

THE SEASONAL NATURE OF CHILD LABOUR AND ITS FORBIDDEN UPSIDES

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ABSTRACT

Child labour has often been seen as a completely negative phenomenon. However, it lies in the midst of the moral, social and economic grey area. Although no one can deny the former assertion, the latter puts things into perspective and forces us to look at the other end of the spectrum, especially in the Indian context. This paper tries to break this negative taboo and uncover a fresh perspective where seasonal child labour can be a cure to the long-standing downsides of child labour in general. While there are several existing legislations to combat these downsides, they fail to look at the seasonal absence of a child from his educational pursuits. The pre-existing laws merely propose a blanket ban on the idea of children being involved in work. These provisions work at a national scale, but keeping in mind India's vast diversity, they miss their aim when it comes to seasonal dropouts on the grassroots level. This paper further explores foreign regulations to put forth a fresh policy prescription to address all possible downsides, which may seem evident from the newly suggested model promulgated by the authors.

Keywords: *Child Labour, Seasonal Nature, Upsides, NAGCAT.*

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1. INTRODUCTION

Child labour does not need to be defined, as it is a widespread and widely known subject. However, it is not an explicitly defined term in any Indian legislation. The ILO (International Labour Organisation) defines child labour as 'work that deprives children (any person under 18) of their childhood, their potential and their dignity, and that is harmful to their physical and/ or mental development.'² However, these are more stringent in the Indian context³. The Child Labour (Prohibition and Regulation) Act, 1986 gives a definition of 'child' as an individual who has not reached the age of fourteen, as given under Section 2(ii)⁴. Although it was stated above that there is no explicit definition of child labour; however, it can be interpreted that child labour points to the involvement of individuals under the age of fourteen in work in the formal or informal sector which may or may not be against a wage.

This article focuses, in particular, on the effects of seasonal involvement of children in work. These effects are even worse than that witnessed by regular employment of underaged individuals in child labour. Seasonality of child labour refers to seasonal variations in the number of instances of child labour or the number of children under age 14 that are working.

The negative effects of child labour have been widely discussed through an infinite number of journal articles. However, this article takes up a unique perspective. It explores two possible ways wherein the involvement of children in a professional setup may have positive benefits. This involvement can have two roles – it can act as a supplement to the other activities of the children, or it can be complementary. The intricacies of these possible benefits shall be explored in this article.

2. Seasonal Nature

As mentioned earlier, seasonality refers to the seasonal variations in the involvement of children in labour. The seasonal nature affects the child, where he is employed for a few months and is kept out of school for that period. This creates a gap in his studies which makes a child generally averse to education, given the employment scenario in this country where most of

² ILO, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_531953.pdf (last visited December 23, 2022).

³ Fatima Juned, *No Glimmer of Hope: Jharkhand's Mica Mines and Child Labour*, SOCIAL & POLITICAL RESEARCH FOUNDATION (2022).

⁴ The Child Labour (Prohibition and Regulation) Act, 1986, §2(ii), No. 61, Acts of Parliament, 1986 (India).

the workforce is unemployed. Even higher education cannot guarantee a job, let alone primary education.

While there has been sufficient research on child labour as a concept, there remains the question of its seasonal nature. The studies conducted in these domains largely remain confined to the involvement of children in work in general. Thus, an in-depth study of seasonal child labour is essential.

This seasonality can be seen due to various reasons:

3. Causes

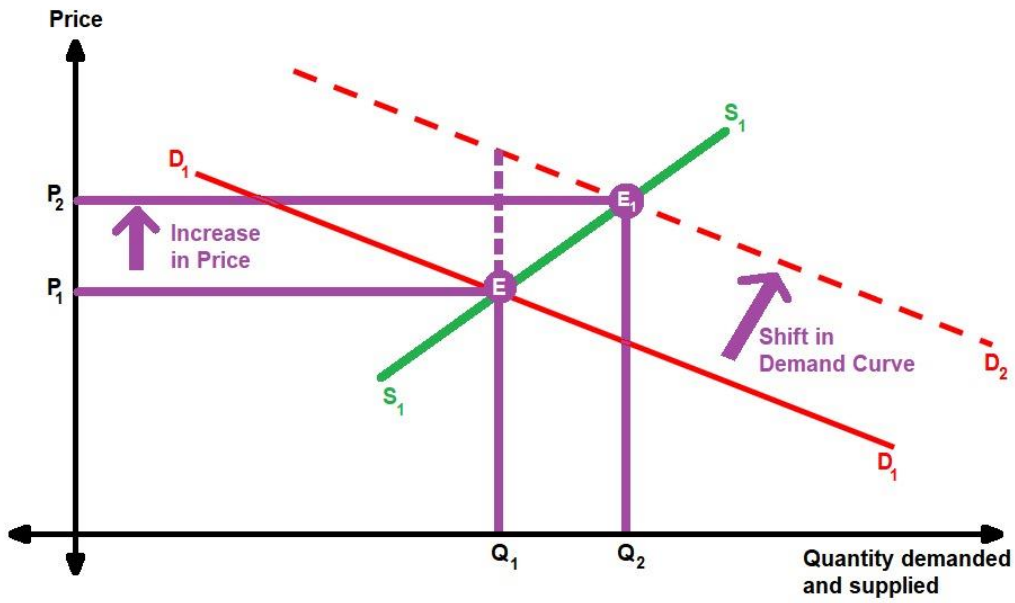
There are a lot of factors that work behind the stage to bring this seasonal divergence to the statistics of child labour, but the major factors are discussed below:

3.1. The Game of demand and supply at play

Any divergence in any market, be it price or production, results from the interplay between the market forces i.e., Demand and Supply. As insensitive as it may sound, there certainly exists a market for child labour. This depends on the divergences in the respective labour demand and supply curves. The interplay between demand and supply causes this divergence, which gives a seasonal aspect to child labour as with any other commodity. These are caused by the following:

In the primary or the agricultural sector

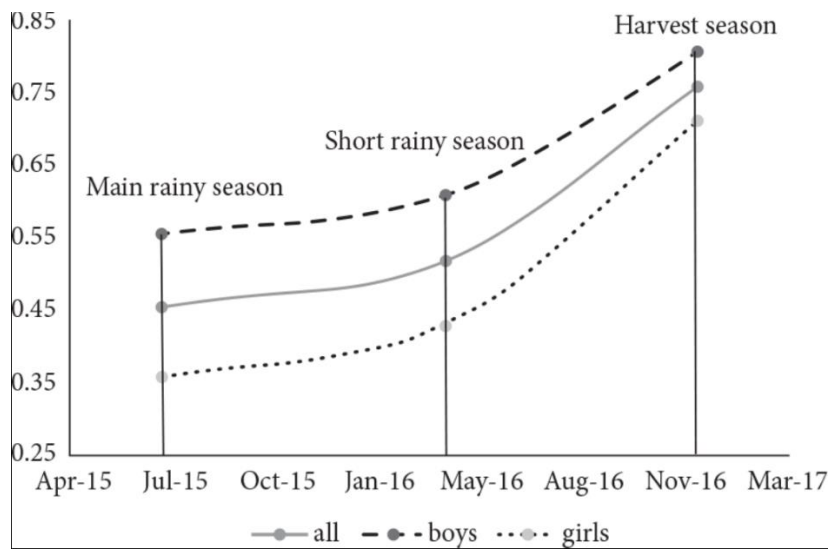
Here, during the sowing or the harvesting season, the demand for labour is very high, while the existing labourers at work are limited and constant in the short run. This creates a deficit which can have two results – either the additional worker would be hired, but with a much higher wage rate due to this rise in demand (*as an increase in demand with constant supply results in a rise of prices, see Graph 1*) This results in increased costs for the employer, which a poor farmer cannot bear and thus looks for other alternatives.



Graph 1

The other alternative for the employer is to hire children for work who would be willing to work at extremely low wage rates or sometimes even for free for cases of their own kin. Mostly the employer prefers the latter alternative, which leads to this seasonal divergence in child labour.

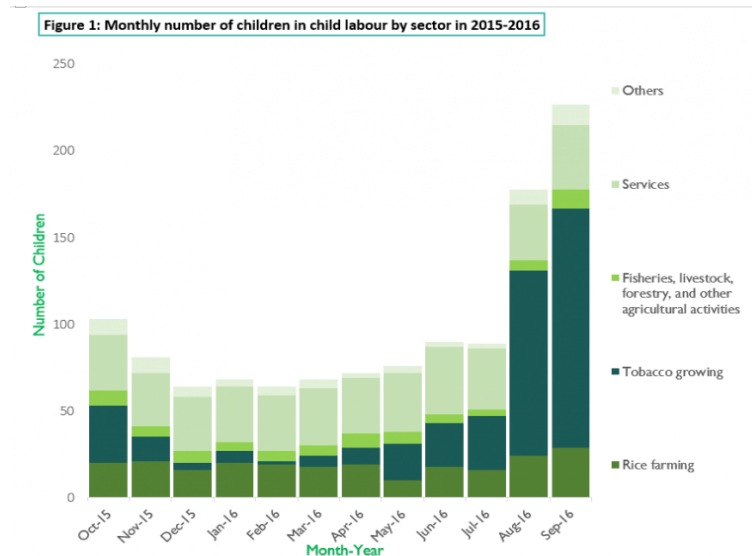
The quantified form of this result from a study conducted in Ethiopia may be seen in Graph 2:



Graph 2⁵

It is clearly visible from the above graph that during the harvest season, the instances of child labour rise.

The following graph represents seasonal variation in the number of children employed in different sectors:

Graph 3⁶

3.2. Effects of this seasonal phenomenon on the child vis-à-vis the economy and adult employment rate

Now that we have gone through the causes of this seasonal phenomenon, we will now analyse the effect of this phenomenon on various stakeholders in the situation.

⁵ Jose Galdo, Ana C. Dammert and Degnet Abebaw, *Child Labor Measurement in Agricultural Households: Seasonality, Proxy Respondent and Gender Information Gaps in Ethiopia*, 43 GLM LIC WORKING PAPER (2018).

⁶ ECLT Foundation, <https://www.eclt.org/en/news/understanding-child-labour-in-agriculture-lessons-from-eclt-studies> (last visited December 27, 2022).

Effect of this seasonal nature on the child

While one might think that if, due to this seasonal divergence, many children are working only for a few months, it might be a change for the better. It may be wrong to suggest this for many reasons. Firstly, studies have suggested that the longer children engage in seasonal labour, the greater the likelihood that they may drop out of school or encounter issues (these issues and their probable solutions have been discussed in Section 6 of the paper), such as a poor attitude toward their educational experience, skipping classes, and receiving worse marks⁷. A 25- 30-day drop in attendance for a student at the grassroots level may result in a child being averse to education, lack of concentration, and not focusing on studies. Another caveat is that these seasons are different for different parts of the country, and in a country as wide as India, these children are illegally trafficked to other parts of the country for work in unliveable conditions.

Effects on Economy and Household Income

The income of the family is significantly impacted by child labour. Some low-income families even rely only on the child's income to make ends meet. The following table shows this in a quantifiable manner.

Category	Average Annual Income (in Rupees)
Before contribution of child labourers	15,419
Contribution of child labourers	4,490
After contribution of child labourers	19,909

Table 1⁸

The accompanying table illustrates that the average household income is increased considerably due to the income of the child. The contribution of Child Labour is around ₹4,500, which accounts for nearly one-fourth of household income. The contribution of child labourers has a favourable effect on the households' annual income.

⁷ Poch Bunnak, *Child Workers in Brick Factories: Causes and Consequences*, PHNOM PENH: RESEARCH PROJECT IN CENTER FOR POPULATION STUDIES AT ROYAL UNIVERSITY (2007).

⁸ Prasant Kumar Behera and Subhasmita Das, *Factors Responsible for the Incidence of Child Labour: A Study in Cuttack City, Odisha*, 7.4 IOSR JOURNAL OF ECONOMICS AND FINANCE, 24-32 (2016).

But what this quantifiable data misses is that while the income of a child could have a short-term positive effect on the household income and economy, the overall long-term effect that it has is the opportunity cost associated with this problem. When a child joins work at a very young age, an age fit for learning and acquiring new skills, he closes all the other avenues for him, which could have had a multiplier effect on his productivity in the long term, for example, education.

4. UPSIDES OF CHILD LABOUR

Child labour has often been seen as a social malaise. However, as advocated earlier, it may not be a 'black' or negative object. There are two possible ways of looking at the probable benefits of child labour. These are -

- Child labour as a complement to Human Development.
- Child labour as a supplementary object.

The two outlooks essentially observe the presence of child labour vis-a-vis the other available work of the children. These outlooks compare the role that labour would play with the other aspects of Human Development, particularly the child's education.

4.1. Child Labour as a complement to Education - Labour as a 'side business'

This model was promulgated by Dr Bourdillon, a specialist in African studies with a keen eye on child labour in the continent. He aspires to propose an alternative model to combat child labour, which would not seek to impose a blanket ban on child labour but would target the adverse effects of child labour to ensure proper growth and education of children⁹.

There can be numerous reasons for children taking up work. These are primarily economic, social and educational reasons for a child to work. Although economic reasons often result in the exploitation of the young and tender generation, the same cannot be said about the other reasons for child employment. Social reasons are visible when, in a household, work and personal life are inseparable. In the name of protecting children, if they are made not to work,

⁹ Michael Bourdillon and Richard Carothers, *Policy on Children's Work and Labour*, 33(4) CHILDREN & SOCIETY, 387-395 (2019).

it shall amount to social exclusion. This is because social beings view themselves as members of a group by participating in work.

Apart from this, working can help children in relieving stress. Children acquire status and a degree of independence by helping their families through work. This has helped them achieve a sense of satisfaction and success which helps relieve themselves of the external stress that plagues them. Thus, blanket legislation which eliminates children's employment would rid them of this assistance.

Educational reasons for children's involvement in labour are much more important, as it would affect not only the social development of the child but also other aspects of his life. In cases where work and life are indistinguishable, the child mimics the parent's work playfully at first and eventually into a helpful worker due to psychological reasons. Apart from this, in cases where the child cannot be left alone at home, she accompanies the parent to her workplace. Thus, the child picks up the parent's skills. These social values, which help in the development of cooperative values, can be destroyed by the modern formal education system.

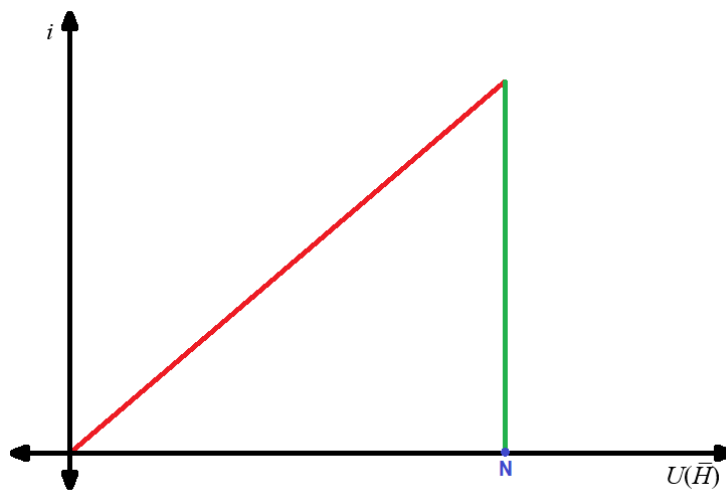
As for the economic factors, work undertaken by the child helps them learn various forms of life skills which are essential for employment at a later point of time or even self-employment. These skills can range from technical skills to business skills to even general life skills. These job-specific skill acquisitions help lower-income countries to gain a diversified group of skilled labourers.

Thus, the work undertaken by children has a positive connotation due to its complimentary nature with respect to their education. It inculcates social values in addition to skills which cannot be learnt through formal education.

4.2. Child Labour as a Supplementary Object - Economic Contribution Outweighing Benefits of Education

Although the long-term benefit of gaining an education would far outweigh the probable benefits of working as a child, we must investigate the specifics of this balance. Referring to the article by Dr Sahin and Dr Ghosh, the model reads as follows:¹⁰

Each generation comprises N members, with each parent having a child (a couple having two children). The utility derived by each parent from education is given as $U(\bar{H})$, and from the child's income, in time period t is given as $U(W_t^C)$. $U(\bar{H})$ is assumed to be unique for each parent, and an integer i is assigned to each $U(\bar{H})$. Thus, a graph of this system would look like this:



Graph 4

A minimum threshold would be set, wherein the parents would believe that the income generated from child labour outweighs the benefits that educating their child would provide **at that point of time**. At this point, the utility of the income W_t^C would outweigh the utility of the education \bar{H} . Hence,

For this point:

$$U(W_t^C) \leq U(\bar{H})$$

¹⁰ Soumya Sahin and Ambar Nath Ghosh, *Effect of Ban on Exports Containing Child Labour in a Dynamic Model in Presence of Imperfect Monitoring*, 51(1) FOREIGN TRADE REVIEW, 26-45 (2016).

With regards to $U(W_t^C)$, the diminishing marginal utility of income is ignored for simplicity, and we assume that,

$$U(W_t^C) = W_t^C$$

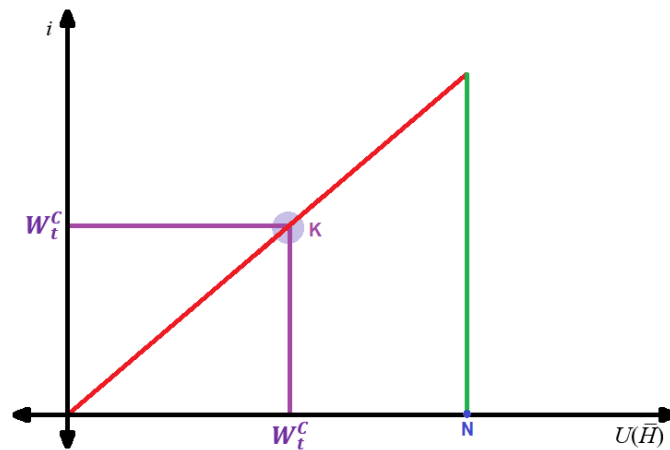
Thus, a child would be sent to gain education only if,

$$W_t^C \leq U(\bar{H}) = i$$

At the margin of this limit, the following condition shall be fulfilled,

$$W_t^C = i$$

For this, the above-given graph shall be edited, and a conditional line shall be added. After the addition of this condition, Graph 1 would look like this,



Graph 5

The red line denotes the number of children, each denoted by a unique number i . This line is 45° to the x-axis, as each value of $U(\bar{H})$ has been assigned a unique value of i . At K, the utility derived from the child's education and from his income as a child labourer are equal. However, as we move 'north-east' from K, along the red line, the parents would be more likely to send their children to school as the utility derived from the same, $U(\bar{H})$, would heavily outweigh W_t^C .

The conclusion that we can draw from this model is simple. The comparison of the utility of education and income may be a method of determining a possible upside to child labour, specifically the economic aspect.

5. Downsides of Child Labour

As mentioned earlier, there are innumerable downsides and disadvantages of hiring children into the workforce instead of letting them enjoy their childhood and gain education. These disadvantages may be faced by the individuals, or the repercussions may reflect upon the whole society at large¹¹. Some major disadvantages, which need to be discussed in depth, are:

5.1. The Unethical nature of Child Labour

The biggest and most concerning downside of child labour is its extremely unethical nature. Children are the future of the world and the torchbearers of the upcoming generation. This group is meant to earn an education for themselves and prepare to be a part of the skilled labour force. To rid this part of their lives is extremely inhumane¹².

5.2. Reduced Work Output and Underutilisation of the Workforce

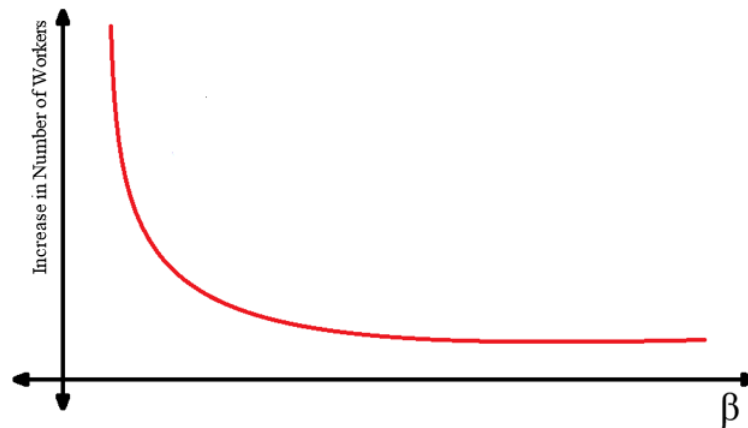
The children are unable to provide a similar amount of labour as may be provided by an adult unskilled labourer¹³. This fraction has been denoted by β , which has a range of (0,1) as the child would not have zero output or an equal output as that of an adult.

¹¹ Ali Asghar Mirakzadeh, Kiumars Zarafshani and Faranak Karamian, *Analyzing the Attitudes of the Experts to Compare the Advantages and Disadvantages of Rural Child Labour in Agricultural Activities*, 8 JOURNAL OF RURAL RESEARCH 1, 68-81 (2017).

¹² Ethical Trading Initiative, <https://www.ethicaltrade.org/issues/child-labour> (last visited December 30, 2022).

¹³ *Supra* note 10.

For a similar number of workers, children would produce $1 - \beta$ per cent less output. Thus, to restore the work output of the workforce, a greater number of children would have to be employed. This number would be equal to $1/\beta$, denoted by κ . The value of κ would be more than 1, and the number of workers will be increased by a multiple of $\kappa - 1$. Thus, there will be an increase in the workforce accompanied by a stagnated output, which may be seen in the following graph:



Graph 6

5.3. Increase in Unskilled Labour

As discussed in an earlier sub-section, child labour is a major damper in the acquisition of skillsets in children. This lack of acquisition is a problem which grows exponentially with time, and solving this also becomes more difficult. As the age of an individual grows, their ability to learn new skills, as well as inculcate education as a part of their lifestyle, becomes more difficult. Hence, the lack of skills becomes permanent and unfixable. This lack of skill increases the unskilled labour force, which has limited use as compared with skilled labour.

6. Is Seasonal Child Labour a possible cure to the downsides?

Up until now, it has been established that the unilateral perspective taken with regard to child labour since time immemorial is a grossly misconstrued notion. In fact, child labour operates in a grey area. This grey area, on the one hand, encompasses the innumerable downsides which have been discussed in-depth through the years. However, as has been noted herein, there can be several possible benefits of children's involvement in work. This aspect of child labour has been blatantly ignored, as it has been considered taboo to explore this angle.

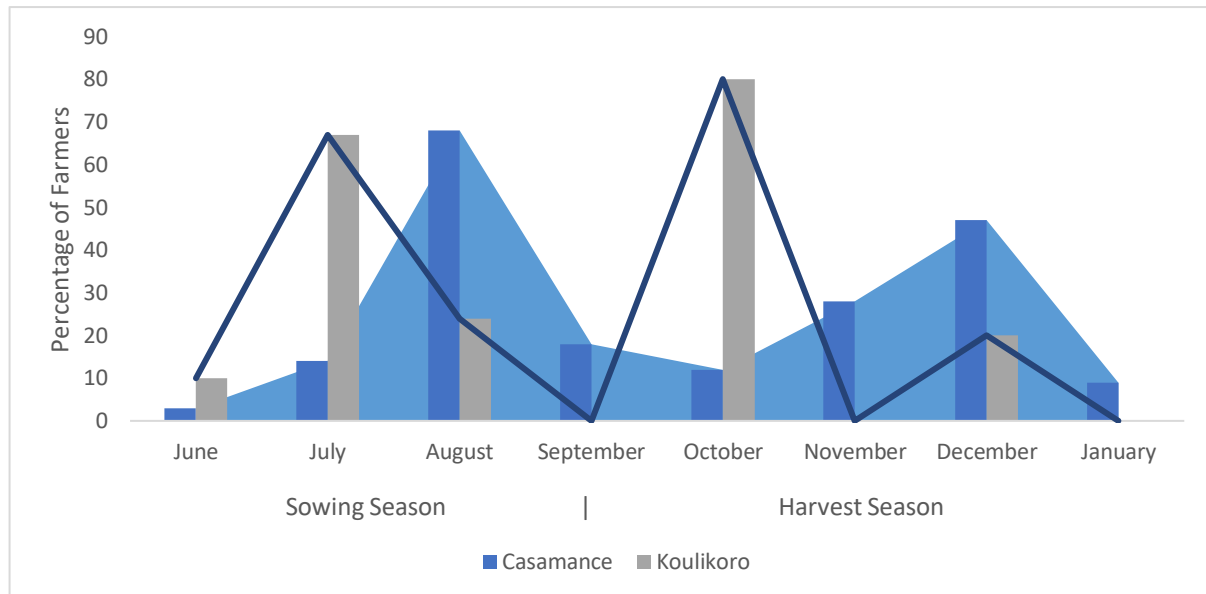
Although an objective approach regarding the balance of upsides and downsides was presented in Section 4.2 of the paper, it does not fully account for all angles which encompass the outlook regarding child labour. The comparative analysis of the utility derived from income and education merely serves as an income qualifier. However, when we consider this outlook from a wider perspective, it clearly misses other evident factors. First and foremost, the opportunity cost of choosing work over education, as education can have a compounded multiplying effect on the productivity of the child at a later stage. Apart from this, there lies a gigantic problem related to the human rights aspect, discussed by the United Nations and the International Labour Organization. Finally, other aspects which affect child labour also need to be considered, especially the factor related to the health of the children. From this perspective, it appears evident that the discourse regarding the negative nature of child labour outweighs these possible benefits in the case of continued involvement of children in labour.

Statistically speaking, the International Labour Organization has noted that over two-thirds of child labourers between the ages of 5-17 are involved in unpaid labour for their families. Of these children, a large chunk amounting to 70% are involved in the primary or the agrarian sector¹⁴.

A complex economic theory need not be established to realise that agriculture is a seasonal sector. In this sector, there are essentially three phases of work – sowing, inter-cultivational work and harvesting. Sowing and harvesting are extremely labour-intensive in nature, whilst

¹⁴ ILO, *Global Estimates of Child Labour: Rights and Trends 2012-2016*, GENEVA ILO, 31-33 (2017).

inter-cultivational work mostly refers to irrigation, weeding, spraying of pesticides or insecticides and maintenance of the agricultural estate in general.



Graph 7

However, we may look at Graph 7, presented above, to confirm the same. The given figure lays out the number of farmers working on farms for the production of sesame in two towns of Senegal (Casamance) and Mali (Koulikoro)¹⁵. There is a clear element of seasonality involved in this sector. As discussed in [Section 3.1](#), this seasonal hike is often fulfilled by employing children. This is done to avoid the increase in production cost, which would happen as a result of hiring additional labour at a higher wage. The employment of children on their family farm fulfils the need for labour without incurring any extra cost.

The demand for a child's involvement in work only subsists for a short period of time, usually accumulating to 20-30 days at a time, especially in the Indian context. Primary education, especially in government schools, is not given importance in comparison to the employment

¹⁵ Komivi Dossa, Mariama Konteye, Mareme Niang, Youssouf Doumbia and Ndiaga Cissé, *Enhancing Sesame Production in West Africa's Sahel: A comprehensive Insight into the Cultivation of this Untapped Crop in Senegal and Mali*, 6(1) AGRICULTURE & FOOD SECURITY, 1-15 (2017).

of the child on the family's farm. This is because of two factors – (i) Poor quality of the public education system; and (ii) High dependence on agriculture for survival due to extreme poverty.

Thus, a child, no matter the number of legislations or their severity on banning child labour, **WILL** go to work in the fields for this limited period in the ground reality of poverty rampant in rural India. Moreover, a number of studies suggest that the employment of underaged individuals in unpaid family work is more detrimental to the child's education than being employed in an external setup¹⁶.

This paper aims to propose a model which shall make the best of both worlds a possibility. The 20–30-day period when a child is employed can, as established before, have a complimentary effect on the education obtained by the child, as discussed in Section 4.1¹⁷. This proposition is based on the findings of Dr Michael Bourdillon¹⁸. Hence, we believe that this period shall be exempted from the blanket ban currently enforced by Indian legislation. Thus, the sector shall be formalised. This needs to be a regulated field, to ensure that only the benefits of this work are extracted and that the children are not burdened by the noxious effects of labour. A method of enabling this model can be through a provision of a formalised break in the academic year, which shall be integrated into the curriculum to ensure that the process of education continues without unnecessary interludes in the sowing or harvesting season.

6.1. Are we boarding a sinking ship?

The proposition given in the preceding segment may seem extremely ignorant, especially viewed from the perspective of the child's health. These vary along a wide axis – ranging from the general dangers of agriculture on children, such as the development of asthma and other breathing problems, to the negative effects of the physically intensive nature of work¹⁹. Agriculture is a very physically challenging occupation, and the integration of children at their tender age may lead to severe health ailments like stunting and horrendous posture, among

¹⁶ Diane L. Putnick and Marc H. Bornstein, *Is Child Labour a Barrier to School Enrollment in Low-and Middle-Income Countries?*, 41 INTERNATIONAL JOURNAL OF EDUCATIONAL DEVELOPMENT, 112-120 (2015).

¹⁷ Binita Sharma and Megh R. Dangal, *Seasonal Child Labour in Nepal's Brick Kilns: A Study of its Educational Impact and Parents' Attitudes Towards It*, 32(6-7) JOURNAL OF EDUCATION AND WORK, 586-596 (2019).

¹⁸ Michael Bourdillon, *Ignoring the Benefits of Children's Work*, OpenDemocracy (November 14, 2017, 10:25 PM), <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/ignoring-benefits-of-children-s-work/>

¹⁹ Catherine Karr, *Children's Environmental Health in Agricultural Settings*, 17(2) JOURNAL OF AGROMEDICINE, 127-139 (2012).

others. The operation of heavy equipment such as sharp sickles and other tools also has an element of danger associated with it. But it would be wrongful to suggest that this postulation is akin to a sinking ship as these problems can easily be dealt with through policy prescription, which shall be laid out in the following section.

7. Curative Policy Prescription

The "formalisation" of child labour, as given in the preceding section, shall be a culmination of regulations. This procedure is necessary to mandate that the proposed model is a viable option and is not in contravention of any human rights violations. These regulations would also ensure that the children are not exploited in the name of an increased skillset or any other "benefit" that has been suggested so far.

For possible regulations, we may look to the more developed nations. A possible guideline is presently in practice in the United States of America. As seen in India, children were working on farms here as well. Thus, farmers who had their children working in fields sought counsel with regard to the assignment of work to said children. The National Children's Center for Rural and Agricultural Health and Safety stepped in to provide the required guidance. This resulted in the creation and promulgation of the North American Guidelines for Children's Agricultural Tasks, also called the NAGCAT²⁰.

NAGCAT is a group of voluntary guidelines to help with the regulation of the assignment of work to children within the age group of 7-16 years²¹. These are based focusing on the overall development of children, and they provide instructions for the conduction of 62 different agricultural tasks by children, such as harvesting corn and installing irrigation systems²². For example, in the guidelines for detasseling corn, various precautions like removal of work hazards such as sharp and heavy objects, regular hydration and regular breaks have been

²⁰ Centers for Disease Control and Prevention, <https://www.cdc.gov/niosh/docs/2011-129/default.html> (last visited January 3, 2023).

²¹ William Pickett, Barbara Marlenga and Richard L. Berg, *Parental Knowledge of Child Development and the Assignment of Tractor Work to Children*, 112(1) PEDIATRICS, e11-e16 (2003).

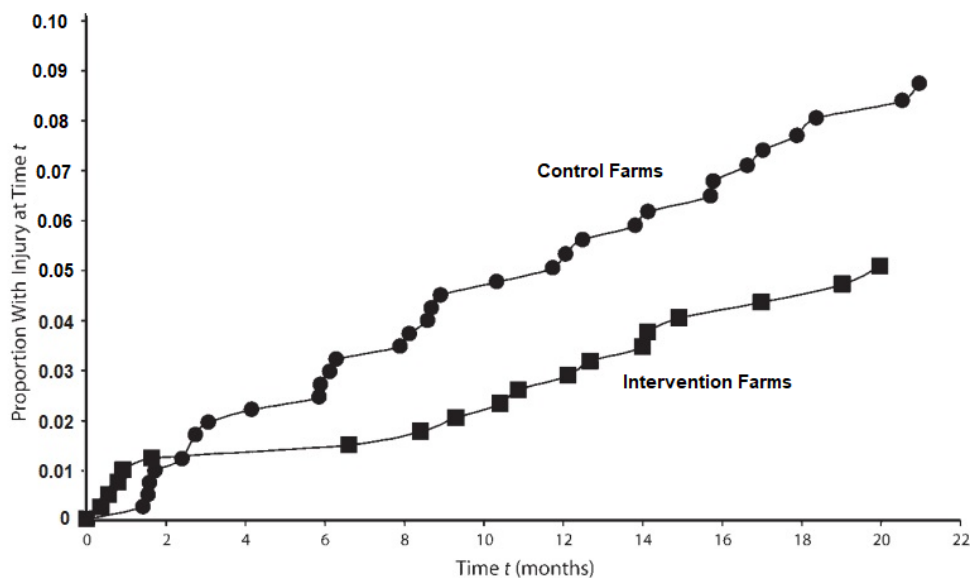
²² Jamie Zentner, Richard L. Berg, William Pickett and Barbara Marlenga, *Do Parents' perceptions of Risks Protect Children Engaged in Farm Work?*, 40(6) PREVENTIVE MEDICINE, 860-866 (2005).

suggested for the child. The document further lays out supervisory guidelines for different age groups²³.

Whilst NAGCAT appears to be the miraculous cure to all the presented problems, we must look at the ground reality. As stated in a study undertaken by Dr Barbara Marlena, NAGCAT's application is very widespread. Of a total of 934 observations, of which 283 cases involved children engaged in farming, NAGCAT's guidelines were applicable to about 65% of cases. Furthermore, over 59% of total injuries endured by children would have been prevented directly had NAGCAT been implemented²⁴.

The findings of the above study only point towards the applicability and the scope of NAGCAT, and it does not answer the question – Has NAGCAT been effective in helping reduce and eliminate injuries faced by a child?

To answer this question, we refer to the work of Anne Gadomski, which provides raw data related to the actual implementation and the benefits of NAGCAT. This was done through surveys of two kinds of farms – Intervention farms and Control farms. The former were farms where instructors were sent to familiarise the farmers with the new guidelines, whilst the latter



²³ National Agriculture Safety Database, <https://nasdonline.org/7064/c000026/north-american-guidelines-for-childrens-agricultural-tasks-nagcat.html> (last visited January 3, 2023).

²⁴ Barbara Marlena, Robert J. Brison, R. L. Berg, J. Zentner, James Linneman and William Pickett, *Evaluation of the North American Guidelines for Children's Agricultural Tasks using a Case Series of Injuries*, 10(6) INJURY PREVENTION, 350-357 (2004).

were farms where the farmers were left to continue with their own methods. The data shows that the intervention farms had a significant fall, especially compared with the control farms²⁵.

Graph 8 :The Roadblock faced by the NAGCAT in the United States of America

One may wonder, with all the apparent beneficial aspects, why has NAGCAT not become a mainstream policy in the domain of child labour? Three major reasons hold back NAGCAT from being embraced fully.

Firstly, due to its very nature, 'G' stands for guidelines. Thus, NAGCAT is only a set of suggestions which are not enforceable by any means. This puts an onus on the parents to voluntarily take up and execute these prescriptions, which haven't been disseminated widely. This is a precursor to the second possible issue.

These suggestive measures have never been pursued actively by the U. S. Govt. This inaction can be seen through the lack of spreading awareness as well as the lack of execution of this policy.

Finally, the scope of NAGCAT is extremely limited. According to several studies, the highest number of injuries occurred for children aged under the age of 7 years or for children not working at the time of injury²⁶. Apart from this, NAGCAT only provides guidelines only for 62 tasks. Furthermore, these tasks are not related to the mainstream crops grown in the U. S. agricultural system, such as barley or oats.

7.1. Envisaging the Indian NAGCAT

The transplantation of a legislative measure from one jurisdiction to another is a delicate process. It must be ensured that the original legislation is moulded, shaped and pruned in

²⁵ Anne Gadowski, Susan Ackerman, Patrick Burdick and Paul Jenkins, *Efficacy of the North American Guidelines for Children's Agricultural Tasks in Reducing Childhood Agricultural Injuries*, 96(4) AMERICAN JOURNAL OF PUBLIC HEALTH, 722-727 (2006).

²⁶ Brit Doty and Barbara Marlena, *North American Guidelines for Children's Agricultural Tasks: Five-year Assessment and Priorities for the Future*, 49(11) AMERICAN JOURNAL OF INDUSTRIAL MEDICINE, 911-919 (2006).

accordance with the required needs and wants of the jurisdiction it is supposed to govern. Thus, we must contextualise NAGCAT with respect to the sociological and economic concerns probable in the agricultural sector of India.

To ensure that this procedure is undertaken successfully, certain factors must be considered:

- **Enforceable nature** – As discussed earlier, NAGCAT is a set of unenforceable suggestions. The implementation of such guidelines may be futile, given that it is to be done in a country where the Highest Court of the land has noted that even the Government is not known for following laws, as remarked by Mishra J. and Shah J.²⁷ Hence, it is mandatory that this proposed policy ("Policy") is not relegated to the status of guidelines, but is raised to the standard of legislation that remains strictly enforceable.
- **Wider ambit** – The agricultural output of India is much more diverse, as there are a variety of crops ranging from cereals such as rice, wheat and millets to pulses to oilseeds. Hence, this Policy shall account for this crop diversity. Additionally, the range of tools and technology is much wider, going from petty sickles and sharp knives to the modern combine harvester.
- **Active executive pursual** – As seen with NAGCAT, the failure of proper execution resulted in the derailment of the success that NAGCAT could have accrued. Had the Policy been actively executed through informative campaigns accompanied by a proper administrative mechanism assisting the execution of the same. The active dissemination of the Policy is a must to ensure its viability.
- **Diversity** – India is an extremely diverse country, and the same is also reflected in the agrarian field. For example, even for the same state, say Uttar Pradesh, the soil as well as the techniques and crops vastly vary across different parts of the state itself and must be accounted for in the policy. There are two distinctions which must be separately acknowledged:

²⁷ TNN, *State is known for not following law*, TIMES OF INDIA (January 6, 2023, 8:43 PM), <https://timesofindia.indiatimes.com/india/state-is-known-for-not-following-law/articleshow/71018646.cms>

- **Agrarian diversity** – For starters, the soil diversity is immense, as there are more than ten types of soil²⁸. These are cultivated with different cropping patterns, along different seasons and by different levels of technology. Thus, this diversity must be accounted for in the Policy for its application in India.
- **Technical diversity** - Similarly, technical variation, especially the agricultural tools and methods ranging from bare hands to modern Combine Harvesters, can be noted across the nation
- For this purpose, this Policy must be designed by the State Legislatures to account for State-wise diversity and shall be pushed by the system of Local Governance. This would be in accordance with List II of the Seventh Schedule of the Indian Constitution, which places the subject of ‘Agriculture’ in the lap of the State legislatures²⁹. Furthermore, the local authorities – such as the bureaucracy, Gram Panchayats and the Municipal Corporations shall be consulted and considered to account for minute variations across states.

7.2. Possible Challenges to the Policy

The biggest challenge to such sort of a regulation is enabling the involvement of children in labour. Our conceptualization of the issue presents a three-fold Challenge.

- **The Illegality Challenge** – There are two fronts which target the concept of labour by underaged individuals being legalized. These are:
 - **The Domestic Regulations** – In India, the Child Labour (Prohibition and Regulation) Act, 1986 is the biggest opposition to the inclusion of labour in the lives of children³⁰. However, a public policy prescription is meant to replace an existing law, and change the landscape around a particular subject with a fresh perspective. The paper explicitly lays out that a blanket ban, as has been given by the legislation, is futile. Furthermore, the complimentary benefits enunciated under Section 4.1 have been blatantly ignored in the current legislative landscape.

²⁸ Tapas Bhattacharya, *Soil Diversity in India*, 64 J INDIAN SOC SOIL SCI, S41-S52 (2016).

²⁹ INDIA CONST. sched. VII, List II.

³⁰ *Supra* note 4, §3.

- **The International Conventions** – There are two ILO conventions which govern the entire ambit of child labour, and the relevant legislative measures around the same internationally. India has recently become a signatory to both these conventions on June 13th 2017³¹. These are:

- **C182 – Worst Forms of Child Labour Convention, 1999**³²

This convention directs its signatories to take steps to eliminate the worst forms of child labour. The term “worst forms of child labour” has been defined under four heads in Article 3 of the Convention³³ –

- a) Slavery and related practices
- b) Prostitution or for production of pornography
- c) Production and trafficking of drugs
- d) Work which is harmful for the health, safety, or morals of children

India has an obligation to uphold these terms, as it is a signatory. Although it may seem that the proposed policy goes against the aims of the convention, it is evident that the first three clauses shall continue to remain banned under the given policy. As for the fourth clause, the purpose of transplanting the conception of NAGCAT to an Indian sub-context is to streamline the involvement of underaged individuals in labour, and to protect them from any health, safety, or moral hazards. Thus, the entire policy prescription fits into the requirements of C182.

- **C138 – Minimum Age Convention, 1973**³⁴

³¹ International Labour Organisation, *Ratifications of C138 – Minimum Age Convention, 1973 (No. 138)*, Available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312283 (Last accessed March 28, 2023); ILO, *Ratifications of C182 – Worst Forms of Child Labour Convention, 1999 (No. 182)*, Available at https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327 (Last accessed March 28, 2023).

³² ILO, Convention 182, Worst Forms of Child Labour Convention, 1999.

³³ *Id.*, art. 3.

³⁴ ILO, Convention 138, Minimum Age Convention, 1973.

This convention prescribes a minimum age for children getting involved in work³⁵. The purpose for doing so is to protect children from health, safety, and moral hazards³⁶. As given above, these concerns have already been accounted for in the prescribed policy. Furthermore, Article 7 of the Convention, lays out that light work may be undertaken by children between the ages of 13 to 15 years³⁷. It is evident that the convention does not put a bar for children to work, the policy makers have arbitrarily decided that 13 shall be the minimum age for work. As elucidated earlier, the Indian NAGCAT accounts for an age-wise breakdown of possible work undertaken by children. Hence, the minimum age can be reduced from 13 to 7, when children can take up basic training and learn more vocational skills³⁸. Thus, the requirements of C138 can also be fulfilled, although the same must be accompanied by a minor amendment to the technicalities of the Convention.

- **The Mindset Challenge** – This challenge is based on a taboo of making children work, and the human instinct of avoiding possible risks. This risk aversion stems from the factor that the complementary nature of labour with education may have unforeseeable consequences. Psychologists have shown that risk aversion is often a motivation to avoid economic rationality compared with the factor of loss. But this has been addressed through the curative policy of the Indian NAGCAT which aims at deriving all the benefits of the child's work while avoiding the Noxious effects of labour on the child's health

However, these issues have been considered, and the scope of the Policy has been determined accordingly. It accounts for these probable unforeseeable consequences. Hence, the exogenous factors in this equation are not impossible to deal with.

³⁵ *Id.*, art. 2.

³⁶ *Id.*, art. 3.

³⁷ *Id.*, art. 7.

³⁸ Ilona Bidzan-Bluma and Malgorzata Lipowska, 'Physical Activity and Cognitive Functioning of Children: A Systematic Review', 15 INTERNATIONAL JOURNAL OF ENVIRONMENTAL RESEARCH AND PUBLIC HEALTH, 4 (2018).

8. Conclusion

To summaries, this paper first described the ins and outs of the seasonal involvement of children to set the foundation of this discussion. Then, we moved on to a cost-benefit-esque analysis of child labour in general. This involved two angles: complementary and supplementary, which were discussed in-depth. These benefits involve the inculcation of various life skills in children, the early financial independence attained by children and the opportunity for the child to help the family through its income. However, child labour also has a number of downsides, mainly the restriction that it poses on the child's education. This was countered with the help of the combination of seasonality and child labour.

Thus, a model was proposed to formalise and regulate the seasonal involvement of children in work. This model followed the lines of NAGCAT, a set of suggestions promulgated by the National Children's Center for Rural and Agricultural Health and Safety. The limitations, which could have plagued the integration of NAGCAT into the Indian setup, were also thought of before envisaging a probable solution. Hence, we conclude that child labour's position in the moral spectrum may lean towards the better side if we were to put in sufficient fail-safes to protect the health and rights of the children.