



# Children's Rights and Child Labour

Clive Hedges,<sup>1</sup>  Ewan Ingleby,<sup>2</sup>  Mervyn Martin<sup>3</sup> 

<sup>1</sup> Education, Teacher Training and Social Work Department, School of Social Science Humanities and Law, Teesside University, Middlesbrough, England, UK ([c.hedges@tees.ac.uk](mailto:c.hedges@tees.ac.uk)).

<sup>2</sup> Education, Teacher Training and Social Work Department, School of Social Science Humanities and Law, Teesside University, Middlesbrough, England, UK ([e.ingleby@tees.ac.uk](mailto:e.ingleby@tees.ac.uk)).

<sup>3</sup> Law Department, School of Social Sciences Humanities and Law, Teesside University, Middlesbrough, UK ([m.martin@tees.ac.uk](mailto:m.martin@tees.ac.uk)).

Received: 05/06/2023

Accepted for publication: 28/09/2023

Published: 01/10/2023

## Abstract

An examination into the origins of rights' discourse and contemporary debates around child labour in developing countries, illustrates some of the problems with the discursive uses that children's rights is put to, and its weakness as a means of addressing issues of social justice. Addressing the discourse around child labour, and how this is related to wider conceptions of the individual in post-European Enlightenment thought, enables some enquiry into the nature of these problems. Arce (2015) reveals the scale of child labour as a social issue, and that it occurs predominantly in developing countries, with almost a fifth of the global total of child labourers residing in Africa. Whilst it has a global impact that transcends national borders, the framing of the discourse around it occurs within parameters set by European actors. In this paper we argue that, if children's rights campaigns wish to do more than reinforce existing global systems of domination and subordination, there needs to be a focus on children's place in a nexus of social relations that themselves need radical rethinking. Such a project, we argue, could more usefully provide a starting place for conceptions of social justice that pay adequate attention to the needs of childhood.

**Keywords:** Child labour, developing countries, children's rights, contractarianism, neo-liberalism.

## 1. Introduction

There have been efforts in recent years to both acknowledge and remedy what has been seen as an insufficiently robust or nuanced general theorisation of children's rights (Arce, 2015; Tobin, 2013; Quennerstedt, 2013). Both Arce (2015) and Tobin (2013) place an emphasis on the need to see children's rights as a process, and, along with Daiute (2008), regard it as culturally located and, therefore, fluid and contingent in the nature of its achievement.

The dominant discourse, meanwhile, often sees it in a normative fashion, as a fixed set of ontological necessities in charters such as the United Nations Convention on the Rights of the Child (UNCRC), that attempt to fix a set of social relations, essentially mediated by wider social structures, in particular the state. These positions have been developed partly in response to important past disagreements about the basis of children's rights, usually regarding whether such rights exist on the basis of interests, or whether a rights holder needs the capacity to uphold rights in

order to be the bearer of them (Brennan, 2002). Tobin (2013) argues that there exists a discriminatory position embedded in the refusal to admit rights on the basis of interest. In this paper we argue that any theory of children's rights, to be worthy of the name, needs to acknowledge the logic of Tobin's (2013) position and adopt a 'maximalist' position regarding the bearing of rights as a matter of strategy, as it were, in seeking social justice. However, it also needs to recognise the problematic nature of not only children's rights, but also rights' discourse in general, in both its origins and development as a discursive practice in Western politics, and in much of the contemporary uses to which it is put.

Charting paths towards the realisation of children's rights needs a rigorous and continuous examination of the foundations of thought on which they rest, as well as the more common case studies of rulings and abuses. However, it must also address the implications of fundamental aspects of contemporary society for this endeavour, not least the nature of the creation of value under conditions of flexible accumulation. Once the basis of rights is located in interests, and not in 'agency' (the latter being inevitably discriminatory), then another major obstacle to the development of children's rights praxis becomes obvious. This is the nature of contract, and the creation of value in capitalist systems, brought into the starkest of lights when confronting the issue of child labour. It is important to note here, however, that any understanding of the relations that enable the creation of economic value is only a very partial one without a recognition of the symbiotic relationship between economic exploitation and the 'non-economic'. By the latter we mean those fundamental activities that are socially subordinated, that is the activities of social reproduction, the work of families, most frequently of women, and the lives of children.

The deleterious effects of the relationship between these two artificially divided spheres often form the basis for calls for social justice, such as that embodied in calls for children's rights. However, the failure to see the two as conjoined has hampered the ability to see how questions of economic or redistributive justice are bound up with those of wider social justice.

## 2. Enlightenment Conception of Rights

Firstly, there needs to be some analysis of why the basis of much thinking about rights embodies some potentially problematic conceptions of the situation of children. It needs to be not just remembered, but placed centre stage, that the very foundations of European rights thinking in the Enlightenment thought of Locke, Rousseau, Kant and others, was concerned with the barring of women from equal agency, as has been well documented since the first published riposte famously produced by Mary Wollstonecraft (Darling and Van De Pijpekamp, 1994; Millett, 2016; Pateman, 1988). It is possible to read Rousseau in different ways (Trouille, 1997); however, his ideas on the need to ensure a domestic quality to women's characters, regardless of whether it is seen as 'natural' or not, remain stubbornly consistent (Jonas, 2016).

The conception of the independent, sovereign individual/consciousness is key to this thought, and is positioned as inherently male in all of these foundational thinkers. We argue that this is because it is perceived to be inconsistent with the social organisation of care, meaning the Enlightenment agent cannot be associated with childcare if he is to have the necessary independent 'sovereignty' needed for agency within the political sphere. Care implies both vulnerability and dependence, suggesting a necessary privileging of the social over the individual. The atomised, sovereign individual central to conceptions of the human in contract theory, liberal or otherwise, from Hobbes to Rawls and Nozick, is a position that is inherently inimical to such ties of dependence, and so also to the inclusion of children in what becomes identified as 'civil society'. It also entails the socio-economic subordination of those involved in what is treated as a liminal space in terms of the creation of exchange value in capitalist society, that is, childcare. Reproductive labour remains seen as 'work', not 'labour', a point we shall return to later. It also frames questions of social justice as essentially seeking not only 'more than justice', as Baier notably put it (1987), but a radical conception of social justice that seeks to overturn fundamental relations between the social and the economic.

The Enlightenment conception of agency was consciously racialised, with non-whites being seen as lacking the innate qualities necessary to responsibly wield freedom. This was done without any contradiction on the part of most proponents of the human rights discourse supposedly informing the American and French revolutions, keen as they were to justify the continuation of the slave trade; a process still being unravelled today (Stovall, 2021). The discourse of rights then has been, since its inception, an action designed to prevent the entry of those deemed insufficiently capable, or potentially subversive, into the 'polis' (those deemed suitable to act as full citizens). In other words, the discourse is inherently bound up with interventions designed to legitimise narrowing, as much as broadening, what is regarded as meaningful agency in society in support of particular (re)formations of power relationships. This creates divided discourses of justice, separating the sphere of economic justice, dominated by questions of contractual relations, from the 'non-economic' one of social reproduction. In doing so, it relegates those issues of social justice outside of the economic sphere to a subordinate place. This is the case despite the fact that the capital accumulation central to the former is dependent on the existence of the work of the latter.

If children's rights theory is to break free of the contradictions embodied in this conception of agency, and its implications for conceptions of children and childhood, it needs to recognise the foundation of these contradictions in the Enlightenment conception of the individual as sovereign and independent because, as Adorno and Horkheimer (1997, p. 3) argue, they have been liberated by particular conceptions of rationality. One of the difficult aspects of this task, however, is that the major critiques of Enlightenment thought available, stemming largely from the work of Marx, tend, although not perhaps as crudely as some critics have suggested, to emphasise the homogenising effects of capitalist economic and ideological expansion. This meant less of a focus on the ways in which it concurrently differentiates; an issue of obvious relevance for those marginalised by such processes (Robinson, 1983).

### 3. Children's Rights

Does this mean that the fight for children's rights is fatally tainted by this history, or, conversely, that children are best understood as an oppressed minority, the final group whose need for 'sovereignty' is still to be widely recognised, and the realisation of which could in fact be the final victory in the achievement of social justice (Arce, 2013)? If the latter, this would suggest that the answer to the issue is to be found in their self-organisation and involvement in activity that potentially breaks open this restrictive ontology to include a wider circle of beings-as-agents than the traditional adult, Eurocentric and patriarchal model. In this debate, the relevant Enlightenment arguments are not only of historical relevance; the notion of childhood as a last battleground in arguments about rights is still a live one, and Rousseau casts a long shadow here. His conception of the child in 'Émile' (Rousseau, 1974), and the idea of the individual and education it embodies, echoes through time to more recent radical ideas of education, such as A. S. Neill's (1971, p. 129) argument that the 'key to all child-centred education is self-government'. There is, moreover, the recent mainstream consideration of applying Rousseau's thought to contemporary educational systems (Gilead, 2012). However, extending this Enlightenment conception to include all is not without its contradictions (Supiot, 2003). The concept of the sovereign individual is fundamental to Western conceptions of human rights. However, when children are included within this discourse, the language shifts as they, inevitably, are seen as failing to measure up to this model of the individual (Arce, 2015, p. 316). The focus instead becomes one of 'rights and responsibilities' (UNICEF); ironic, given children's lack of responsibility for our wider social ills.

Children are expected to be less able, and so need protection, however, also to be progressing towards the sovereign, rights-bearing individuality supposedly bestowed by adulthood. Theoretically the aim is justice for the child; practically the question is intervening in the adult exercise of power over children. The use of the United Nations Convention on the Rights of the Child (UNCRC) to further this position flounders both practically, not least because

of the diminishing power of any liberal state in the face of globalising capital, and theoretically, because of its conception of the child as merely a staging post on the way to creative and rational autonomy, and the contradictions this entails. This conception of agency legitimates the problematic international response to the issue; however, it also underpins children's rights approaches. The latter subsequently fails to adequately challenge the former because both are founded in variants of a European liberal discourse. The effect is that children's rights, as a discourse, fails to do justice to the centrality of children's needs to any conception of what a just social order would look like.

#### 4. Alternate Traditions

How then might other conceptions of rights assist, and what sources are there for these conceptions? There are some differing conceptions of rights to be found within Enlightenment traditions themselves, albeit amongst the more obscure and lesser celebrated figures such as Thomas Spence, a Newcastle-born radical of the late 18<sup>th</sup> and early 19<sup>th</sup> centuries. His 1797/1982 pamphlet, 'The Rights of Infants', presents, through the voice of 'Woman', the idea of rights as based on social relations. Although one might possibly cavil with his somewhat essentialist view of women, and the absence of children's voice, central to his argument is a consideration of relations of power and their basis in the ownership and use of land and labour, as well as a placing of childcare at the very centre of the political sphere, rather than on its margins (Spence, 1797/1982, p. 114-122). History, and historians in particular, have not been kind to Spence (E.P. Thompson posited that it was 'easy to see (him)... as little more than a crank', 1968, p. 177); however, there is the recognition in his writings that rights are only realisable through social relations, not individual agency. Furthermore, the key to a reformation of social relationships is the realisation of the centrality of gender and family, and the issue of care, around which relations concerning labour and the ownership of land and capital should then be built, rather than vice versa.

There are also, of course, non-Western traditions of integrating notions of rights into, rather than outside, in an over-determining fashion, as it were, of social relations, and of seeing rights as realised through these relations, rather than imposed on them. This sees reciprocity as a key defining element of rights, although again this is often expressed through the term 'responsibilities', as in the African Charter on the Rights and Welfare of the Child (ACRWC). In this framework, what Western agencies may sometimes see as 'child labour' can be positioned as the realisation of some rights, enabling, for example, the development of 'interpersonal, numeric and money management skills, which are required for managing a household' (Twum-Danso, 2009, p. 424), and providing the chance for children's involvement in the social relations of communally productive labour. Again, these are usually framed within a discourse of the child as a being on a journey to autonomy and full individuality, at which point they can enter into contracts for themselves and take part in the wider 'social contract'.

One problem for children and their rights in this model stems from the porous boundaries between this family-governed, communally orientated and educational work and labour that is part of the wider capitalist economy. Although it is really the nature of the asymmetrical power relationship between the two, and the relationship between both of these and formal, state regulated education that causes problems (Nordtveit, 2010). Western discourses usually assume that child labour is always inherently damaging, as it sometimes is, of course, unsurprisingly in a capitalist system (Blanchet, 1996; Seabrook, 2001; Nieuwenhuys, 2005; 2007; Gamlin, 2011; Ibrahim et al., 2019). There is also an assumption that formal education, the aspect of the child's life most obviously absent to policymakers as a result of labour, is always inherently good. This is despite much evidence to the contrary, and the fact that Western educational models are primarily based on moulding the child into a model of the neo-liberal, ultra-competitive subject (Harber, 2004; Ingleby, 2021). Whilst there have been acknowledgments that much past policy frameworks were based on Western models of civil society and the child's place within it (Bass, 2004; Myers, 2001), it still appears to be the case that current frameworks are unable to see

children as social agents, even limited ones, or recognise the benefits of some examples of work for them and their families (Maconachie and Hilson, 2016). This, however, is often taken to be the whole battleground for children's rights debates, despite logical contradictions within it.

## 5. Child Labour in Developing Countries

There are an estimated 152 million children in child labour globally, with around 73 million in hazardous work, and around 27 percent of these children are in what are characterised as low-income countries (Arce, 2015). Around 70 percent of these child labourers are in the agricultural sector (Arce, 2015). However, child labour is not a new phenomenon; it has been in existence for centuries (Kern, 2000), and its existence in industrialised countries in the past has been the subject of many studies and reports. How then is the issue of child labour in developing countries currently defined? Any contextualisation demands an understanding of why, and how, child labour is positioned as an issue in the discourse around it, and how this shapes the possible remedies proposed by international bodies. Some authors state that all types of child work are unacceptable (for example, Basu, 2003); others believe, as mentioned above, that certain types of work are beneficial to the development of the child and contribute to character building and their informal education (Martin, 2001). Divergence is found between international and domestic instruments seeking to address the issue, as well as cultural practices and social expectations around it. This divergence has been said to not only perpetuate the problem, but cause uncertainty for economic planning (Martin, 2001).

There are two dominant schools of thought in international law influencing discourse in this area. The first view is that when work becomes exploitative and compromises the development of children, it should be viewed as a violation of their fundamental rights and, therefore, should be eradicated (Murshed, 2001). This approach makes a distinction between activity that is acceptable, terming it child work, and unacceptable activity, labelling it child labour. This is positioned as a rights-based approach that sees such work as diminishing the individual's capacity for later

agency, although often such writers cavil lightly, if at all, at the alienated and degrading labour that may await this 'later agency'.

In taking a human rights approach, some authors argue that the concern over child labour should only be considered in association with the exploitation of children, where they are forced to work in situations that compromise their education and development (Thijs, 1997). What, then, can be categorised as exploitive labour? The UNCRC defines this as covering the economic exploitation of children where it is hazardous, interferes with children's education, or is harmful to their health or physical, mental, spiritual, moral or sexual development. This is the fairly broad definition that can be seen in UNICEF's classification of child labour and includes: being employed 'full time' too soon; labour that exerts undue physical, social or psychological stress, or is detrimental to a child's social and psychological development. The definition also includes labour that hampers children's education; undermines dignity and self-esteem or imposes too much responsibility and is 'poorly paid'. The separation of economic labour from the work of social reproduction, subordinating the latter and reducing it to a site of appropriation for the needs of capital, is taken for granted in this model. Whilst separating children from the world of labour in this way may offer protection from exploitive social relations, it also reflects the wider social alienation of child and adult alike, and fails to make the link between children's interests and wider social justice for all.

## 6. International Responses

The rights view sees the distinction between acceptable and unacceptable work as being dependent on the degree to which the work is: situated in an environment that enables an exercise of a, usually limited, agency; is not injurious to health and allows for limited collective action and employment rights. In consequence, children too should be able to avail themselves of what the International Labour Organisation and United Nations Development Programme define as 'dignified work' (ILO, 1919; UNDP, 2016). Indeed, a demand for dignified labour has been eloquently put by children

themselves since at least 1976 and the creation of the Movement of Adolescent and Child Workers, Children of Christian Laborers (Manthoc) in Lima (Besquele and Boyden, 1988). However, this discourse can also be one that posits the main problem of the issue as its deleterious effects on 'human capital' and longer-term economic growth (Lin, 2021). In other words, the apparently rights-based, normative argument can often hide a utilitarian one. Furthermore, the convergence of politics based on claims of emancipatory potential with neo-liberal economic and socially conservative strategies has, we would contend, been a feature of much 21<sup>st</sup> century political discourse. Thus, for example, liberal feminism has, at times, converged with essentially neo-imperialist or conservative political projects (Farris, 2017), and children's rights and issues of child labour in particular, can function as part of a discursive system around the nation and 'national interest'. This involves seeing child labour as conferring an 'unfair' advantage to developing country producers; a classical liberal, often labelled as neo-liberal, approach that sees it as wrong primarily because it is damaging to 'free trade', and the chance for nations to compete on a 'level' economic playing field.

In the last twenty years, with the conclusion of the Uruguay Round Agreements and the subsequent establishment of the World Trade Organisation (WTO), countries undertook radical liberalisation initiatives. These led to the facilitated movement of goods, services and capital across national borders, placing greater emphasis on comparative advantages as countries competed for greater market access and foreign investments (Martin, 2001). This led to the assertion that an unfair advantage bestowed by child labour in developing countries was causing job losses and hardship to workers in industrialised countries (Singh and Zammit, 2003). This is a view based not on the nature of the social relations that the child is living within, nor even on the individual child as a rights bearer with future potential, but on the reified entity of the 'nation' or 'national economy', as if there were a homogenous 'national interest' that has some kind of mythical agency, rather than being the product of social relations of power. There has of course always been an inherent elision between this conception of the nation, who it represents, and the Enlightenment

view of the sovereign individual, one reason perhaps why it has been such a powerful and long-lasting idea.

Counter arguments were also made that being against trading in goods produced by child labour was self-interested protectionism advanced by Western governments under the guise of moral arguments. Pursuing issues of child labour in international law through appeals to economic logic then led to tensions because of undertones of protectionism/unfair advantage and the resistance of developing countries (Kolben, 2010). Nevertheless, there is clear benefit for Western economies and consumers from the enormously unequal exchange of labour and goods that takes place across the globe. In consequence, those locally controlling the labour of both children and their parents in developing countries are one part of a network of profit that spreads to the elites of Western and other globally dominant societies such as China (Nieuwenhuys, 2005). When a country decides to legalise child labour, in certain cases, as Bolivia did in 2014, it may have caused outrage amongst Western liberals, but a more nuanced view would see such a development as partly a reaction to the way global free-trade weights the scales against local development. 'Free trade' and the institutions championing it do not pay any particular attention to child labour (Dillon, 2015) and their legitimating philosophy, of the rights of the sovereign individual to enter a contract, is intended not to offer protection to those it marginalises, but to relegate them to a lesser level of being.

According to the 'free market' viewpoint, the situation should be left to its own devices, market forces will phase-out child labour as a result of increases in adult wages, enabling the 'luxury' of full-time education and leisure to become the defining characteristics of childhood (Murshed, 2001). There are two obvious criticisms of this viewpoint. Firstly, if it is a human rights matter, then waiting for market forces to work is not ethically acceptable (Dillon, 2003). Considering the matter through a lens of social justice, the idea of waiting for 'market corrections' is basically to stand aside and let a 'natural law' eventually exert its influence, regardless of the supposedly temporary, human costs. Even a utilitarian ethical perspective, certainly in its more liberal forms as espoused by Mill (1998), would

struggle to defend such a position. Secondly, from a free-market production perspective, it is difficult to see how child labour is an example of market inefficiency and, therefore, it is difficult to see why market forces should 'correct' the incidence of child labour. The nature of child labour only became an issue in industrialising nations when demand increased for child labour due to their usefulness in the production process (Martin, 2001). The use of child labour then became more organised, conditions for child workers were often inhumane and political movements radically challenged the situation (Basu, 2003). Furthermore, in this version of the process of development, child labour, and childhood in general, serves as a signifier for Eurocentric, racialised conceptions of progress and civilisation.

Globalisation, with increased accessibility to foreign goods and mobility of capital has, of course, intensified these debates and issues and had a significant impact on child labour. Inevitably, goods produced with the input of child labour can reach users in any part of the world. The greater mobility of capital results in its movement to other countries with variable labour-protection laws and, usually, cheaper labour costs (Basu, 2003). Globalisation, accentuated by technological advances, has also made data on child labour more available and the impact of global market integration has resulted in greater transparency in relation to the factors of production, including child labour input (Tapiola, 2002). Connected to these factors is the contention that child labour sacrifices human capital accumulation, and in order to meet a global demand for skilled workers, ninety percent of new workers in the year 2020 were anticipated as coming from developing countries (Brown and Keynes, 2020). One outcome of this is that the discourse around child labour becomes bound up with global consumption patterns, as manufacturers shift their production base to developing countries in order to enjoy lower production costs, and a focus grows on the ethics of Western consumer choices. Again, the focus shifts

back to the Western, generally male, individual as the model for ideas of agency, ideas fundamental to rational actor and neoliberal theory (Kundnani, 2021).

## 7. Explanations for the Persistence of Child Labour

Whilst actually existing neo-liberalism may not simply mirror the ethnocentric views of people like Hayek<sup>1</sup>, it still makes use of the deficit model of the other (woman, child, non-white) inherent in Enlightenment philosophy. Explanations within this discourse for the persistence of child labour usually focus on either poverty, family structure or corrupt or inefficient statecraft. Poverty has been referred to as the greatest cause of child labour in developing countries and as the main historical cause for its incidence in the past in industrialised countries (Basu, 2003). Suggesting that the labour of children is merely a result of poverty has been criticised for denying the agency of children that they may exercise through labour, and the elements of learning that can sometimes be embedded in it (Burra, 2004). It is also clearly an example of how the discourse situates some as able, or suitable, to act as sovereign individuals, and others as not. However, it is important to understand that many of the families in which children labour live on the subsistence line, and are unable to obtain financial assistance as they do not possess the assets necessary to secure such resources (Kar and Guha-Khasnobis, 2003). The result is a need for children to engage in work, which is then referred to by some as a dynastic or poverty trap, where the children of once child labourers go on to exist in the same social conditions due to a lack of the development of the socio-economic environment (Basu and Tzannatos, 2003). Pointing to poverty as a cause, however, is merely pointing to the 'dull compulsion of the economic' as Marx termed it; it is essentially tautological. According to the free trade

<sup>1</sup> Friedrich Hayek, notably through his 1944 work 'The Road to Serfdom', is often characterised as providing the philosophical foundations for neo-liberal thought. Hayek believed that individual freedom is the best guarantee of both wealth creation and the prevention of totalitarianism, to the extent that almost any government

intervention in society, even on a Keynesian basis, was characterised as a threat. Hayek's implicit ethnocentrism becomes most obvious when he talks about the values of 'western civilisation', with its supposedly inherent ability to 'discover' liberty compared to other cultures and the threat posed to it by immigration.

argument, if the structure of that local economy is enhanced to create more employment and subsequently higher adult wages, this should cause a reduction in the amount of child labour. However, the opposite has been observed, that children can assume some of the working responsibilities of their parents, who have changed the nature of their work, in order to take advantage of the enhanced earning capacity (Edmonds, 2004).

Another contributing factor is said to be a lack of effective state intervention. Very often, unstable or ineffective governments find it difficult to put in place interventions to address structural inequalities promoting child labour. An important issue connected to this inability of government is a lack of funds to provide quality, accessible care and formal education. Compulsory education has been described as the main instrument to combat child labour, although some authors have outlined that compulsory education legislation in industrialised countries can sometimes have little impact on child labour (Basu, 2003). An ineffective education system, it is argued, is inextricably linked to a higher possibility of children working (Grimsud, 2003), although accessibility of schools is also a mitigating factor (Burra, 2004) and in some situations children may need to work part-time in order to attend school (Basu, 2003), leading to the, seemingly counter-intuitive, situation where restricting employment may actually reduce school enrolment. This is all indicative of a situation where, unsurprisingly given the overall unplanned and complex nature of modern capitalist economies, the consequences of one intervention can be 'effects' that were unexpected in other areas of society (Burra, 2004; Edmonds, 2003; Edmonds and Pavcnik, 2005). In such situations the argument is usually made that there is a need to address low adult wages, and that governments in developing countries do not take action to keep children in schools (Martin, 2001). However, it is more often the case that these governments are poorly equipped to take such action, and the argument that education is a motor of social mobility is all too easily used as an excuse to embed neo-liberal hyper-competitive social relations into formal education (Ingleby, 2021). Logically it is the developed state that gives rise to an established, formalised education system, not the reverse, and, as noted above, such an

establishment is anyway no guarantor of children's rights.

Finally, family attributes have also been noted as an enabler of child labour. It is often argued that parental educational attributes strongly influence the incidence of child labour, the lack of education amongst parents supposedly impacting adversely upon the chances of suitable employment for their children as they fail to value education themselves (Edmonds, 2003; Thijs, 1997). Others suggest that, where child labour has been a prevalent option to education, it is possible to understand the presence of a lack of social acceptance for educating children in formal educational settings (Basu, 2003). Rarely is the argument advanced that there may be purely rational approaches to the favouring of labour over formal education, and that, regardless, such choices are a result of complex social relations that link the local to the global.

## 8. Concluding Discussion: Notes Towards Reframing the Discourse

The debate around child labour, we contend, is muddled by the porous boundaries between the definitions of the words: 'work' and 'labour', and their varying usage, and it is here that the issue of child labour can reveal potential paths to conceptions of a meaningful wider social justice. Hannah Arendt made the distinction between work and labour a fundamental part of her critique of modernity (Arendt, 1998), and pointed out that, although the two words may relate to 'what we think of as the same activity', the evidence of their difference in usage is also 'too striking to be ignored' (Arendt, 1998, p. 80). However, Arendt's analysis of the division between the two, whilst it made a logically coherent case for an understanding of rights in antiquity – notably in the case of the 'democratic' period of classical Athens, with its particular approach to slavery – fails to see how the personal, the issues of the household, is also social and, therefore, political under capitalism (Benhabib, 1996). However, her focus and critique enables, we contend, a recognition of some of the contradictions in both the



dominant, neo-liberal discourse and some of the challenges to it on the basis of rights.

The discursive strategies of both sides of the debate on child labour often ignore the legacy of colonialism and the ways in which it distorts patterns of employment and social relations, allowing elites in developing countries to, with some apparent justification, claim victim status in international debates about conditionality. Dillon (2003) argues that the only real fundamental role of the World Trade Organisation (WTO) is to guarantee free trade, seen as good in and of itself, despite obvious concerns about its encouragement of reward to those who can extract the greatest exploitative value from the most vulnerable workers. In other words, the WTO is a good example of the now disrupted, and possibly passing, neo-liberal hegemony and its underpinning logic. This logic sees no need to consider issues of trade as intertwined with issues of social justice; after all, to do so would be to question the nature of contractarianism and admit that the underpinning philosophy is essentially self-serving.

Ingleby (2021) refers to Simmons (2010) to argue that policy-making processes in key global societies like the USA and the UK are based on a series of assumptions about people and states, notably that differences in outcomes are a product of differential potentials between individuals and their intelligence, motivation, and morality (Ingleby, 2013). The need to 'manage the effects' of these differences is used as the basis for social interventions that attempt to realise the private ownership of previously public resources and engender competition between the remaining providers of public services, legitimated through a reification of market forces as an embodiment of rational, objective efficiency (Lauder et al. 2006, p. 25, cited in Ingleby, 2013). Such a view of the social world can be traced back to the work of Friedman and Friedman (1980) and Hayek (1976), and a somewhat skewed and misleading interpretation of the work of Smith (1991).

Some elements of neo-liberalism, then, are not new and can be traced back to the social relations made manifest in capitalism in 15<sup>th</sup> and 16<sup>th</sup> century England (Wood, 2002). At the centre of these philosophies is a belief in competitive individualism and the maximisation of the market based on a contractarian conception of social relations

(Saunders, 2010). In a series of political choices that are made to further particular economic ends, existing neo-liberalism has been characterised by an utterly ruthless process of expanding opportunities for capital growth, both geographically (Harvey, 2005) and socially, through a shift in labour relations and the opportunities posed by advances in digital technology (Lazzarato, 2014). However, at its heart is a concept of social relations with a long history. In this conception, rights signal a pre-determined set of criteria, deemed as useful to the degree that they serve the interests of already powerful groups (Ingleby, 2013). Moreover, in this discourse, the 'individual' is really the 'adult male'. This, we contend, following and adapting Arendt, is part of the underpinning logic by which the 'work' of being and being social, teaching and learning, providing care for oneself and others, for example, is secondary to the 'labour' of the contracted individual. The terms of this labour contract, legitimated on the basis of being 'freely' entered into by the sovereign individual, provides part of the underlying logic that allows for a convergence of capitalist production and patriarchy, subordinating social reproduction to the economic in the process. Conceptions of social justice should involve a reversal of this relationship.

One problem for the child rights argument is that it has sought to try and play the dominant discourse at its own game as it were, to merely broaden the remit of who is seen as possessing agency, of who can challenge embedded power structures through self-organisation, for example. But the cards, to mix metaphors, are always stacked against it in this endeavour. This is not to deny the many successes of children's rights struggles, both by and for children, but to try and understand why these have been contingent and often fleeting. We contend it is because it has lacked a challenge to the notion of the sovereign individual and failed to grasp the inherent dependence of all human existence, which amongst other things, entails calling for a radical re-evaluation of the place of the family (Lewis, 2019) and the relationship between 'work' and 'labour'.

The chance of making linkages between trade and labour conditions through the WTO, for example, are seen by some as an unlikely distraction anyway (Kolben, 2010), as international trade relations are destabilised by the contradictions of neoliberalism

and the rise of European and American populism (Tooze, 2018; Brown and Keynes, 2020; Brown and Mavroidis, 2021; Hopewell, 2021). The discourse will no doubt slightly alter in this new conjuncture, however we believe that the underpinning philosophy will remain and, in view of the presence of this discursive strategy, we argue that not only will the 'problem' of child labour continue to be perpetuated and may, in fact, increase, but discursive strategies around it will continue to fail in challenging the status quo.

Current policy is based on the absolute importance of capital accumulation, regardless of environmental depredation and the needs of social reproduction. Within this zeitgeist, children are regarded as having lesser interests because they are positioned as outside of the key social relationships that confer agency. Struggles for social justice, to partly return to Baier (1987), need to go beyond merely seeking the righting of wrongs, whether narrowly conceived as the wrongs of abuse or widely conceived, as, for example, the wrongs of poverty. They need to address the fundamental underpinnings of existing unjust social orders and the discourses that legitimate them, including the post-Enlightenment discourse of rationality and agency. These discursive strategies separate out spheres of social relations that child labour as an issue reveals to be fundamentally intertwined and which need to be understood as such. Social justice, including righting the wrongs of child labour, cannot be realised until there exists a new synthesis of the purpose of the human world in respect of recognising our fundamental human interdependence and the centrality of care to this.

## 9. Disclosure statement

The authors declare no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

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