

# **Childism, Intersectionality and the Rights of the Child**

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The Myth of a Happy Childhood

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## **Chapter 4**

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### **Childism and sexism intersecting**

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## **4 Childism and sexism intersecting**

### **On emancipation versus protection**

This chapter focuses on the intersections between sexism, childism, and paternalism through different forms of violence. Explored here are the intersecting childist and sexist prejudice, attitudes, beliefs, and stereotypes that serve to maintain inequality connected to gender and age and that result in epistemic and social injustices. Sexist attitudes and discrimination target not only girls in limiting ways but also boys in stereotypical ways, boys who identify as girls, and children who express their gender identity in non-traditional ways. Sex and gender are socially assigned based on biological differences and generally without the expectation of ambiguity. An assigned gender may, however, later be contested by a self-identified gender by the child. I intend in this chapter to discern the ways that sexism and childism intersect regarding children and the rights of the child by basing this understanding on what studies into sexism have revealed about the oppressive functions of prejudiced discourses, stereotyping, the ambivalence in prejudiced attitudes, and the discriminatory effects of bias in language. This chapter points to the equivalents in child rights discourse that ought to be investigated between covert sexism and covert childism and between benevolent sexism and benevolent childism. It also indicates the entanglements in how gender stereotyping based on traditional gender roles interferes with fair and equal court hearings and the harmful age stereotyping of children in court. Lastly, it explores the discursive binary of emancipation versus protection in talks about the rights of the child through the concepts of indirect discrimination and substantive equality.

#### **4.1 Troubling the de-politicization of domestic violence and sexual abuse**

Gender-based violence as a major human rights issue pushes the limits of the human rights discourse to include violations in the domestic/private sphere. Critical discourse analysis on structural gender violence may employ the concept of hegemonic masculinity, which refers to the dominant practices of powerful men in maintaining male supremacy. Hegemonic masculinity describes the ‘masculine’ ways of dominating women, as well as the ways men demonstrate power and domination toward other men or toward individuals who do not identify according to such binaries. Hegemonic masculinity narrows

masculinity down to a norm of violent speech and behavior toward women and toward men who question the norm and therefore discredits and marginalizes other ways of 'being a man.' Hegemonic masculinity as a dominant norm in discourses on structural gender violence is not only upheld by individuals but by states, systems, cultures, and ideologies (Akyüz and Sayan-Cengiz 2016, 3). Challenging hegemonic masculinity is to question the premise that solely certain men are entitled to determine the limits of legitimate political concerns. The process of politicizing domestic violence through rights discourse goes hand in hand with exposing the 'masculinist norms that assign men the tasks of being powerful, potent and authoritative' (Akyüz and Sayan-Cengiz 2016, 5). Male supremacy is the sexist belief that men are superior to women and therefore should dominate over them, which serves patriarchy. To only focus on victims of domestic abuse in rights discourses overlooks broader sexist and childist beliefs held by adults and parents in particular. Violence against children in its many forms can be used to intimidate, silence, and maintain patriarchal power within families and in society at large to demonstrate male and adult supremacy.

Adults' violence against children in rights discourses is regarded as a human rights issue and can be discussed in terms of how it is used to demonstrate adult supremacy. The concept of hegemonic adultism (norms that connect adulthood with the task of being powerful and authoritative in oppressive ways over children) provides an additional framework in critical discourse analysis of systems, cultures, ideologies, and specific instances of violence that uphold adult supremacy. Adult supremacy is the childist belief that adults are superior to children and should therefore dominate over them, which serves adultism. Adultism refers to the power structure by which adults dominate children in oppressive ways and maintain their power position as adults. As sexism serves hegemonic masculinity, childism serves hegemonic adultism.

When 'being a child' is constructed in opposition to 'being an adult citizen,' this discursively situates children in the private realm, conveniently excluding them from the public and political realm, whereby domestic violence and abuse of children are referred to as private and non-political concerns. Confronting hegemonic adultism through critical discourse analysis of childism, adultism, and patriarchal violence further expands the bounds of political concerns. What are the adultist norms that assign adults the tasks of being powerful and authoritative that disregard child agency?

The etymology of the term 'patriarchy' stems from Greek. It consists of the two words 'father' and 'ruler' and implies having power over children in a family or demonstrating supremacy by being a parent and head of the household—traditionally a position bestowed upon men. As for violence against children, it can be described as an old patriarchal method to maintain adult supremacy in families and in society at large. Two power structures hence intersect under patriarchy: Male/female grounded in sexism and adult/child grounded in childism, for example, in stereotypical ideas connected to gender and age, that children while growing up are 'toughened through violence,' that

‘boys can take a beating’ and should not ‘show signs of suffering or soft emotions’ when enduring violence in the family.

*The anti-emancipatory discourse of victims?*

Feminist studies have problematized the inherent paradox on how the importance of acknowledging widespread violence against ‘women and children’ risks consolidating anti-emancipatory discourses of ‘women and children’ treated as an unseparated unit and as victims, additionally calling for protection instead of freedom and autonomy (Bacchi 1999).

Since children suffer from both gender-based violence and age-based violence, questions on the forestalling of their agency need to be asked, such as the following: What kind of purpose does the widespread violence against children fill and what kind of rights claims are being silenced through violence or threats of violence? We need further concepts to employ in critical discourse analysis of limiting actions against children and acts of control over children related to sexism and childism. Paternalism is one such concept on adult power which refers to actions limiting children’s liberty and autonomy, of expressing attitudes of superiority that disregard a child’s individual will. Characteristic of a paternalistic perspective in child rights discourse is that the adult’s sense of control comes at the expense of the child’s needs and her, his, or their own voice (see Peleg 2023 for a discussion on the conflict between paternalism and autonomy in child rights discourse). A paternalistic perspective on the rights of the child prioritizes the rights and duties of adults to limit the liberty and autonomy of children for the adult’s purpose of generating a sense of control. From a paternalistic perspective, the idea of a ‘duty to protect’ overlooks adults’ possible duty to facilitate for children who decide to become involved in rights issues affecting them, for example, talks about adults’ duty to protect children from the dangers of travelling alone which lead to the discursive effects of children being seen as unable to participate at any hearing on children’s rights at the United Nations. Well-intended ideas about protection in paternalistic discourses can be recast through anti-childist lenses on protection as adults’ duty to make sure that children are duly protected when claiming their rights and freedoms, for example, ensuring safety while traveling alone instead of limiting a child’s freedom of movement. The paternalistic attitude toward children as easily manipulated and therefore not allegeable to political rights could through an anti-childist lens be recast as an adult duty to ensure that children are protected from adult manipulation and repression when speaking up politically against their parents and peers. A critical question about adult power could be to turn the paternalistic argument on its own head and ask why children’s suffrage should be limited by adults’ perceived inclination to manipulate, threaten, and persuade them into submission. Childist prejudice about children’s perceived lack of rationality and reason should also be scrutinized to deter adults from discriminating children when unnecessary, as when children are not heard at all in political issues that affect them.

A paternalistic protection discourse limits the rights of the child. To secure the rights of the child protection could be emancipatory, as in setting security standards to protect children who advocate human rights in unsafe environments; adults taking responsibility to protect children who testify against their parents on abuses; making sure that children who protest against exploitation and forced labor are protected by unions; making sure that children who have the courage to leave abusive home situations are socially and economically protected by society; making sure that children who report misconduct by teachers and school leaders are protected from retribution and that their right to education allows them to change schools; making sure that children who flee for their lives from undemocratic regimes are protected from abuse and that their individual right to asylum and to reunite with family is respected; making sure that children who want to travel and speak in public about human rights and democracy can do so freely while being protected from harm; making sure that children who use their freedom of expression to influence international politics are protected to do so without the fear of facing repressive retributions; making sure that children who organize themselves through networks, manifestations, and demonstrations are protected while doing so through freedom of association provisions; making sure that children who question cultural and religious traditions they deem harmful are protected to continue pursuing their dreams; and making sure that children who leave religious communities can freely decide their beliefs and political convictions while protected from adult reprimands and victimization of children.

#### **4.2 Sexist and childist language**

The cognitive component of sexism is based on the false belief that social and psychological differences automatically and inevitably result from sex-related biological differences (Echeburúa et al. 2016, 837). The affective component of sexism ‘refers to sexist manners in which identity is built’ (2016, 837). The affective component, for example, serves to explain ‘the relation between male identity and the violence exercised by men, in addition to women’s tendency to feel guilty and/or depressed’ (2016, 837). Finally, the behavioral component relates to the tendencies to reinforce sexist discrimination and violence (2016, 837).

All children, regardless of gender, will suffer during childhood when different forms of sexist violence, ranging from epistemic to physical forms, exist in a family, institution, or society at large. Sexist and childist discourses intersect in several ways. Childist language expresses negative attitudes toward children and people perceived to be childish. To be ‘childish’ (like a child) is generally used in negative terms, as it describes behavior that is looked down upon. Children are told to ‘grow up’ in order to behave better. Childist language places ‘children’ in stereotypical roles assigned to them according to their subordinate role in relation to adults and serves to keep them there through a language that describes children as passive objects in relation to adult agency.

Childism is made up of several components. First, the cognitive component of childism confuses social and psychological differences between adults and children with age-related biological differences, based on the false belief that psychological differences automatically and inevitably result from age-based biological differences. Second, the affective component refers to childist and sexist behavior that harms children. The affective component, for example, serves to explain the relation between what it means to be a parent/guardian/adult responsible for a child and punitive measures against children, in addition to children's tendency to feel guilty and/or ashamed. 'Spare the rod and spoil the child' is an example of childist language with an affective component. Third, the behavioral component of childism is the custom to reinforce childism and sexism by discrimination and epistemic and physical violence.

The cognitive component of childism disregards the fact that social or psychological differences between adult and child can result from adultism and paternalism rather than stemming from mere age difference. Children's multiple ways of responding to childism and sexism by acting out, refusing to cooperate, or by questioning perceived unfair rules may prejudicially be referred to as age-related behavior. The sexist-infused childist idea, that when 'children act out,' their behavior can be explained by biological differences to adults due to age, disregards the social inequality that may be a contributing factor to children's frustrations. Children, and especially girls, are not encouraged to voice their frustration in public. Children's discontent with the discriminatory effects of childism and sexism in sexist and childist societies is belittled rather than taken seriously. 'Troubled children' are discursively positioned through sexism and childism as a 'problem' concerning private family matters. Children's questioning of childism and sexism is not acknowledged in dominant discourses about children as valid negotiations that disrupt adult and male hegemony. Adult resistance against child agency may be difficult to discursively discern as it can be expressed in benevolent terms.

### ***Hostile and benevolent sexism***

Male intimate partner aggressors are generally affected by numerous cognitive biases related to distorted beliefs regarding gender roles, the inferiority of women and ideas regarding the legitimization of violence as a manner of resolving conflicts.

(Echeburúa et al. 2016, 837)

To assess cognitive bias in prejudice studies on sexist violence, questions on different forms of distorted beliefs about women have been designed. The Inventory of Distorted Thoughts about Women and the Use of Violence is an assessment tool with 29 dichotomous items (13 on gender roles and women's inferiority and 16 on the legitimizing of violence to solve problems) used in clinical and research contexts (Echeburúa et al. 2016, 837). Such studies have

shown that sexist violence against women can be exercised to conform women to traditional gender roles and men who beat women may exhibit ambivalent sexism, which comprises both hostile and benevolent attitudes toward women. A sexist will simultaneously hold that women are inferior and should be kept in place through the use of violence and threats and the equally prejudiced belief that women and girls crave the protection and care of men. Patterns of violence and caring exist side by side and become part of ambivalent sexism by which girls and women are kept in subordinate position to boys and men. The Ambivalent Sexism Inventory assesses these two dimensions of sexism: Hostile sexism, which is prejudiced attitudes and discriminatory behavior that objectifies and degrades women, girls, and feminine men based on their alleged inferiority; and benevolent sexism, which is apparently non-prejudiced attitudes to women and girls as, for example, frail and requiring care and protection. Benevolent sexism can be positive assertions of women as ‘motherly and caring’ (who should give up their career if the man so pleases), that a woman is ‘understanding and empathetic’ (who can place the needs and interests of the man before her own), or that women are ‘diplomatic and peace-seeking’ (who do not question an angry man or dispute his opinions).

Prejudice studies on childism need to explore similarly how sexism and childism intersect in the ways in which parents and adult guardians who punish and beat their children may be affected by numerous cognitive biases based on distorted beliefs about adult/child roles and the inferiority of children and on ideas that legitimize using violence to resolve conflicts with children. An adult aggressor may shift between the beliefs that children are inferior and should be kept in place by violence and that they need paternalistic protection due to their fragility and vulnerability.

Benevolent childism is an apparently non-prejudiced attitude toward children as frail and requiring care and protection that motivates infringing on their liberty, respect, and emancipation. Benevolent childism could be difficult to discursively discern from expressions of adult caring. In what instances—in an expression of what may seemingly resemble caring for the child—are these prejudiced assertions that place children in stereotypical roles? Examples of benevolent childism could be expressed through adults’ seemingly positive expectations on children to be polite and silent when adults speak, to be thankful and show constant gratitude toward adults, or that children are to be pleasing and cute and that what they say is regarded adorable but not to be taken seriously when those attitudes have undertones of violence to ‘curb’ a child into subordination.

Hostile childism reflects hatred and contempt toward children and is expressed through degrading views of children who express their personality and do not conform to stereotypical expectations on children. As with the manifestation of misogyny (hatred and contempt for women and toward men and boys who express ‘femininity’), the manifestation of misopedia (hatred and contempt for children and toward adults who are ‘childlike’) becomes discursively discernable through several forms of praxis that encompass notions of objectification, belittling, hostility, and social exclusion.

If age-based violence is legitimized through distorted beliefs about children and connected to sexist and childist biases (that children are inferior, that boys only understand violence, and that a child needs to be disciplined for wrongdoings), then it would be important to gain better understanding of different components of childism and sexism in how they overlap.

### *Covert sexism and covert childism*

Covert sexism refers to subtle forms of sexism that might be hard to detect but which has discriminatory effects. Covert sexism can be found in male biased language used in legislation that refers to the citizen as ‘his’ rights or the child and ‘his’ rights. Covert sexism played a role in the adoption of the Universal Declaration of Human Rights (UDHR) in 1948 whereby the rights proclaimed were supposed to be inclusive but certain UN delegates were blind to the male-dominant wording in the first drafts of the document (Adami 2019, 2018). References were made to ‘the rights of man,’ ‘all men,’ and the use of ‘his’ without mentioning ‘hers’ or ‘theirs.’ The male bias of ‘his’ and ‘him’ has been kept in the language of the Declaration (Adami 2019).

Covert or subtle sexism could also refer to instances in which male bias in language leads to discrimination of women, in terms of rights and opportunities but where it may not be immediately obvious that language is male biased, for example, when policies and laws are based on a social condition reflecting men’s experience but overlooks women’s social condition in the family and in society. Furthermore, there are examples of male bias in language that do not automatically lead to discrimination against women, but where male is the unreflected norm in everyday conversations as well as in historical narratives, in school books, and in media and films. Male bias in language negates girls and adult bias in language negates children in general terms. Covert childism would be found in the adult bias in language that has discriminatory effects on children. Language on rights can be regarded as adult biased in how children have to be explicitly mentioned to be included as ‘every citizen’ or ‘every member of society,’ or even as ‘rights-holders.’ Again, the UDHR refers to ‘everyone’ and ‘all human beings’ but read in most national contexts, these rights are understood as applicable to adults only. Language, as it seems, is not only male biased but adult biased as well. There are other forms of bias in language: Racial/ethnic bias and heterosexual bias.

‘Man’ and ‘men’ have historically represented ‘everyone,’ and this use is not easily altered. The grammatical rules of Latin languages, for example, use a male pronoun for any group in which there is just one ‘masculine’ subject, even if the rest of its members are ‘female.’ In order to address when language may be unnecessarily gendered in Swedish, a gender-neutral pronoun, *hen*, was introduced into the language in addition to her/him (*hon/han*), which was initially met with skepticism. *Hen*, which would find its English equivalence in the singular ‘they,’ is now an official third pronoun in the Swedish language that can be applicable when the male or female identity may not be known or



necessary to mention or when a person does not wish to be gendered according to a traditional binary. Different nouns in language continue to be disputed as these position people discursively into binaries limited by stereotypes, gendered expectations, and negative characteristics that may curb a person's unique voice, identity, and experience.

### 4.3 Trustworthiness and stereotyping

In 'Telling stories, saving lives,' Leigh Goodmark (2005) explores the lack of legal weight given to narratives of women in the report *Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody* in the Massachusetts Family Courts. The report was released in 2002 by the Battered Mother's Testimony Project at the Wellesley Center for Women. The issue at hand for Goodmark (2005) concerns the degree of perceived trustworthiness of the women's testimonies. The discouraging response of the courts to the report, states Goodmark, 'illustrates that the unwillingness to see these narrative accounts as indicative of larger problems within the court system is tied to a tendency to discount women's voices (...)' (2005, 712). It was the first US family court report to showcase, through a human rights lens, the difficulties faced by mothers who have suffered domestic violence (2005, 713). A testimony, according to Goodmark, needs to be 'sufficiently persuasive' to justify challenging or changing existing norms.

The persuasiveness of a narrative is, in turn, affected by whether the narrative is perceived as true, as typical and whether the narrative can create understanding in a listener who has not shared the experience.

(Goodmark 2005, 733–34)

The question of whether a narrative is considered sufficiently persuasive, true, or 'typical' and whether it can create understanding or not, as I read Goodmark here, depend on the ability of the listener (who has not shared the same experience) to evaluate it without being afflicted by bias, prejudice, or stereotypes about the narrator. The persuasiveness of the narrative, according to Goodmark (2005), is tied to the question of whether it can challenge or change existing norms. When a child testifies in legal matters, theirs are counter-narratives to adult perspectives in court, to adult bias, and to childism. Even if a child's testimony were to be regarded as 'true,' its perceived persuasiveness simultaneously would demand of a court to be willing to resist societal norms that are deeply rooted in culture, tradition, and formal power structures.

There are lessons to be learned from introducing accounts of counter-narratives in court, since child perspectives have been marginalized. Children have, according to the Convention on the Rights of the Child (CRC), the right to make their voice heard in rights issues affecting them. Furthermore, there is epistemic value in children's narratives, as they provide courts with knowledge about how crimes affect children. If the narrator is a child and the listeners are

adults, the danger is that age-related prejudices about the truthfulness of ‘children’s narratives’ and of the ability of children to communicate in a ‘clear’ way will affect the perceived trustworthiness of the testimony given.

Another risk, as with other marginalized groups, is the following tendency. Once the voices of a few children are recognized and heard, a small number of narratives are taken to be representative of ‘all children,’ which would disregard in-group diversity and the multitude of experiences that ‘children’ have. When regarding human rights violations of children, there is no singular ‘children’s voice’ but a plurality of children’s voices, especially since children as a group consist of religious minority groups, ethnic minority groups, and LGBTQ.

Stories of violence against women are those, in the words of Goodmark (2005), ‘from which men disconnect and women dissociate. Both responses might be understood as forms of denial’ (2005, 739). These human tendencies and individuals’ understandable unwillingness to associate oneself with experiences of violence—or reluctance to identify as a batterer or as a battered woman as limiting discursive positions—turn issues of trustworthiness into complex realities.

When professionals regard children’s stories of abuse, violence, and assault in the home, parents may express unwillingness to affirm a child while child victims may dissociate from shown evidence of abuse. Both responses can be seen as self-protective mechanisms but through the lens of determining trustworthiness in court might be understood as forms of denial.

While women involved with the courts are devalued in any number of ways, one crucial manifestation of this bias is the tendency of legal system actors to doubt women’s credibility. Studies of jurors reveal the belief that women are ‘less rational, less trustworthy and more likely to exaggerate than men.’ These doubts about credibility stem from the prevailing consensus of how credible witnesses sounds: ‘like a man.’

(Goodmark 2005, 740)

This quote suggests that professionals make judgments from normative ideas on credibility and these ideas, in turn, can be tied to male, adult, and abled bias. Intersections between male-, adult-, and white bias reinforce dominant discourses of wrongful age stereotyping and wrongful gender stereotyping that treat children in courts, especially girls and children with other expressed gender and racial identities, as less credible witnesses.

While children confronted by legal systems may be devalued in any number of ways, one crucial manifestation of adult bias would be the testimonial injustice found in the tendency of legal system actors to doubt children’s credibility. The belief that ‘children’ are less rational, less trustworthy and more likely to exaggerate than adults is a childist belief. Doubts about credibility stem from the prevailing adult biased consensus that a credible witness sounds like an adult male.

The criteria of coherency and consistency when judging the trustworthiness of testimonies overlook the emotional, psychological, and physical dependence that children experience in relation to a parent or trusted adult. To be

told to trust adults and then experience the trusted adult lying or denying harm places the child in double confusion. If the child does not manage to question the concerned adult's version of circumstances, and if the narrative of the adult creates less emotional harm—by denying occurrence of abuse—then the child's testimony will be judged as less credible when changed or altered.

### *Addressing wrongful stereotyping as a human rights issue*

The Office of the High Commissioner for Human Rights (OHCHR) writes in their 2013 report on stereotyping that 'many of the human rights treaty bodies have recognized that the rights to non-discrimination and equality—and through them, other rights and freedoms—contain an implied obligation to address harmful stereotypes and wrongful stereotyping' ("*Gender Stereotyping as a Human Rights Violation*" 2013, 2). A harmful gender stereotype can be hostile 'or seemingly benign' and which limits women and men's 'ability to develop their personal abilities, pursue their professional careers and make choices about their lives and life plans' ("*Gender Stereotyping as a Human Rights Violation*" 2013, 18). Wrongful gender stereotyping is 'stereotyping that result in discrimination or violations of other rights and freedoms, such as the right to a fair trial or the freedom from gender-based violence against women' (Cusack 2013, 129). According to Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), harmful and wrongful gender stereotyping is a human rights issue since such forms of prejudice reduce life choices and reaffirm traditional ideas of gender.

In what ways, when possibly recognized by the UN Committee on the Rights of the Child (UN CRC), do the intersections of wrongful gender stereotyping and wrongful age stereotyping hinder the implementation of children's rights? To paraphrase the OHCHR on harmful gender stereotype when applied to age: A harmful age stereotype is a generalized view or preconception about attributes or characteristics that are or ought to be possessed by, or the role that are or should be performed by children, which inter alia, limits their ability to develop their personal abilities, pursue their life goals, and make choices about their lives and life plans ("*Gender Stereotyping as a Human Rights Violation*" 2013, 18). Wrongful age stereotyping would be defined as stereotyping that results in discrimination or violations of children's rights and freedoms, such as the right to fair trial or the freedom from age-based violence.

Sexism intersects with childism in several discursive ways that set limits to children's rights and freedoms. Sexist prejudice against women consists of conceptions of women that keep them in a dependent relationship with men, both economically and for protection and survival. This structural inequality is tied to the relational quality of gender stereotypes. As Young-Bruehl (2012) notes, 'a male sexist makes women coerced into submission convinced that she is all about him. And this form of prejudice is something many children experience: they discover that to their parents they are all about their parents' (2012, 31). Childism, in the form of wrongful age stereotyping of children, leads to the

expectation of children in abusive homes to ‘naturally’ sacrifice their dignity for survival. Children to a childist parent are an extension of the parent’s identity, serving the emotional and psychological needs of the childist parent while not being recognized as individuals with their own needs, interests, and dreams. Sexist and childist wrongful stereotyping which leads to discrimination against children and limits their rights and freedoms serves arguments against equality for children. Harmful stereotypes that limit children’s self-expression and life choices can be both hostile/negative (e.g., children are irrational) or seemingly benign (e.g., children are entertaining) (OHCHR 2013, 18).

#### **4.4 Unjustified discrimination**

The Joint Committee on Human Rights (JCHR) in the United Kingdom finds that the legislative gap of not addressing discrimination against children under age discrimination hinders the implementation of the CRC as ‘children who are subject to unjustified discrimination are left with little or no legal protection’ (Hepple 2010, 31). The protection against discrimination of children in the performance of public services covers children of disability, race, religion or belief, sex and related characteristics, and sexual orientation but not age discrimination (2010, 31). Age discrimination does not apply to persons under the age of 18 and is currently only applicable to elderly people. Age discrimination against children then would be defined as a type of discrimination which is based on the age of the person (below 18) and occurs when a person is treated less favorably because of age (0–18), including wrongful age stereotyping.

In anti-discrimination laws, children are generally not listed as a disadvantaged group, or included under the protected characteristics defined. Laws against discrimination may be adult biased when applicable to the workplace and government institutions only, where adults experience harassment and discrimination. Children’s position as a disadvantaged group is therefore negated and anti-discrimination laws tend to ignore the experiences of harassment and discrimination that children face at school, hospitals, social services, and other institutions children come in contact with. The public sector equality duty in the United Kingdom excludes children in relation to age. The prohibition of discrimination, harassment, and victimization in schools in the United Kingdom does not apply to age (Hepple 2010, 31). The Protection from Harassment Act in the United Kingdom from 1997 ‘can be used against harassers who target others on racial, religious, sexual, homophobic or other grounds’ (Hepple 2010, 77). The UK’s Equal Opportunity Act from 2010 provides a clear definition of harassment, stating that it can be split into three discernible types:

The first covers unwanted conduct which is related to a relevant protected characteristic and has the purpose or effect of (i) violating the complainant’s dignity, or (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant.

(2010, 78)

The other two types of harassment relate to similar behavior in the context of sexual harassment and can also be applied outside the field of employment. If the Protection from Harassment Act from 1997, together with the Equality Act, were used to protect children from discrimination and against adults who target children, it follows that children would have to be heard on what qualifies as the ‘unwanted conduct’ that violates their dignity or that creates an intimidating, hostile, degrading, or humiliating environment for the child. In order to protect children as a targeted group, prohibitions of discrimination, harassment, and victimization ought to be revised to include age. Victimization in the workplace refers to when a person who has reported a case of discrimination is treated unfavorably because of the complaint or for having supported another person to make a complaint. Victimization is prohibited under the UK Equal Opportunity Act 2010. An equivalent legal protection for children would be if a pupil reporting discrimination in school is reprimanded in any way. Prohibitions of age discrimination, age-based harassment, and victimization of children could strengthen children’s legal position. Institutions such as hospitals, schools, sport facilities, social services, and public transportation could be guided under stronger protective legislation against age discrimination, harassment, and victimization of children. Attempts to counter gender and age discrimination against children need to be mindful of the different conditions for children relative to adults. Traditional ideas about formal equality and sameness are not sufficient in this regard, as will be developed in the following section.

#### ***Formal age equality or child-equity?***

The early attempts to counter discrimination centered around the liberal concept of formal equality, that likes should be treated alike. The problem with this is that it begs the central question: when are two people sufficiently similar to qualify for equal treatment?

(Hepple 2010, 18)

The distinction between ‘formal’ and ‘substantial equality’ speaks of an overall dilemma with the rights of the child, namely, how discrimination defined in relation to ‘formal equality’ disfavors children. ‘Formal equality’ is built on the idea that society, as it is organized and structured at present, is a ‘one size fits all.’ As such, formal equality is achieved when marginalized groups gain access to the same rights, benefits, and opportunities within society as are afforded to abled adult cisgendered heterosexual majority men. The greatest criticism against ‘formal equality’ is that the strive toward ‘sameness’ does not facilitate respect for diversity but demands minorities to rather assimilate or conform (Hepple 2010, 18–19). What if society needs to be re-organized in new more substantive and transformative ways?

Women in an androcentric society may have to compromise their biological opportunity of motherhood to access the formal and equal right to work. It may be difficult to fit women's diverse conditions into careers carved out by men in a society in which child care has conveniently been passed on to women. 'Substantive equality' on the other hand is the acknowledgement of how different social conditions constitute a basis for how equality can be achieved. 'Substantive equality' is achieved not on the premise that women are reduced to being treated 'the same as men,' but instead requires women to be treated as equals. 'Substantive equality takes into account existing power structures and the role of gender within them' (Freedman 2013, 225) so that tax-financed child care, preschool, and daycare would be prerequisites when considering gender and class discrimination.

The principle of substantive age equality or 'full equality in practice' of children would be articulated as a response arising from the criticism that 'formal equality' for children does not take their differing conditions into account (Hepple 2010, 19). Substantive age equality would address existing power structures and the role of age within them. According to this idea of equality, children have a right to resources, support, and progressive legislation in order to be treated as equals (which is not the same as to be treated as an adult or to be treated the same as adults but to be treated with respect and dignity) in all spheres of society. The enforcement of substantive age equality would require adequate and child-centered measures to be taken in the public space. Ramps to access buildings and roads, child-equitable public spaces (making sure spaces are available to children according to their condition and needs), tax-funded qualified teachers and daycare pedagogues, and safety and free access for children in public transportation—these are just a few examples of measures to achieve substantive age equality. Formal age equality—of equal ease of access to resources and desired opportunities for individuals under 18 regardless of age—would by contrast ask of children to fit into an adult norm. Meanwhile, substantive age equality steers efforts toward the demand that children be treated as equals, by not overlooking but acknowledging their diverse conditions, needs, and interests. Discrimination against children—acknowledging in-group diversity—is attended to using intersectional lenses. Non-discrimination of children according to the ideal of substantive age equality does not require children to conform into an already fixed adult or abled norm. Substantive age equality refers to the extent to which children can participate in society on their own terms and enjoy and exercise their rights.

### ***Indirect discrimination***

To realize substantive equality, marginalized groups need the means and representation to voice instances of discrimination. For children, especially intersectionally disadvantaged children, their voices may suffer from intersectional invisibility, and children generally lack resources, leverage, and means to voice their concerns. Taking action against discrimination then becomes a question

of access to economic means to do so, as well as a question of having the right to advocacy and representation. For example, the Children Act 1989 in the United Kingdom equally permits children to apply for orders, which could lead to a child applying for a residence order and in turn allowing the child influence over their living situation (Herring 2003, 169). However, the courts have been very reluctant to permit children to bring such proceedings:

The lack of ready access to courts for children to enforce their [formal] rights and the absence of a Children's Rights Commissioner in England are major stumbling blocks for those who wish to use children's rights to improve the legal and practical position of children.

(Herring 2003, 169)

These mentioned 'stumbling blocks' are what create inequality for children, and even though the law may seem inclusive of children, they suffer from indirect age discrimination as individual children are not supported to bring, for example, a residence order to court.

The UK's Equal Opportunity Act 2010 defines indirect discrimination as instances in which a person is treated in the same way as everybody else, but still suffers unequal opportunities due to gender, race, religion, age, ability, and sexuality (these are, in legal terms, the so-called protected characteristics). So, a rule, policy, or practice that applies equally to everybody counts as indirect discrimination against persons of disadvantaged groups if a person from that group suffers ramifications from the rule, policy, or practice. Age as a 'protected characteristics' does not apply to children here but to elderly people, although could be updated to include ages 0–18 years as well. What basic human rights for children are inaccessible to them due to indirect age discrimination? Which human rights rules, policies, and practices do children, and specifically children with intersectional identities, suffer ramifications from?

Proactive measures can additionally be taken to advance equality and reduce indirect discrimination, such as 'positive action' (allowing special measures to be taken in favor of a disadvantaged group) and 'affirmative action' (actions aimed at greater inclusion and participation of groups of people) (Hepple 2010, 20). To realize the rights of the child, thus to advance the equality of children and reduce the effects of indirect age discrimination, issues relating to accessible healthcare, education, food, housing, and adequate economic means would have to be pursued through positive and affirmative action and be legally backed by international agreements on human rights conventions.

### *Transformative equality*

To alter existent social frameworks, new formulations thereof need to be sensitive to children's specific conditions. Children, especially girls and children with disabilities, are restricted in their freedom of movement due to dominant

norms and values that permeate social and legal frameworks. According to a report by Human Rights Watch from 2016,

Girls may face specific restrictions on their freedom of movement, enforced by criminal law. In Saudi Arabia, for example, girls as well as adult women may be jailed, imprisoned and flogged for the ill-defined offenses of ‘seclusion’ and ‘mingling,’ which one official described to Human Rights Watch as a girl or woman ‘being in an apartment by herself, or with a group of others, or sitting in a place where it is not natural for her to be.’

(Human Rights Watch 2016, 43)

People are limited by their different conditions as well as by the underlying social frameworks that individuals are born into, which deny them ‘genuine choice and generates inequitable outcomes’ (Hepple 2010, 22). In terms of gender discrimination, it is ‘not sufficient simply to extend human rights to women,’ reasons Sandra Freedman (2013), but rather, human rights ‘need to be recast in the light of the demands of substantive gender equality’ (2013, 218). Transformative equality, as shown by Bob Hepple (2010), aims at dismantling systemic inequalities and eradicating poverty and disadvantages (2010, 22) and for children, their distinctive experiences of intersectional discrimination must be recognized.

A re-conceptualization of human rights for children through a feminist lens, as discerned in relation to the work of Freedman (2013) and Hepple (2010), would make them applicable in the private as well as the public realm. Human rights abuses would include domestic violence against children and torture to include rape not only carried out by state officials but by adults against children. Adults, and not only government officials, would accordingly be duty bearers when it comes to children’s rights.

The right to a nationality and identity, for example, has to include the child’s right to inherit their mother’s name and ethnicity and to set this inheritance on an equal footing with that emanating from the father. This will ensure that a child cannot be born as ‘illegitimate.’

It is not enough to address separate human rights violations against children with intersectional identities such as the denial of quality education for all. If structural inequality denies certain children access to higher education or to employment in different sectors, then enrollment in education and levels of drop-out from primary education will continue effecting marginalized children more. If equal access to food, housing, or transportation is denied to some children and if freedom of thought, conscience, and speech are afforded only to some adults in society, then the quality of education will suffer from these other types of human rights violations. What is needed is transformative equality for children and a holistic view of human rights that addresses the underlying patriarchal and neo-colonial systems of interrelated violations.



As observed on the interrelatedness of socioeconomic and civic-political rights for women by Freedman (2013),

If women cannot be employed or self-employed, own land, open a bank account, get a bank loan, if they are denied freedom to marry or not to marry, if they are deprived of political representation, education alone will have little effect on their plight.

(Freedman 2013, 223)

This observation points to some of the core challenges that similarly affect girls' right to education. When sex discrimination and racial discrimination in other fields are not adequately addressed, then the formal access to education may be hampered by additional sexist and racist socioeconomic and civic-political constraints in society. Human rights are based not only on individual choice and freedom, but on social frameworks that enable or hinder genuine choice.

***Summary: Childism and sexism intersecting***

By exploring intersections between sexism and childism, mechanisms that hinder the realization of the rights of the child become further unveiled. Feminist theories problematizing the many expressions of sexism are already applied in the field of human rights studies to understand some of the hindrances to an inclusive human rights framework (see further Ackerly 2001, 2008; Adami 2017; Bailliet 2013), and this chapter has discussed how sexist prejudice and discrimination reinforce childism in several distinct ways which lead to human rights violations of children:

Age-based violence against children is a way to sustain patriarchal power structures in families and society, as patriarchy can be read not only as men's power over women but parental power over children. When adult violence against children becomes recognized as a structural, not individual or private concern, the prevalence of such violence can be met as a public concern as well as a human rights issue.

Hegemonic adultism consists of adultist norms that assign adults the task of being powerful and authoritative in oppressive ways, a concept to be employed in critical discourse analysis concerned with how age and power operates through systems, ideologies, cultures, and epistemic violence. Covert childism is identified in the presence of adult bias in language that has discriminatory effects on children. Prejudice against children is discerned both in the form of hostile childism, namely the beliefs that children are inferior and should be kept in a subordinate place through violence and intimidation, and in the form of benevolent childism, referring to the belief that children are vulnerable and fragile and seek adult protection but used to infringe children's liberty and rights.

Children's testimonies on violations against their rights and freedoms could be devalued due to gender and age stereotyping of children and by the effects

of adult and male bias in courts when children are seen as less rational, less trustworthy, and more likely to exaggerate than an adult man. The belief that children are inferior to adults can be explained partly as based on harmful age stereotyping of children. A child's right to a fair trial or the freedom from age-based violence against children may be hindered by wrongful age stereotyping resulting in discrimination or violation of the child's rights and freedoms. Conversations about equality for children may be dismissed due to these ideas being reduced to notions of 'formal age equality' by which children face the hazard of being treated as adults or according to adult norms and standards. Age equality for children can gain renewed interest among researchers, policy-makers, rights activists, and legislators when aligned with substantive age equality and transformative age equality, acknowledging the particulars of children's conditions and the flaws of society's structural and organizational foundation in hegemonic adulthood and hegemonic masculinity. Finally, children's right to advocacy is related to ensuring protection of children against indirect age discrimination.

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