

# Misopedia, adultism and adultcentrism: Conceptualizing discrimination against children and adolescents

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## Abstract

One of the distinctive features of human rights is their universality. Despite this, discrimination against children and adolescents has historically been normalized and rendered invisible. This paper argues that the legal and social treatment of children and adolescents is based on cognitive biases, which makes it necessary to identify these stereotypes in order to conceptualize and name discrimination, with the goal of making it visible. The terms *misopedia*, *adultism* and *adultcentrism* are proposed for this purpose.

## Keywords

Misopedia; adultismo y adultocentrismo; derechos de niñas, niños y adolescentes; discriminación.

## Thesaurus

UNESCO Social Sciences Thesaurus.

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# Misopedia, adultismo y adultocentrismo: conceptualizando la discriminación hacia niñas, niños y adolescentes

## Resumen

Unos de los rasgos distintivos de los derechos humanos es su universalidad. Pese a lo anterior, la discriminación hacia niñas, niños y adolescentes ha sido históricamente invisibilizada y normalizada. En el trabajo argumento que el tratamiento jurídico y social hacia niñas, niños y adolescentes se basa en estereotipos —sesgos cognitivos—, lo que hace necesario identificar dichos estereotipos para conceptualizar y nombrar la discriminación, con el fin de hacerla visible. Para este fin se proponen los términos misopedia, adultismo y adultocentrismo.

## Palabras clave

Misopedia; adultismo y adultocentrismo; derechos de niñas, niños y adolescentes; discriminación.

# Misopedia, adultismo, adultocentrismo: concetualização da discriminação contra crianças e adolescentes


## Resumo (analítico)

Uma das características distintivas dos direitos humanos é a sua universalidade. Apesar disso, a discriminação contra crianças e adolescentes tem sido historicamente invisibilizada e normalizada. Neste artigo, defendo que o tratamento jurídico e social de crianças e adolescentes se baseia em estereótipos —vieses cognitivos— o que torna necessário identificar esses estereótipos para concetualizar e nomear a discriminação, de modo a torná-la visível. Para efeito, são propostos os termos misopedia, adultismo e adultocentrismo.

## Palavras-chave

Misopedia; adultismo adultocentrismo; direitos das crianças e dos adolescentes; discriminação.

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## Introduction<sup>1</sup>

Human rights have become a defining element for the legitimacy of States in recent decades. Neoconstitutionalism argues that a constitution must contain a catalogue of human rights, as well as include mechanisms to ensure that all norms in a legal system respect these rights (Ferrajoli, 2011). Supporting this idea is the principle of the universality of rights, which is widely acknowledged in international instruments and constitutional texts themselves.

Article 1 of the Mexican Constitution (Congress of the Union, 1917) states that the universality, interdependence, indivisibility and progressiveness of these rights are guiding principles of this document. The final paragraph of this article also contains a clause prohibiting discrimination.

The universality of rights, consequently, the interdependence and indivisibility, are not concepts that are free of tension, although they have not necessarily been the subject of examination and analysis by most human rights theorists. It is false to claim that all rights are exercised by all people. There are several reasons why access to rights is denied: age, disability, national origin, etc. This paper focuses on the issue of age. The condition of an individual being a minor limits their capacity to enjoy and exercise their rights. However, historically, this has not been considered discrimination, but instead has been perceived as a "natural" situation based on age.<sup>2</sup>

It is important to note that in civil law doctrine, a distinction has been drawn between "capacity of enjoyment" and "capacity of exercise" (Contreras, 2020), in order to differentiate between having access to a right and being able to exercise it. These catego-

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<sup>1</sup> An initial argumentation for using the terms misopedia, adultism and adultcentrism was previously published in the *Abogacía Journal* by the author (González-Contró, 2021).

<sup>2</sup> The *Federal Civil Code* of the Mexican State (Mexico, 1928) establishes in Article 23: "The age of adult responsibility, the conditions for prohibition and other incapacities established by law are restrictions on legal status that should not undermine the dignity of a person or threaten the safety of their family, but instead should allow the incapable to exercise their rights or contract obligations through their legal representatives".

ries have been implicitly transferred to other spheres, including constitutional law. However, this topic has not been the object of study and reflection in constitutional law. Instead, it has been assumed, without much justification, to exclude people from being entitled to human rights on the basis of certain conditions. While some proposals have been made that link the exercising of political rights to membership of a community (Supreme Court of Justice of Mexico, 2018), these types of arguments seem increasingly insufficient.

The distinction between the capacity to enjoy and exercise rights, as well as justification for exclusion from political rights, do not explain the reasons for limiting or denying other rights for children and adolescents. These include the right to work, the right to get married and limitations on the rights to information and freedom of transit, to mention a few.

This has serious consequences for the very notion of human rights, even though most theoretical works do not perceive it this way, given that the universality of rights is a principle inherent to all human rights enshrined in international treaties and constitutional texts. Human rights are universal or they are not human rights. It's as simple as that. The other principles from which human rights must be interpreted in the Mexican context –interdependence, indivisibility and progressivity– are also questionable. If some (or most) rights are not available to all people, it is false to claim that they are interdependent and indivisible. How can it be argued that rights are interdependent and indivisible, which means that they are not hierarchical, if people cannot enjoy nor exercise these rights during an extensive period of their lives? (Compte-Nunes & González-Contró, 2018).<sup>3</sup>

As mentioned previously, this paradox regarding the universality of rights has not been discussed in the fields of legal theory, constitutional law nor human rights studies. Universality continues to be upheld without questioning what happens to subjects of rights who are considered minors.

Now, it is necessary to recognize that limitations on human rights during the first years of life are not, or do not appear to be, arbitrary. For example, there are good reasons to exclude access to the right to work or marry for minors. There are also valid ar-

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<sup>3</sup> In relation to the concept of "labor citizenship", interdependence in this context is understood as "constellations of rights" that manifest themselves at differentiated *moments* throughout the course of a person's life (Compte-Nunes & González-Contró, 2018).

guments for limiting access to certain media content and for not allowing freedom of transit without the supervision of an adult.<sup>4</sup> However, this does not mean that there is no discriminatory culture against children and adolescents. On the contrary, this culture exists, often disguised as a form of care, given that it considers children and adolescents as inferior and requiring protection through legal and social institutions. Due to the very little focus on this issue from both academic and legal scholars in the field of human rights, it is difficult to differentiate between conduct that constitutes discrimination and mechanisms that seek to protect the rights of this population.

It should also be noted that due to their condition as developing persons, children and adolescents are subject to parental authority,<sup>5</sup> which implies that parents or caregivers are responsible for their legal representation. Evidence shows that it is often the adults who are legal guardians of children and adolescents who violate their rights.

This is why we face a triple challenge in this area: problematizing the exclusion of children and adolescents from human rights; reducing discrimination against this population; and legal recognition of the different forms of discrimination that they face. There is a need to explicitly name this problem and define it using concepts to identify legally prohibited and socially reprehensible conduct committed against children and adolescents. I propose the use of three terms for this purpose: *misopedia*, *adultism* and *adulterism*.

In order to explain these terms, it is first necessary to contextualize the problem. Discrimination against children and adolescents is difficult to define because there are valid reasons for treating people differently when they are minors, such as the prohibition of child labor or child marriage. However, it is also true that there is a generalized attitude in Western societies that considers adults to be superior to children and adolescents. The law has not been oblivious to this distinction. Children and adolescents are denied the right to participate and take an active part in community actions and decisions that affect their personal lives.

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<sup>4</sup> A rationale for children's rights can be found in the *Convention on the Rights of the Child* (United Nations, 1989). This international treaty establishes that minors must be protected and measures must be taken to ensure their physical, mental, moral, spiritual and social development. The Convention also establishes certain limitations and restrictions to protect minors, such as the prohibition of child labor and protection against forced marriage.

<sup>5</sup> In some countries there has been a notable shift from "parental authority" to "parental responsibility", challenging this notion of a parent having power over their children.

Discrimination against children and adolescents has not previously been addressed from a legal point of view. There are a few academic texts that use sociological or psychological perspectives and define adultism as "a type of ideology that legitimizes the abuse of power by the adult population over people who have not attained this status" (Rodríguez, 2020, p. 3). In the past two decades, a number of texts have been published that mention adultism and adultcentrism<sup>6</sup> (Duarte, 2012; González-Contró, 2006; Liebel, 2015; Rodríguez, 2020; Young-Bruehl, 2012). Despite these advances, there is a need to increase the visibility of this problem that stems from a refusal to recognize the rights of people who are not adults.

This paper is organized in the following manner: first, I undertake a theoretical and legal analysis of the concept of discrimination; then, I propose a problematization of discrimination against children and adolescents; the text continues by arguing the need to name the phenomenon and proposes different terms for this purpose; the article ends with some conclusions.

## Methodological note

### Objective and research question

This paper argues that there are social cognitive biases (stereotypes) causing discrimination against children and adolescents. For this reason, there is a need to name this specific type of discrimination in order to make it visible in the legal sphere and work towards its eradication. Once discrimination against children and adolescents is evidenced, what legal term(s) can be used to generate academic and political visibility and help achieve its eradication?

### Data collection and analysis process

This article is situated in the field of legal sociology. This discipline studies law as a social phenomenon and critiques legal formalism, which is characterized by identifying law as a standalone entity and is thus incapable of explaining the social effects of legal norms (Sanchez, 2023). Legal sociology recognizes that legal norms influence social relations between individuals and groups. Although legal sociology has different areas of

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<sup>6</sup> As Rodríguez (2020) notes, the terms *adultcentrism* and *adultism* are used almost interchangeably in studies on childhood and adolescence. Young-Bruehl (2012) proposes the use of the term *childism*.

knowledge, this paper is focused on analyzing the cultural values that influence law and how law can generate social change (Sanchez, 2023).

The specific methodological approach for this article was mixed, as it used complementary research strategies for data collection (Aguirre, 2011). This article combines two research techniques from the field of legal sociology: documentary research (bibliographic and legislative) and direct or field research techniques (Survey; Puente, 2008). No field research was conducted for this text, but it does draw on survey data collected a few years ago.

This process began with a literature review to construct a theoretical framework for the concept of "discrimination" and discrimination against children and adolescents. This was followed by an analysis of secondary data collected from surveys on discrimination against children and adolescents, specifically, the National Survey on Discrimination (known as Enadis) and the survey conducted by the Alianza por la Niñez and the Coalition against the Involvement of Children and Youth in the Armed Conflict in Colombia (COALICO, 2023). Secondary data was also collected from the existing legal frameworks of Mexico and Colombia. Finally, a socio-historical bibliographical analysis was conducted with a specific focus on the use of language to make discrimination visible.

The analytical process was carried out using legal hermeneutics, which involves a systematic analysis of the law as a complete system, including its gaps and antinomies. The legal definition of *discrimination* is taken as a reference point for this process, which is complemented by findings from theoretical studies in the field of law. This definition is contrasted with the results obtained from secondary sources, which place little importance on the recognition of children and adolescents' rights and evidence the existence of a gap in the definition of this type of discriminatory conduct. Through analogies with other population groups that have made discrimination against them visible through the appropriation and use of a term, this article proposes filling these gaps with new legal concepts. The latter argument forms part of a constructivist approach to moral discourse on human rights within the philosophy of law.

It is important to clarify that even though this paper draws on legislation and data from Mexico and Colombia, the analysis it contains is valid for other countries with legal traditions that exclude minors from being subjects of rights.

## Theoretical development

### The concept of discrimination

The concept of discrimination has been developed in many areas in recent years through academic and legal perspectives. As a consequence, the use of the term in social settings has also become widespread (Rodríguez, 2007).

In Mexico, it was introduced into the country's Constitution through an amendment to Article 1 in 2001 and has undergone several modifications. The final paragraph of Article 1 prohibits discrimination and lists its most frequent causes, including age. This article ends with a clause that relates discrimination to the violation of human dignity and the undermining of human rights.<sup>7</sup>

It is important to note that the two amendments to the last paragraph of Article 1 in the Mexican Constitution were made with the purpose of specifying the population groups that are victims of discrimination: in 2006, "different abilities" was replaced by "disabilities", while in 2011 the word "sexual" was added to the term "preferences". This is relevant to the content of this paper, because it highlights the importance of naming things, as argued in this text.

These constitutional reforms also required institutional changes in order to make them operative. In 2003, the Federal Law for the Prevention and Elimination of Discrimination was passed (Congress of the Union, 2003), which also created the National Council for the Prevention of Discrimination. This law defines discrimination in Article 4, Section III, and establishes the main conditions that are targeted:

III. Discrimination: For the purposes of this law, discrimination shall be understood as any distinction, exclusion, restriction or preference that, by action or omission and with or without intention, is not objective, rational or proportional and has the purpose or result of hindering, restricting, preventing, impairing or nullifying the recognition, enjoyment or exercising of human rights and freedoms when it is based on one or more of the following grounds: ethnic or national origin, skin color, culture, sex, gender, age, disability, social or economic status, physical or mental health, legal, religion, physical appearance, genetic characteristics, immigration status, pregnancy, language, opinions, sexual preferences, poli-

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<sup>7</sup> The Colombian Constitution does not contain an explicit clause prohibiting discrimination; however, it recognizes the primacy of rights without discrimination (Article 5) and establishes equality between people from birth (Article 13).



tical identity or affiliation, marital status, family situation, family responsibilities, language, criminal record or any other reason (Congress of the Union, 2003)

The last paragraph of this section identifies some social attitudes that are considered discriminatory: "Discrimination shall also be understood as homophobia, misogyny, any manifestation of xenophobia, racial segregation, anti-Semitism, as well as racial discrimination and other related forms of intolerance" (Congress of the Union, 2003).

The definition of discrimination in the law has also been the subject of a number of reforms, which have had the purpose of more accurately delimit a phenomenon that violates rights, as well as to make visible the main forms of discrimination in social practices. Initially, the last paragraph only mentioned xenophobia and anti-Semitism in any form. Skin color, culture, gender, physical or mental and legal condition, physical appearance, genetic characteristics, migratory status, pregnancy, political identity or affiliation, family situation, family responsibilities, language and criminal record were later incorporated as conditions that face discrimination.

In the case of Colombia, *Law 1752 of 2015*, which amended *Law 1482 of 2011*, criminally punishes discrimination against people with disabilities and defines acts of discrimination as preventing, obstructing or restricting "the full exercise of the rights of persons by reason of their race, nationality, sex or sexual orientation, disability or other reasons for discrimination."

From the above definitions we can highlight the following aspects:

- Discrimination is defined as hindering, restricting, impeding, impairing or nullifying the *recognition, enjoyment or exercise*<sup>8</sup> of human rights. In other words, it overcomes the false dichotomy of the capacity to enjoy and exercise rights within traditional civil law.
- Mexican legislation identifies age as one of the categories that is targeted by discrimination but does not mention any generalized attitudes against children and adolescents in the last paragraph related to this condition. In the case of Colombia, age is not mentioned.

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<sup>8</sup> The notion of discrimination as a behavior aimed at hindering access to rights is also contained in a range of human rights treaties: the *Convention on the Elimination of All Forms of Discrimination against Women*, the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and the *Convention on the Rights of the Child*.

- Both the Constitution and the law have been modified to take into account modern conditions that are subject to discrimination and discriminatory social attitudes.

All three of these aspects are problematic when we analyze discrimination against minors:

- It is not clear that limitations or exclusion of the recognition, enjoyment or exercise of some rights recognized in international treaties and in the Constitution is discriminatory, such as the examples cited previously: the right to work or the right to marry.
- Age-related discrimination can occur in multiple forms, one of which is discrimination against the elderly.<sup>9</sup> It is easier to identify discrimination in these types of cases because people should not be excluded from having access to their rights simply because they are over a certain age. This form of age-based discrimination is not considered a discriminatory social attitude, even though it is very common.
- The modifications made to the Mexican constitution highlight the importance of identifying the conditions that suffer discrimination and discriminatory attitudes. The changes made evidence the importance of identifying individuals and groups that have historically been discriminated against, while also naming behaviors that constitute discrimination. It is important to note that many of these reforms are the result of demands made by individuals and groups that ask to be more visible. There is still a significant amount of work in this area to increase the visibility of children and adolescents' demands.

Many authors relate the right to nondiscrimination with the principles of equality and dignity. In this sense, it is understood that discriminating against someone means treating them differently and with contempt. In their definition of discrimination, Rodríguez (2007) includes two elements: behavior that involves contempt towards a person or group on the basis of a specific characteristic; and the damage caused to their fundamental rights and freedoms:

Discrimination can be defined as culturally grounded, systematic and socially widespread conduct demonstrating contempt against a person or group of persons on the basis of a nega-

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<sup>9</sup> The discrimination that the elderly face is known as "ageism" and is manifested primarily in the limitation of certain rights such as the right to work and not recognizing their capacity for autonomy.

tive prejudice or stigma producing an undeserved disadvantage, and which has the effect (intentional or not) of harming their fundamental rights and freedoms. (p. 19)

For this author, both elements are necessary, because even though contempt is characteristic of all discriminatory conduct, not all acts of contempt constitute discrimination, which is defined as experiencing discriminatory behavior that also has the effect of damaging a person's rights and freedoms.

The prohibition of discrimination is linked to personal equality and dignity and is a principle that permeates the entire legal system. It is important to distinguish between two concepts that can generate confusion: *distinction*, which is characterized as differential treatment with the goal of being reasonable, proportional and objective, and; *discrimination*, which is unacceptable because it violates human rights.

Legal scholars Ferrer et al. (2013) observe that "the term discrimination shall be used to refer to any exclusion, restriction or privilege that is neither objective nor reasonable and also detrimental to human rights. Not every distinction in terms of treatment can be considered offensive, in and of itself, to human dignity" (p. 264).

The above definition incorporates some important elements to distinguish discrimination from any other differentiation: objectivity and reasonableness. A distinction is objective if it is free of prejudice or stereotypes and based on human rights. The criterion of reasonableness is met if there is proportionality between the purpose to be achieved through the rule or public policy and the measure taken.

The objectivity of a distinction, exclusion, restriction or preference is determined by the fact that it has been taken in accordance with criteria that are free of stereotypes and based on human rights. Reasonableness is measured in relation to the proportionality between the purpose (design and execution of a dignified life project framed in the autonomy of a person and their human rights) and the measure taken (Supreme Court of Justice of Mexico, 2015).

As part of this discussion, it is necessary to explore the concept of *stereotype*, which consists of assigning certain characteristics to all members of a group (Palafox, 2022). The problem arises when negative characteristics are assigned to all members of that group and a series of acts of violence against them or the exclusion and violation of their human rights are thus justified (Palafox, 2022). Stereotypes become prejudices when a person is considered to have the characteristics assigned to the group and these do not

correspond to their individual attributes (Palafox, 2022). Discrimination occurs when a concrete action is committed against the person based on a stereotype (Palafox, 2022). Stereotypes are a type of cognitive bias through which we interpret reality make judgments and take action while being influenced by what we perceive and the information we take from the context in which we live. The effects and consequences of these stereotypes have a negative impact on human rights, given that some of them lead to stigmatization and prejudice against certain groups of people (Aguilar, 2022).

According to Haas (2020), the following elements can be inferred from the definition contained within Mexican law:

Based on this definition, an act of discrimination consists of three fundamental elements. First, there is an action or omission that gives rise to unequal treatment for some people. Second, this unequal treatment is based on some prohibited characteristic, such as their national origin or migratory status. Third, this distinction between people has the consequence (intentional or accidental) of hindering, restricting, preventing, impairing or nullifying the recognition, enjoyment or exercising of rights and freedoms. (p. 258)

Haas proposes that there are six central characteristics of discrimination: 1) implies a violation of rights; 2) recurrent phenomenon; 3) does not depend on people's intentions; 4) a generalized phenomenon; 5) has historical roots; and 6) the result of unequal power relations (Hass, 2020). Some of these characteristics will be discussed below as part of this paper's reflection on discrimination against children and adolescents.

As a result of this examination, we can conclude that discrimination is characterized by the sum of the following elements:

1. A distinction based on a negative stereotype that results in prejudice.
2. Lacks reasonableness and objectivity.
3. Involves conduct that violates human rights.
4. Constitutionally and legally prohibited.<sup>10</sup>
5. Usually targets people belonging to a specific population or expresses a social attitude.<sup>11</sup>

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<sup>10</sup> The constitutional and legal prohibition of discrimination exists in Mexico and many other countries. However, there are certainly some nations that do not prohibit discrimination and even justify it in their laws, despite the fact that it is contrary to international treaties.

<sup>11</sup> The Supreme Court has identified the grounds for discrimination contained in Article 1 as "targeted groups" and "prohibited reasons for discrimination".

6. Discrimination does not necessarily imply intentionality, given that it is the result of prejudice. It can even be interpreted as justified behavior. This makes its identification and eradication particularly complex.

As Haas mentions, discrimination has historical roots. This implies the existence of social cognitive biases (stereotypes) that have been perpetuated over time in a community. As a result, it is extremely difficult to classify a distinction as non-objective or unreasonable because certain behaviors have been normalized. In recent decades, it has been the discriminated groups themselves who have evidenced that violations of their rights are the result of an unjustified distinction, which has led to constitutional and legal reforms. Examples include the treatment of women, indigenous peoples, people with disabilities, religious minorities and others.

The situation for minors involves some features that distinguish them from groups that can more easily form social movements to demand their rights. First, they have a transitory condition, given that they will overcome this discrimination when they legally become an adult. This has resulted in many downplaying the significance of possible discrimination because eventually all children and adolescents will become adults. Second, all of those who discriminate against children and adolescents because of their age are adults, which seems to generate an implicit justification of the distinction (González-Contró, 2008).

Both arguments are fallacious. The fact that children and adolescents have a transitory condition does not justify the distinction made against them, nor does having previously experienced the condition allow adults to justify their conduct towards this population. This makes it very complex to determine whether the distinction is reasonable (i.e., does not respond to a stereotype) and objective, and to assess whether it is a proportional action designed to guarantee human rights.

One more element comes into play: the condition of this population as children of adult parents. One of the most important cognitive biases is that children and adolescents are cared for by their families. This has conditioned the way in which they are seen as subjects of public law in areas outside of the family domain. The consequence of this belief is that there is strong social resistance to recognizing children and adolescents as rights holders. Legal systems have decisively contributed to the growth of this stereotype, primarily through the institutions of parental authority and family law (González-Contró & Padrón-Innamorato, 2016).

## Discrimination against children and adolescents

In the previous section, it was pointed out that a measure meets the criterion of objectivity if it was taken without being influenced by stereotypes and based on human rights. One of the problems we face when trying to delimit discrimination against children and adolescents is precisely that human rights for this population are either limited or restricted. The criterion of reasonableness is also difficult to delimit, at least in the case of some rights, precisely because of social representations of childhood and adolescence that consider the denial of certain rights as "natural" or "evident" without necessarily being justified.

A distinction based on age has an additional problem. On the one hand, it is implicit in most constitutional texts or treaties. This means that while the text itself does not specifically state that entitlement to a right depends on being of legal age, this discrimination is enshrined in law, especially in secondary legislation. As a result, it is difficult to identify the distinction, because it apparently does not exist. Furthermore, these pieces of legislation legitimize and reinforce cognitive biases. This is because a stereotype makes exclusion of children and adolescents seem "natural", making it not even necessary to mention the exception. There is often a shared belief that it would be "absurd" to specifically state the exception, so there is no need to mention it.

In the case of children and adolescents, we can identify three types of rights (González-Contró, 2008):

1. *The rights to which children and adolescents are entitled.* In general, these are economic, social and cultural rights, such as the rights to education, health, healthy environment, etc. In many cases, these rights also imply strengthened protection from the State and specific guarantors of rights. For example, the national education system is responsible for guaranteeing the right to education for children and adolescents.
2. *Rights that have important limitations for children and adolescents.* These include freedoms such as transit, expression, information and association. In general, the intervention of an adult — usually the person who has parental authority or guardianship of a minor — is required for the exercise of these rights. For example, freedom of transit is subject to the express authorization of an adult in the case of a child or adolescent traveling to another country or using the domestic transport system.
3. *Rights that are reserved for adults.* Some of these have already been mentioned: the right to work and start a family, as well as political participation as a result of legal citi-

zenship, such as the right to vote and the right to be a candidate in a public election, among others.<sup>12</sup>

It is undeniable that there is a distinction in access to rights. Determining whether these distinctions are objective and reasonable is complex. The fact that exclusions or limitations in the recognition of rights in constitutional texts and treaties are obviated shows that there is a stereotype.

It should be noted that not even the *Convention on the Rights of the Child* (United Nations, 1989) mention discrimination on the grounds of age, unlike other international instruments that specifically define and prohibit discrimination against the addressed group (the *International Convention on the Elimination of All Forms of Racial Discrimination* and the *Convention on the Elimination of All Forms of Discrimination against Women*).

The only clause in the *Convention on the Rights of the Child* relating to discrimination against children and adolescents is contained in Article 2. However, this does not refer to distinctions as a result of a person's age, but instead discrimination in generic terms and specifically for reasons attributable to the parents and caregivers of children and adolescents.

Even though the Committee on the Rights of the Child has identified the right to non-discrimination as one of the guiding principles of the Convention, it interprets this concept as motivated by conditions other than age (Committee on the Rights of the Child, 2003). *General Comment 5* requires States to identify groups of children and adolescents who may face difficulties with accessing their rights so that they can then adopt special measures. Although the Committee has issued some general observations in relation to specific rights from which children have historically been excluded, it has not yet adopted any specific measures in relation to children's rights.

For example, the Committee has yet to make a statement on whether the condition of being a minor is cause for discrimination in relation to the right to be heard (Committee on the Rights of the Child, 2003).

Academia has also not addressed this issue. The vast majority of texts dealing with discrimination against children and adolescents are similar to the *Convention on the Rights of the Child* and focus on conditions other than age. This seems to evidence that

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<sup>12</sup> I refer to the rights of political participation linked to legal citizenship, because political rights must be interpreted in a much broader way so that they include all people.

stereotypes are shared even among experts dedicated to reflecting on children and adolescents' rights, as well as the need for a critical analysis that names this social problem.

### Is there age discrimination against children and adolescents?

At this point of the paper, it is necessary to examine some elements that show how discrimination against children and adolescents on the grounds of age does exist, even accepting the difficulties surrounding its definition, i.e., whether the distinctions made by the law are objective and reasonable. The analysis will focus on two elements: opinions on the rights of children and adolescents (social representations), and; a brief analysis of some legal provisions.

There are not many empirical studies on the justification of distinctions towards children and adolescents, meaning that there is a clear lack of analysis in this area. However, the results of two opinion surveys that included the issue of children's rights provide some conclusions regarding discrimination against this population group.

The first survey in Mexico that addressed the issue was the Enadis, conducted in 2010. This survey included the following question:<sup>13</sup> "Do you believe that children should have the rights that their parents want to grant them, the rights that the law gives them, or that children don't have rights?". Among respondents, 65.5% agreed with the second option, that children and adolescents should have the rights given to them by law. The first option was selected by 27.6% of respondents, who stated that children and adolescents should have the rights that their parents want to grant them. It was notable that 3.6% agreed with the statement that children do not have rights because they are minors (Consejo Nacional para Prevenir la Discriminación, 2011).

In 2014, this question was replicated in the National Survey "How Mexicans see themselves" conducted by the National Autonomous University of Mexico. The results did not show an important difference compared to the previous survey: most adults responded that children and adolescents should have the rights given to them by law (65.9%), followed by the rights that their parents want to grant them (26%). A higher

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<sup>13</sup> The survey included some questions directed to children. However, this paper has concentrated on the perceptions of adults captured in the survey, given that they form the population group that discriminates against children and adolescents.



percentage believed that children do not have rights because they are minors (5.3%; Universidad Nacional Autónoma de México, 2015).<sup>14</sup>

What the aforementioned surveys evidence, apart from the lack of data in this area from Colombia, are the cognitive biases related to children and adolescents. As has been argued in this paper, one of the features of discrimination is precisely the exclusion of rights, which is clearly reflected in a significant percentage of survey respondents. In both surveys, three out of ten people do not recognize children and adolescents as rights holders. In accordance with the theoretical framework presented above, this constitutes a distinction and can be identified as a social attitude involving age discrimination. Even though it might not be generalized, it is still very significant.

It is notable that the survey asked people about children and adolescents' rights that are already granted by law, without mentioning which rights. The survey also did not attempt to inquire about rights from which children and adolescents have historically been excluded and could be problematic, such as those mentioned in the previous section. This is why some people's refusal to recognize rights that are already enshrined in a legal norm is very illustrative. The second response (the rights that their parents want to grant them) illustrates adults' perceptions of children and adolescents as rights holders.

In Mexico's National Survey on Discrimination (Instituto Nacional de Estadística y Geografía [Inegi], 2022), 14.2% of children aged between 9 and 11 years old felt that their rights are not respected, while 28.5% stated that in their locality adults never value their opinion.<sup>15</sup> Among adolescents (12 to 29 years old), 20.6% perceived that they had been discriminated against because of their age. It is important to highlight two elements of this survey: firstly, that it measures the perceptions of children and adolescents who have internalized this discrimination without even being able to identify it. Second, it

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<sup>14</sup> However, the Alianza por la Niñez and Coalición contra la Vinculación de Niñas, Niños y Jóvenes al Conflicto Armado en Colombia (COALICO, 2023) note that: "In the area of participation, there is a great limitation in measuring the participation of children and adolescents, as well as low participation in the spaces provided by current regulations" (p. 7), this right has been so invisible in Colombia that there aren't even clear sources of information available.

<sup>15</sup> Based on the findings of the Alianza por la Niñez and the Coalition against the Involvement of Children and Young People in the Armed Conflict in Colombia (COALICO, 2023), "from the perspective of children and adolescents, the following observations were shared by members of this population at the Consultative Workshop: "Sometimes when we give our opinion, we get insulted just for speaking; we should not be afraid, but we are afraid", "They don't always listen to us", "They threaten our leaders", "We don't have the right to free expression. Children are judged when they speak and dress"" (p. 7).

combines adolescents and young people in the same population group, which means that it is impossible to make a distinction based on the category of minor as established by law.<sup>16</sup>

Legal norms also evidence what could be considered discrimination. It is not the objective of this paper to conduct an exhaustive analysis of legislation, but to evidence how cognitive biases (stereotypes) permeate legal norms, making the phenomenon more complex. Civil norms have been slower to adapt in terms of recognizing the human rights of historically excluded groups. An example of this is the recognition of same-sex marriage and the inclusion of people with disabilities. Two articles in the *Federal Civil Code*<sup>17</sup> are relevant for this discussion. Article 23 establishes the conditions of “incapacity” that are grounds for a person to have a reduced legal status and thus be denied full access to their rights. Article 450 establishes the cases in which people can be declared legally incapacitated.

Article 23 establishes being an underage minor as a condition of incapacity that implies the restriction of their legal status, while also mentioning that this should not affect the person’s dignity. This article also states that those deemed “incapacitated” may exercise their rights through their legal representatives.<sup>18</sup> Article 450 specifically includes the term “underage minors” as being both naturally and legally incapacitated from having full access to their rights.<sup>19</sup>

In the *Colombian Civil Code*, Article 62 establishes that those classified as “incapacitated” are unable to engage in business transactions. Before they reach 21 years of age they are considered minors and have to be represented by their parents in all actions involved in running a business.

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<sup>16</sup> Unfortunately, the Enadis questionnaires were modified in 2017, so it is not possible to make a comparative analysis of the perceptions of adults towards children and adolescents.

<sup>17</sup> Although family matters are governed by individual state legislation in Mexico, the Federal Civil Code is illustrative as it represents a legal model for the rest of the country. In general, local laws are more restrictive of rights compared to federal legislation.

<sup>18</sup> See Footnote 3.

<sup>19</sup> Of course, both provisions can be considered discriminatory in relation to the other conditions considered incapacities that require limiting a person’s access to their rights. These include people declared interdicted and “persons of legal age who are handicapped and/or have limited mental capacity”.

As mentioned above, although incapacity is linked to civil matters, it has permeated all legal norms, including constitutional law and international treaties. Although it seems justified to establish differences between people on the basis of age, precisely to protect their rights and avoid abuses, the formula used for this purpose is questionable in the framework of a non-discrimination perspective for several reasons:<sup>20</sup>

- The claim of a "natural" incapacity is a fallacy. That a legal prohibition cannot be derived from a supposedly "natural" condition has been the subject of extensive argumentation. On the other hand, it appears that this naturalized condition is self-evident, given that the reasons why incapacity is considered natural and assumed as an *a priori* condition for a person are not stated. Finally, it is not possible to decree that a condition is "natural"; the law creates legal and not factual realities. What seems to emerge from this formulation is a stereotype of children and adolescents that "justifies the attribution of legal incapacity".
- The use of the term "underage minors". In other articles in the Mexican Civil Code, the term "minors" is simply used. This term is pejorative, not just because of its lexicographic definition,<sup>21</sup> but also because it implicitly carries a theoretical position supported by the doctrine of the irregular<sup>22</sup> situation that sustained the privatist-minority model<sup>23</sup> before the *Convention on the Rights of the Child*.
- The restriction of legal status due to incapacity is also problematic. The right to recognition as a person before the law is enshrined in the *Universal Declaration of Human Rights* (Article 6), the *International Covenant on Civil and Political Rights* (Article 16) and the *American Convention on Human Rights* (Article 3). The

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<sup>20</sup> Each of the points made here could be the subject of a detailed academic analysis. However, they are mentioned only to highlight cognitive biases associated with childhood and adolescence.

<sup>21</sup> The term "minor" is an adjective that, in the case of individuals, relates to not being of legal age. Despite this, it is commonly used as a noun to identify children and adolescents.

<sup>22</sup> The doctrine of the irregular situation has underpinned the legal treatment of children and adolescents and is characterized by distinguishing between "children" in family and school settings and "minors" who have been abandoned by their parents or are in conflict with the law. The *Convention on the Rights of the Child* introduces the doctrine of comprehensive protection as a legal instrument aimed at all children and adolescents.

<sup>23</sup> The privatist-minority model is characterized by considering children and adolescents as "incapable" and "minors" and identifying them as subjects of private law. An alternative model is based on the *Convention on the Rights of the Child*, which identifies children and adolescents as holders of rights that must be guaranteed.

Mexican Constitution does not expressly recognize this right,<sup>24</sup> but Article 29 determines that its exercise may not be restricted or suspended in cases of the restriction or suspension of rights or guarantees. The *Federal Civil Code* does not define what is understood by legal status in this matter, although it has been developed doctrinally to refer to the distinction between the capacity to enjoy and exercise rights.<sup>25</sup>

- Consequently, the distinctions derived from the condition of incapacity established in the *Federal Civil Code* restrict rights and cannot be considered objective or reasonable as they are the consequence of a stereotype and there is no proportionality between the measure (declaring a person as having legal incapacity and restricting their access to rights) and its purpose, which should be to protect rights. Regarding this last point, it would seem that in Mexico's civil norms there is a lasting legacy of parental authority as a right of fathers, and later mothers, which occurred before the country adopted the *Convention on the Rights of the Child*. There was a clear belief that parents should be the sole guarantors of children and adolescents' rights.

Mexico's *General Law on the Rights of Children and Adolescents* (Congress of the Union, 2014), based on a vision of children and adolescents as rights holders, is not immune to cognitive biases against children and adolescents. Despite being a recent law that primarily enshrines the vision of children and adolescents as rights holders, Section I of Article 1 declares that the law's purpose is, "to recognize children and adolescents as rights holders, with the capacity to enjoy them, in accordance with the principles of universality, interdependence, indivisibility and progressiveness in the terms established in Article 1 of the Political Constitution of the United Mexican States" (Congreso de la Unión, 2014).

This new wording was incorporated into the law in 2019, given that originally the reference to children and adolescents' capacity to enjoy their rights was omitted. The original text stated that the purpose of the law was "to recognize children and adolescents as holders of rights, in accordance with the principles of universality, interdepen-

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<sup>24</sup> Article 4 recognizes a child's right to an identity and to be registered immediately after birth. The birth certificate is the legal document that materializes the recognition of a person's legal status. The right to recognition before the law consists of "granting every person the capacity or power to be the holder of rights and obligations and to be able to exercise them immediately, effectively and unconditionally".

<sup>25</sup> A *contrario sensu* can be interpreted in this case, in accordance with Article 24 of the same Civil Code. This establishes that the adult has the power to decide over themselves and their property, which in turn implies a limitation of this power for minors.

dence, indivisibility and progressiveness and in the terms established in Article 1 of the Political Constitution". This reform highlights resistance from legal frameworks that is contrary to the principle of progressivity of human rights.

Then, it seems possible to affirm how both social perceptions and norms evidence that stereotypes towards children and adolescents exist. These stereotypes generate discrimination because adults refuse to recognize minors as holders of rights and strongly restrict this population's exercise of these rights because they have not yet reached the age of an adult. This situation means that it is necessary to reflect on this phenomenon and give it a name.

### **Misopedia, adultism and adultcentrism: naming and conceptualizing the phenomenon**

Although age constitutes one of the prohibited areas of discrimination contemplated in Article 1 of the Mexican Constitution, this phenomenon is clearly ignored in two contexts: there are generalized behaviors that are discriminatory and considered "normal" (as shown by the results of the aforementioned surveys and the norms that govern the lives of children and adolescents), and; because there is no name or concept with which to identify behaviors that deny or restrict access to rights for children and adolescents. For this reason, this paper proposes different terms that can be used to identify this discrimination.

One of the ways in which the exclusion of certain groups and the vindication of their rights has been made visible has involved naming the phenomenon. Thus concepts such as misogyny, sexism, homophobia and lesbophobia have been used to highlight ethically reprehensible conduct and ensure that it is considered a legally prohibited attitude. These terms fulfill an appellative function and their naming and incorporation into law has been the result of the long-lasting struggles by social movements. According to Berger and Luckmann (2003), language "is the most important system of signals in human society". Language makes it possible to objectify experiences.

As mentioned previously, identifying widespread discriminatory social practices through using a specific term has made it possible to construct a political discourse, that over time, has been incorporated into legislation with the aim of prohibiting these practices. This process has occurred with a number of different social groups. The prohibited forms of discrimination are classified as conduct involving an attitude of contempt

towards groups that share certain characteristics, harming the rights and freedoms of the people who are members of these groups.

In the case of children and adolescents, even though age is one of the categories subject to prejudice, there is no conceptual framework for identifying discriminatory behaviors. This may be due to several causes and has important consequences. One possible explanation lies in the internalization of cognitive biases that socially legitimize the denial of certain rights for minors. Restrictions of their rights are considered neither socially nor legally relevant. This situation has consequences, specifically either ignoring or normalizing behaviors that may be considered discriminatory.

This means that there is a need to move towards concepts to describe a series of behaviors that deny rights. In other words, this involves objectifying the legal and social treatment of children and adolescents and beginning discussions about whether certain behaviors, and even legal and historical norms and institutions – particularly incapacity, parental authority and guardianship – are compatible with the recognition of children and adolescents as people with a legal status, also known as holders of human rights. This requires that we question whether historically accepted distinctions are objective and reasonable.

The use of three terms is proposed to advance with this objective: *misopedia*, *adultism* and *adultcentrism*. The reason for selecting these terms is that the prefix *miso* and the suffix *ism* are widely accepted in the discourse on discrimination due to their etymology. This recognition occurs forms part of everyday language and has also been adopted in academic and legal texts.

It is generally very difficult to identify the historical moment in which each of the concepts that name discriminatory phenomena were adopted. In many cases, the meaning of certain expressions has been modified to acquire a connotation of demanding equality and access to human rights, permitting their use by academics. Examples of this include terms that have the suffix "phobia", such as "homophobia",<sup>26</sup> "lesbophobia" or "xenophobia". As mentioned previously, this suffix has been recognized in law. However, there is criticism of this denomination because a phobia is "a marked and excessive fear or anxiety that occurs constantly upon exposure to or anticipation of exposure to one or more specific objects or situations", which causes a person to actively avoid these objects

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<sup>26</sup> This term began to be used in academia more than 40 years ago due to the importance of naming this type of practice (Campos, 2013, p. 14).

and situations or face them with high levels of fear and anxiety (World Health Organization, 2022). For this reason, homophobia is considered to be a prejudice and not strictly speaking a phobia (Campo et al., 2013). In the opinion of some authors, use of the phobia suffix leads to an "interpretative error of the phenomenon that one wishes to express and represent" (Pérez, 2020). For example, this assumes that prejudices against homosexual persons are based on fear and people's inability to accept this condition as an identity (Pérez, 2020). For this reason, if the term refers to repudiation, rejection or aversion, the *miso* prefix is preferable, as in the case of *misogyny* or *misanthropy*.

It is for this reason that the term most appropriate for the case discussed here is *misopedia*.<sup>27</sup> This concept denotes aversion towards children and adolescents because of their age, resulting in a denial of their rights. Some of the attitudes described in social practices and laws derive from prejudice toward children, hindering the exercise of their rights. These are expressions of *misopedia*.

It should be noted that in the field of children's rights, the terms *adultism* and particularly *adultcentrism* are already being used. It is necessary to make two considerations regarding these terms. The first is that their use has been more widespread in the fields of communications and social activism<sup>28</sup> and there is little academic work that has defined and problematized them in relation to discrimination. The second is that the most widely used term is *adultcentrism*, which does not necessarily imply discrimination, although it can be a cause of it. The definitions of these terms are still at an embryonic stage, meaning that they are often unclear and sometimes confusing.

Adultism has been defined as "any behavior, action or language that limits or calls into question the capabilities of adolescents, solely because they have been alive for a shorter period of time" (UNICEF, 2013). The suffix *ism* has been used for centuries to refer to an ideology (Metzeltin, 2019).<sup>29</sup> It originally referred to a doctrine and its followers, which also manifests itself in "objectifying attitudes", considered to be actions focused on an external object exalted by the followers of the ideology. In this line of thought,

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<sup>27</sup> Other proposed terms are *pedophobia* and even *childphobia*, but these suffer from the same etymological problem described above.

<sup>28</sup> Including work by international agencies such as the United Nations Children's Fund (2013).

<sup>29</sup> The suffix *ism* indicates a doctrine or its followers. It also describes the attitudes and beliefs generated through following the doctrine, i.e. the externalization of this doctrine.

adultism represents an ideology that presupposes the superiority of adults over minors and justifies discrimination against this population.

For its part, adultcentrism has been used to refer to the asymmetry of power (González & Henríquez, 2017) between adults and young people, which implies domination (Duarte, 2012). Adultcentrism can be defined as

the series of mechanisms and practices that ratify the subordination of young people, attributing to them a series of characteristics that define them as subjects who lack reason (substantial deficit), maturity (cognitive-evolutionary deficit), responsibility and/or seriousness (moral deficit). (Vásquez, 2013, p. 222)

I therefore propose a more precise definition of these three concepts, so that they can be used to refer to reprehensible attitudes towards children and adolescents that constitute discrimination:

*Misopedia*: aversion towards children and adolescents.

*Adultism*: discriminatory attitude towards minors based on the supposed superiority of adults, making unjustified distinctions due to age (Martínez et al., 2022).

*Adultcentrism*: system that considers the adult perspective as the exclusive or prioritized criterion for a worldview, particularly for classifying and assessing the behaviors and perceptions of children and adolescents. This system has an impact on the construction of laws, policies, design, etc., and can be summarized as the world constructed from the adult viewpoint.

## Conclusions

Discrimination is a violation of human rights that is contrary to the principle of equality. In recent decades, the concept has experienced significant theoretical development, leading to constitutional and legal reforms in both Mexico and Colombia that aim to guarantee universal access to human rights. Despite the above, discrimination is not a simple concept, as it is linked to widespread and normalized cognitive biases that need to be questioned. In recent years, social movements have effectively contributed to the recognition of different forms of discrimination and their legal prohibition. One of the fundamental tools for achieving this objective has been the identification of certain generalized attitudes, which has involved highlighting the inherent discrimination within these attitudes, as well as the population groups they affect. Combined with



prohibiting these forms of discrimination, this has proven to be an effective approach. One of the consequences of this process has been to include these actions in a group of unacceptable social practices, meaning that they are not just legally prohibited, but also socially, morally and politically reprehensible. The strength of identifying certain behavior as "misogynist" or "homophobic" is evidence of this.

Discrimination against minors presents several difficulties. The first issue is identification. It is difficult to determine whether certain norms or practices that restrict or limit rights are objective and reasonable and, therefore, justifiable, or whether they violate the principles of equality and dignity. Cognitive biases are particularly complex to dismantle. They are the result of social constructions that stem from certain interests. From a human rights perspective, a pending task is to deconstruct the scaffolding that has sustained our adult-centered society, which requires an interdisciplinary approach.

There are clearly discriminatory social attitudes against children and adolescents, including from legal institutions. This is illustrated by the surveys cited in this paper where a significant proportion of respondents refuse to recognize children and adolescents as holders of the rights granted to them by law. Similar examples come from Mexican legislation that enshrines children and adolescents' "natural" incapacity to exercise their rights, while Colombian legislation fails to establish age as a possible cause for discrimination. There are multiple examples of discriminatory practices linked to the language people use.<sup>30</sup> For example, expressions such as "you're acting childish" or "you look like a girl" are designed to insult someone. This type of language is generalized and socially accepted.

Identifying discrimination through the use of certain concepts is an important step in making it visible. When something is named it begins to exist. This is why I propose a trio of concepts to describe different attitudes towards children and adolescents: *misopedia*, *adultism* and *adultcentrism*. The purpose of this proposal is to tackle a phenomenon that affects the lives of many people who belong to this age group.

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<sup>30</sup> In a separate paper I have identified other expressions designed to insult a person by referring to their being a minor as a form of cultural mistreatment.

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