Swedish labor market. DO also play an important role since it protects the labor market's participants against discrimination. The legislature, judiciary and executive powers have influence the industrial relations in America the most, where cases and acts have played a major role. In comparison to the Swedish labor market, where a more equal relationship between the employer and employee has developed, the employer is highly favored in the American market. The US culture has never had a strong desire for unionism, but rather, individualism is the focus and trade unions and the collective labor law, currently and throughout the history, have had a small influence on the American labor market. Instead, the single employee's rights are the focus and the US Department of Labor plays a major role in protecting these rights since the unions' influence is very low. Further, EEOC is an important actor since it combats discrimination within the labor market. Shortly summarized, it can be claimed that the governments have interrupted and regulated when the actors in the labor markets have not been able to cooperate and regulate the markets by themselves. The non-governmental actors in the Swedish labor market have been able to work together to a greater extent and therefore also influenced the industrial relations more compared to the US. This is also one of the reasons, why these actors continue to have influence in the Swedish labor market. The US actors have instead been fighting each other for the power to influence industrial relations, which have lead to the special spirit of joint responsibility for the labor market never being as strong as in Sweden.

It was also stated that I would look into what age and age discrimination is, and in what kind of situations an individual could be disadvantaged or favored because of their age in the labor markets? Age in this context should be viewed out of a chronological perspective, which defines age to the amount of years from birth and can function as a measurement for individuals. Further, both regulations define age discrimination to be when someone is treated less favorably because of their age, whether it is direct or indirect. However, according to US federal law, age discrimination only occurs if the affected individual is 40 years or older and the company has at least 20 employees. Among situations that should be considered to disadvantage or favor individuals because of their age in the labor markets the following situations should be highlighted; first when we enter and in case of training and promotion in both labor markets; second in the case of age discrimination on the American labor market; and lastly the mandatory retirement age and situations of notice of termination because of redundancy in the Swedish labor market.

Further it can be establish that the unemployment rate is higher in the US with an unemployment rate at 9.5 percent of the labor force, while the same statistics shows 7.8 percent in Sweden (Feb 2012). Long-term unemployment is more frequent than short-term unemployment in both labor markets; however, the rate of long-term unemployment is much higher in the US. Everyone can likely agree that both younger and older individuals often face a particularly difficult position in the labor markets. However, I was interested to see if a certain age category of younger and older workers has a weaker

or stronger position in today's labor market in comparison to each other? After this research, we can understand that both the Swedish and the American labor markets are struggling with a very high unemployment rate among younger individuals compared to the older workers. It is clear that the older individuals have a stronger position in both discussed labor markets. The circumstances and explanations for the two groups' situations in the labor markets are often very different. For younger individuals, the transition from education to employment should be viewed as the most problematic, and as a likely period of unemployment. These periods are on average short, but yet it can be argued that they are sufficiently frequent since the unemployment rates are higher for younger individuals in both labor markets than for the rest of the participants. Further we can see, especially in the Swedish labor market, that younger individuals have a harder time getting a foothold in the labor market because of strong entry barriers. The amount of temporary employment contracts represent as high as 52.7 percent of the employment for workers between the ages of 15–24. The recessions have resulted in reduced job opportunities and increased competition for the labor markets' jobs. These difficulties are more likely to affect younger workers, as they face increased competition from other age groups for the otherwise normal entry-level jobs they would fill. It could also be established that today's uncertain economy has made both labor markets more insecure, especially for younger workers. These are usually the first to be fired in economic downturns, which is particularly true for Sweden because of the strong employment protection given to older workers in Section 22 LAS. The middle-aged workforce is the least sensitive to economic downturns, because its members are already firmly established within the labor market, and in Sweden they have strong protection as mentioned. Finally, similar to the youth labor force, the 55-years-and-older workforce is more sensitive to recessions. The economic downturn has also increased the employers' need for flexibilization, which is an additional reason for the high amount of temporary employment contracts among younger workers. High starting salaries means that many employers are not willing to risk hiring someone young and inexperienced, in turn meaning that they would rather have a test trial first. This is only true for Sweden because of its strong normal employment protection and weak temporary employment protection. I believe the balance between normal employment protection and temporary employment protection must be evened out in LAS. The regulation in Sweden today disfavors younger workers, both in the normal employment protection and the weak temporary employment protection. This temporary employment protection additionally disfavors younger workers the most since they are the group with the highest rate of temporary employments. The positive aspect of the at-will doctrine in the US is that individuals who finish/leave school have better opportunities in finding a comparably quick entry into the labor market. Employers are not afraid to hire workers on a trial basis to screen their work potential, since termination due to a new employee being a bad match for a position is not very costly for the employer because of the weak employment protection. However, this regulation should not be viewed as a better solution since the lack of employment protection results in a high job instability and insecurity for all workers.

One of the most critical issues facing our labor markets today is the long-term unemployment among younger workers, since they are at risk of becoming permanently unemployed, which often leads to skills deteriorating and self esteem decreasing. They may never get the chance to contribute with their work and have the possibility of great

wage growth in life. Further, it threatens of course their ability to support themselves and their families, while also affecting their future pension. This can result in devastating consequences for the young workers since they never get the chance to feel involved in the labor market and develop their own skills and characteristics, and they also miss out on a huge social market. Further, we should not forget that the labor markets miss out on a lot of individuals with valuable skills that would have helped to develop the labor markets. US President Barack Obama stated the following concerning this problem:

"America's young people face record unemployment, and we need to do everything we can to make sure they've got the opportunity to earn the skills and a work ethic that come with a job. It's important for their future, and for America's. [...]"<sup>140</sup>

Everyone who can work has to get the chance to do so as well, and this is the only chance we have to be able to afford our social welfare in the future without major tax increases or cuts, especially now as the individuals at pension age increase drastically. While the society at large must try to limit individuals from being excluded from the labor market, there is also a huge responsibility at the individual level to be active and do what he or she is able to do to get in on the labor market.

A College or University degree combined with labor force experience gathered before exiting education has become the strongest predictor for early labor market success in my opinion. Employers are today, according to me, only searching for the perfect candidates for each job, which makes it very difficult for younger individuals to obtain a job since the need of qualifications is so high. The education system in both countries definitely must get better and more connected to working life so those leaving school can better fulfill the employers' demands on qualification. The prevailing educational system of a country has a great impact on the way the transition from school to work is performed. An interesting thought about the Swedish school system is what would happen if tuition fees for later education after the compulsory school attendance were introduced? One of the advantages of this would be that fees would improve the financial resources for the educational intuitions, and possibly improve the connection to the labor market and the employers' needs. Since school is free, there are a lot of individuals that are taking a long time to graduate, so tuition fees would probably speed up the process for a lot of students. However, an interesting consideration is if the unemployment rate among younger individuals in Sweden would increase if later education was not free?

The average unemployment rate among older individuals is lower than the population as a whole, although the periods of unemployment that occur often are longer. The above discussion can now be taken to another level by my opposed question in the beginning of this process, where I questioned what kind of regulation there is on these labor markets concerning individuals' age, either restricting or favoring a certain age? For example, both labor markets have compulsory school attendance, and regulation that states at what age we are allowed to start work, as well as certain regulations that are designed to protect the minors. However, the more interesting age restricting or favoring regulations in this context have shown that the older workers have a stronger position in both labor

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<sup>140</sup> DOL; Office of the Secretary, *Summer jobs+*, (28032012). Online.

markets. It can also be stated that the younger workers are more disadvantaged in the Swedish market than in the American, as we can see that younger workers are also struggling more than older in the American labor market. However, the regulation is not favoring older workers to the same extent as in Sweden since the at-will doctrine is not taking age into consideration as LAS does in Sweden. Older workers in Sweden are strongly favored when considering earlier described employment protection in Section 22 LAS, while younger are directly disadvantaged because of this. LAS's strategy of insider protection leads to the main problem of gaining foothold in the labor market for the labor entrants. Since younger individuals most often are the labor entrants, we can see that this is the most disadvantaged group by age. However, we do need to keep in mind that in the case where an older worker has lost their total employment protection and is in a situation where they have to enter the labor market again, they face the same barriers, if not even higher. This is because of the employers' view of hiring as an investment, and it becomes more expensive for the last employer when taking into account an individual's pension benefits. It is here where the advantage for older is applied in the US, since it is only this age group that is protected against age discrimination. As just mentioned, ADEA only protects older workers, which should be seen to strengthen their situation in comparison to younger workers. In both labor markets, younger workers could be considered to be favored in situations of training and promotion at the workplace. This is due to employer views of training and promotion as an investment. Therefore, the younger workers are chosen since the employer will be able to benefit from this investment for a longer period of time. However, the opportunity for lifetime learning should be available for everyone in the working life, especially now when we need older workers to work longer in order to be able to handle our social welfare system. The focus should be on lowering the barriers for younger individuals to enter the labor market, and to giving older workers a chance to continue to work, since this will be necessary because of the increase of older individuals. I am afraid of that there will always be some unemployed individuals and individuals that will not be part of the system. We can clearly see that the Swedish welfare system is much more comfortable in such cases.

My interest in this thesis was to research the importance of individuals' age through their working life within the Swedish and the American labor market. Additionally, I aimed to find out for whom today's labor markets are more suitable, a younger or an older individual? The main goal was to see if everybody, based on his or her age, has the same opportunity to interact in the labor market? This problem has been and will probably always be in focus in the labor markets. This thesis has shown that age affects and influences our journey in the labor market a great deal, and age is more important and influences us more in the Swedish labor market than in the American, because of the regulation. Today, the older workers are favored in both labor markets (especially on the Swedish) that allows us to draw the conclusions that both age groups does not have the same chance for success in the labor markets today. However, this age problem tends to be more tolerable than the discussions about gender and race problems. This is probably since we all have an age, and our age is increasing and therefore placing us in both discussed groups at some point in our life. In other words, it is a journey we all are forced to make. However, the legislation should reflect the free democratic society and the values that have formed our social order. A society that stands up for all human being's equal value is a society that gives everyone the opportunity to develop based on their own

individual characteristics, circumstances, abilities and based on their own choice. The unemployment numbers in both Sweden and the US indicate that younger individuals are confronted with more difficulties in the labor markets compared to the older workers. I believe that in today's labor markets we have to focus less on individuals' age, and instead concentrate on the individuals' actual competence to achieve and perform. In a flawless society, the regulation in the labor market would not have to protect any age groups since competence would be the only factor influencing the various decisions through an individual's working life. However, the question is if we will ever be able to create a labor market where age does not influence anyone's position to the expense of someone else's.

Lastly, while this area of research has been very interesting, I am of the opinion that this area will be even more interesting to me, and I would be able to contribute more if I continue this research in my master thesis. Once I have better knowledge and experience in this area, I will be able to advance and use the earlier mentioned method of "why" questions. Why have the two labor markets developed differently? I can imagine that the cultural aspect is one major reason, while another could be that there is no labor party in America while the labor party in Sweden has had a very strong influence. Why is the regulation constructed the way it is in the US, and what could Sweden learn from it? And vice versa? Why has the US regulation chosen not to protect younger workers on the basis of discrimination, and why have Sweden only chosen to protect older in LAS? It is quite clear that the Governments have seen a need to protect these categories, which leads to the most interesting question: what was the need and does this need for protection still exist in today's labor markets? Perhaps, one of the categories needs more protection, or possibly one category has too much protection. What then could be done to balance this relationship?

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