Written evidence from Nuno Ferreira (EOP0055)

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Summary

1. Child involvement with economic production should be avoided until late adolescence, by strengthening the current legal framework or, at least, enforcing it more effectively. Any deviation from this should be treated as an exception and thoroughly scrutinised.
2. Regulating child work in this manner is compatible with – and even necessary for – children’s rights, capabilities and well-being, and socially fair treatment more generally.
3. To ‘cushion’ any detrimental effects of such limits to child work, limiting children’s possibility to work should be done in parallel with:
   a. strong social welfare measures, including a comprehensive range of out-of-work and family financial and services support; and,
   b. quality, relevant and varied vocational training and traineeship programmes, which can prepare children for the labour market in due course.
4. Once children are allowed to lawfully engage with the labour market, serious consideration should be given to offering them a minimum wage at the same level as any other worker, thus introducing universal minimum wages.
5. Overall, to protect young people from possible forthcoming economic uncertainty, focus should be placed on furthering young persons’ educational achievements rather than speeding their integration into the labour market, simultaneously placing them in a much better position to overcome the socio-economic inequality entrenched in society.

Child work context

6. This contribution concentrates on young people under the age of 18, thus legally defined as children. Trade union reports have made it clear that the economic crisis and weakening of the social welfare state have rendered child labour in Europe a common phenomenon, affecting particularly migrant and ethnic minority children.¹ The Council of Europe’s Commissioner for Human Rights, Nils Muižnieks, has also highlighted reports of children working long hours in the UK.²

It is crucial that policy- and decision-makers have a clear idea of the values and objectives that should guide them in their discourse and action on children’s involvement with the world of labour. Any measured answer needs to consider health, developmental, educational, social, economic, political and ethical issues. As I have discussed elsewhere, global debates on child work have raised various arguments in favour of either a welfare/prohibitionist approach that restricts child work or an autonomy/regulatory approach that more willingly accepts child work.

This distinction has helped to frame the debates; yet, in the long run, it has been very unhelpful: children’s right to work may well be recognised, but it is the terms under which that right can be exercised (in terms of minimum age, health and safety, minimum wage, etc.) that remain contentious.

I submit that the socio-economic standards in the UK require very demanding child work policies, in order to reflect the UK’s (relative) degree of development. A social and economic ‘abolitionist’ outlook on this subject-matter should be favoured. Children are, in principle, better placed in educational, family and sport/leisure social settings rather than in work places. The dividing line between (unlawful) child labour and (lawful) child work on the continuum of child involvement with economic production should be pushed towards reducing the scope for child work, thus widening the scope of what should be considered child labour and therefore prohibited. Any deviation from this should be treated as exceptional and thoroughly scrutinised.

As I have argued extensively elsewhere, restricting child work is compatible with – and necessary for – children’s rights, capabilities and well-being, and socially fair treatment.

Child work issues

Despite UK legislation regulating minimum ages of employment and prohibited forms of child work (in particular the Young Persons Act 1933), many children engage with prohibited forms of employment. The majority of child employment in the UK is arguably illegal, be it due to the number of hours worked, the age of the child, the type of work, the lack of a work permit, or the time of the day when the work is carried out. Besides a range of other negative consequences (explored below), engaging unlawfully with work also translates into invisibility in terms of insurance and accident cover, which leaves children unprotected in case of suffering or causing damage of any nature.

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12. Children in the UK tend to work in the service sectors, retail, hotel and catering industry, and personal services, as well as baby-sitting, car-washing and other self-employed tasks.\(^8\) The type of work carried out by children in the UK is generally unskilled, poorly paid, “around the edges of the formal labour market”, involving simple and repetitive tasks in high volume, and only rarely allows children to acquire a particular recognisable skill or be creative.\(^9\) As many of the employers in question are small employers, often family businesses, the use of part-time and casual labour is extensive and “children can offer a ready source of cheap hours and flexible labour, one that is available at short notice, tolerates irregular hours and has low expectations of work.”\(^10\) It has also been found that, even if gaining “soft skills” such as communication and interpersonal skills, younger children (14-15 years old) are less likely than older children (16-17 years old) to receive any sort of training, have contact with customers or deal with money, thus diminishing the relevance of that work experience for future employment.\(^11\)

13. In terms of effects of work on children, one could refer to many dramatic cases of children suffering horrific accidents and even dying whilst working.\(^12\) A 2013 case, for example, saw a 16-year-old apprentice die in a Greater Manchester factory due to an injury to his head.\(^13\) Leaving the most dramatic cases aside, however, there are still plenty of worrying consequences one needs to highlight.

14. A clear link has been established between work carried out by children in the UK and their educational attainment. In a survey carried out by TUC, 29% of the children reported often or sometimes feeling too tired to do homework or school work.\(^14\) Exact causal links depend on the particular study, region or data used, but one may point out an average of 25% more passes in O levels and GCSE results for those children not working, and a negative effect of work on A-level results.\(^15\) It has also become clear that working a small number of hours/week seems not to have any negative impact on academic performance and may even improve exam results, but when working more than five hours/week the negative effect on the academic performance and school

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\(^7\) Hobbs and McKechnie, *Child Employment in Britain* at 8-9; J. McKechnie and S. Hobbs, ‘Child Labour: The View from the North’, *Childhood*, 61/1 (1999), 89-100 at 94.


\(^10\) Mizen, Pole, and Bolton, ‘Why Be a School Age Worker?’ at 40.


\(^12\) Hobbs and McKechnie, *Child Employment in Britain* at 22.


\(^14\) TUC, *One in Ten School Kids Play Truant to Work*.

attendance increases with the increase of the number of hours worked.\textsuperscript{16} So, whilst education and employment are not necessarily incompatible, limits to the number of hours worked and the nature of the activity are clearly desirable to avoid negative effects on the educational progress of the children wishing to work.

15. Other effects include 20-30\% of working children in the UK sustaining some form of accidental injury,\textsuperscript{17} and at any rate suffering a higher rate of accidents than adult workers, particularly in the context of delivery work.\textsuperscript{18} Crucially, family agriculture businesses often use the work of children – for long and intense periods of time. In this context, “children remain a vulnerable and exploited source of labour” in farms.\textsuperscript{19}

16. Finally, one should point out that higher poverty indicators are inversely related to the proportion of working children,\textsuperscript{20} and children with only one parent and with families receiving Income Support are less likely to have a part-time job than other children.\textsuperscript{21} Child work experiences are thus more closely related to middle class families.\textsuperscript{22} Children from more disadvantaged socio-economic backgrounds seem, instead, to work outside formal employment relationships, for longer hours, and earning less per hour.\textsuperscript{23}

17. In the light of all of the above and of an extensive body of evidence from other jurisdictions that I have critiqued elsewhere,\textsuperscript{24} it is clearly advisable to retain a policy framework restrictive of child work and, if at all possible, strengthen it.


\textsuperscript{17} Hobbs, McKechnie, and Lavalette, \textit{Child Labour} at 1.

\textsuperscript{18} Hobbs and McKechnie, \textit{Child Employment in Britain} at 58 ff.


\textsuperscript{20} McKechnie and Hobbs, ‘Work and Education’ at 21.


\textsuperscript{22} Lavalette, \textit{Child Employment in the Capitalist Labour Market} at 219.

\textsuperscript{23} Middleton and Loumidis, ‘Young People, Poverty and Part-Time Work’ at 31.

\textsuperscript{24} Ferreira, ‘Working Children in Europe’.
Legal enforcement

18. Unlike in many other European countries, in the UK regulation of child work is mainly enforced by local authorities, as opposed to a centralised labour inspectorate, although the Health and Safety Inspectorate also plays a role in relation to child workers. In the light of the limited scope for action and budgets of local authorities, one can question whether their resources and structure are sufficient and appropriate for such a task.

19. Crucially, in the light of the small amounts of fines and insufficient resources dedicated to registration, inspection and prosecution in the UK, “the risks and costs of flouting child labour laws for employers are negligible.”

20. The fact that so many children work unlawfully seems to be evidence of the inadequacy of the enforcement (not) carried out by local authorities. It is also a reflection of lack of awareness of existing regulations by all actors involved and of lack of prioritisation of this area by local authorities.

21. One should thus recall the obligations that Article 32 of the 1989 United Nations Convention of the Rights of the Child (CRC) imposes on its Member States (including the UK) in relation to the enforcement of child labour regulations. This includes involving NGOs, private sector organisations and children themselves in monitoring and enforcing these regulations, and endowing labour inspectorate authorities with the necessary resources to monitor the enforcement of these norms.

22. Moreover, local authorities can be more effective in promoting awareness of child work issues and the work permit system through campaigns, and use spot-checks as a deterrent. One can build in incentives into the permit system to encourage children to acquire permits, for example, by framing permits in empowering (rather than prohibitive) terms. A more concerted nation-wide strategy focused more on licencing employers than giving work permits to child workers can also produce better results.

23. One should also promote the intervention of actors other than public authorities. Schools can be seen as ideal platforms to educate children about their employment and labour rights, and the health and safety requirements that children need to respect to avoid harm to their well-being and development. Trade unions can also play an important role in identifying and reporting child labour, supporting child workers’ complaints, and using their negotiation and collective bargaining powers.

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26 Hobbs, McKechnie, and Lavalette, Child Labour at 238.
30 Hobbs and McKechnie, Child Employment in Britain at 23 ff.
31 TUC, One in Ten School Kids Play Truant to Work.
33 Whitney, ‘Unenforced or Unenforceable?’ at 242-3.
Alternatives to child work

24. In parallel with a careful and restrictive approach to child work, we need to ensure that a strong social welfare system is in place – including a comprehensive range of out-of-work and family financial and services support – to ‘cushion’ such limits to child work.\(^35\)

25. It is also important to find ways to protect children from the harmful effects of work without depriving them of its positive effects. It is preferable to focus on organised sports, volunteering with charities, being members of school clubs or youth political groups, participating in a range of associiative activities, and joining other extra-curricular activities.

26. Besides this, light work is already allowed by the International Labour Organization Convention 138 and Part II of the Young Persons Act 1933 (starting from the age of 13), which allow older children to experience certain types of work in a lawful and safe way before finishing compulsory education, thus facilitating their transition into work and the acquisition of relevant skills.

27. Crucially, we should promote valuable vocational training or traineeship opportunities. Indeed, vocational training and traineeship programmes are the best answer for many children with no appetite or inclination to more academic curricula, and who should therefore benefit from an educational offer that should prepare them for the labour market. Children’s experiences in school-connected work are more positive than in work unrelated to school; this includes internships supervised by school, job shadowing and a range of school-to-work programmes, as these opportunities offer children more scope to have more initiative and responsibility, face greater challenges, and obtain greater satisfaction than in work experiences unrelated to school.\(^36\)

28. School-related work experiences are therefore much more rewarding, safe and relevant for a smooth transition between school and the labour market, than work experiences freely available in the labour market. As the quality of work experiences are essential to the outcomes of that work,\(^37\) high-quality school-related work experiences should remain a policy priority and build on the efforts of the 1970s and 1980s to develop models that combined education and (non-exploitative) work, such as co-operative education and apprenticeships.\(^38\) Some authors suggest ‘production schools’ and other forms of entrepreneurial educational settings;\(^39\) others suggest cooperative education, experience-based career education, community service and mentoring, as mechanisms to slowly build up teenagers’ skills in a safe and motivational environment.\(^40\)

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\(^{37}\) Hobbs, McKechnie, and Lavallette, *Child Labour* at 51.


29. Child and young workers are recurrent victims of discrimination in the world of work with regard to recruitment, selection, pay, training, promotion and pensions.\textsuperscript{41} Most important, children generally receive very low pay,\textsuperscript{42} something made easy by the lack of a minimum wage for under-16s, and lower rates of pay for under-18 year-olds.\textsuperscript{43}

30. The Equality Act 2010 plays a role here by prohibiting discrimination on grounds of age, including both direct and indirect forms of ageism. This potential has been confirmed in Wilkinson \textit{v} Springwell Engineering Ltd, which concerned the dismissal of an 18-year-old for lack of experience, which in fact equated to a young age rather than lack of ability.\textsuperscript{44}

31. Yet, lower minimum wages for young workers are accepted in the UK on the basis that they help young workers (perceived as less skilled and productive by employers) to enter the labour market and, contradictorily, deter young people from wishing to enter the labour market and encourage them to remain in education.\textsuperscript{45} Interestingly, evidence suggests that lower pay for younger workers has little bearing on the chances of employment for these workers, and the reasons behind young people leaving education are too complex to be linked to a lower minimum wage.\textsuperscript{46}

32. This indicates that lower minimum wages for younger workers should be challenged and the introduction of universal minimum wages should be seriously considered.\textsuperscript{47}

33. More generally, thorough scrutiny is needed of all those practices and norms that, under the guise of favouring younger people’s education and promoting their chances of obtaining employment, somehow discriminate between them and older workers and use detrimental stereotypes. The legitimacy of the aims and the proportionality (including adequacy, necessity and strict proportionality) of the measures/norms used to achieve those aims should be tested thoroughly.

34. The principle of equality and anti-discrimination statutory norms may not, however, be used to question a minimum employment age and other limitations on child work, as all statutory instruments – not only domestic but also the 1989 Convention on the Rights of the Child (CRC) and ILO instruments – expressly establish that a distinction needs to be drawn between the forms of work with which children and adults can engage. This distinction is not only lawful, but also necessary to ensure respect for the principles and rights of children enshrined in the CRC. Once children lawfully enter the labour market, then they should be treated on an equal basis with older workers.


\textsuperscript{42} McKechnie and Hobbs, ‘Child Labour’ at 93; TUC, \textit{One in Ten School Kids Play Truant to Work} at 154; Pole, ‘Vocabularies, Motives and Meanings’.


\textsuperscript{44} ET/2507420/07.


\textsuperscript{46} Sargeant, ‘The UK National Minimum Wage and Age Discrimination’.

Conclusion

35. As most studies and data available regarding UK working children relate to the 1990s and 2000s, the existing empirical data risks being insufficient and outdated. Consequently, extensive longitudinal empirical research on children’s work experiences in the UK should be commissioned and funded as a matter of urgency. Once that data is gathered and analysed, policy-makers will be in a much better position to improve the current legal framework and its enforcement.

36. At any rate, child work is most commonly to the benefit of others (employers and families) and detriment of children themselves, by entrapping them in a likely life-long cycle of low-skilled and low-pay employment. The broader consequences of child work entail the perpetuation of poor social and working standards, race-to-the-bottom-style competition, and a society unprepared to face the economic, environmental and technological challenges posed to us all in the future. Until late adolescence, entry into the labour market is not the most conducive means to the fulfilment of children’s potential – education and other means of socialisation are.

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