

## **I. Introduction**

In the United States, child workers are granted additional protection under both federal and state legislation. Companies generally may not employ anyone under the age of 14 years old. Children aged 14 and 15 are severely limited in the hours they may work per week while school is in session. 14- through 17-year-olds may not work in certain industries considered dangerous by the Department of Labor. Recent controversial events have sparked debate about the current state of US child labor laws.<sup>1</sup> I review the economic analysis and ethical language surrounding two recent domestic child labor abuse stories. Pro-regulation arguments are more likely to invoke consequentialist ethical frameworks, while those seeking to loosen child labor regulations employ family values and deontological negative rights. An economic formulation of Mill's Greatest Happiness Principle provides an actionable framework for regulators to enforce a spectrum of ethical beliefs. I recommend two policy approaches to better align the law with a mature ethical reasoning toward child labor regulation.

An overview of this paper is as follows: in the next section, I review federal regulation governing child labor in the US. Then, I discuss why child labor abuse is considered particularly controversial and requires ethical analysis. Then, I describe two recent domestic child labor abuses. After an analysis of these two events, I propose two policy solutions aimed at better aligning the law with ethical frameworks.

## **II. Federal Child Labor Regulation: The Fair Labor Standards Act**

At the turn of the 20<sup>th</sup> century, it was common for children as young as 10 years old to be employed. Approximately 20% of children aged 10 to 15 in the country were gainfully employed, according

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<sup>1</sup> In this paper, the term “child labor” refers simply to the act of employing persons under 18 years old in a professional setting. This is in contrast to some definitions which have an explicitly moral connotation. For example, the Organisation for Economic Co-operation and Development (OECD) defines child labor as “the employment of children in any work that deprives children of their childhood, interferes with their ability to attend regular school, or that is mentally, physically, socially or morally dangerous and harmful.” Thévenon, Olivier and Eric Edmonds, “Child labour: causes, consequences and policies to tackle it,” *OECD Social, Employment and Migration Working Papers No. 235*, 2019.

to 1900 U.S. Census data.<sup>2</sup> This decreased to only around 5% by 1930.<sup>3</sup> By 1940, the U.S. Census stopped recording employment data for persons under 14 years old.<sup>4</sup> It was at this time that the Fair Labor Standards Act of 1938 (“FLSA”) was signed.<sup>5</sup>

The FLSA provides legal definitions of “oppressive child labor” and standards for minimum wages and working hours at the federal level. The law makes working in hazardous jobs illegal for anyone under 18, as well as 14- and 15-year-olds working in any conditions that “interfere with their schooling and ... their health and well-being.”<sup>6</sup>

While the FLSA was meant to ensure no children were working in unsafe conditions or harming their future education, the use of child labor was already decreasing by the 1930s. State compulsory education laws passed earlier were now enforced more vigorously, requiring children (typically up to 16) to be in school for most of the year.<sup>7</sup> Other factors included state child labor regulations, reduced demand for unskilled factory labor through mechanization, a large influx of adult labor supply from immigration, and improved standards of living.<sup>8</sup>

Since 1938, the federal law governing domestic child labor has not substantially changed. In 1951, working hours for under-16-year-olds were clarified: while school is in session, no more than 3 hours per day and 18 hours per week; while out of school, no more than 8 hours per day and 40 hours per week.<sup>9</sup> Many amendments to the FLSA child labor provisions have been proposed recently, but none has been successfully signed into law. However, state laws governing child labor have changed recently, which is a topic of discussion below.

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<sup>2</sup> U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1970, Bicentennial Edition, Part 1*, Washington, D.C., 1975, pp. 15 and 134. This is an approximation as employment statistics are for persons aged 10 to 15, while population statistics are for persons aged 10 to 14. Total gainful workers aged 10 to 15 in 1900: 1.75 million. Total population aged 10 to 14 in 1900: 8.08 million.

<sup>3</sup> U.S. Bureau of the Census, *Historical Statistics*, pp. 15 and 134. Total gainful workers aged 10 to 15 in 1930: 0.67 million. Total population aged 10 to 14 in 1930: 12.0 million.

<sup>4</sup> U.S. Bureau of the Census, *Historical Statistics*, p. 125.

<sup>5</sup> Historical context surrounding the FLSA is beyond the scope of this paper. For further reading, see Schuman, Michael, “History of child labor in the United States—part 1: little children working,” *Monthly Labor Review*, U.S. Bureau of Labor Statistics, Jan. 2017; and Schuman, Michael, “History of child labor in the United States—part 2: the reform movement,” *Monthly Labor Review*, U.S. Bureau of Labor Statistics, Jan. 2017.

<sup>6</sup> Fair Labor Standards Act of 1938, S. 2475, 75th Cong., 3d sess, at p. 2. Note that there are many exceptions to the child labor restrictions for the agricultural industry. I do not discuss these exceptions in this paper.

<sup>7</sup> Katz, Michael S., “A History of Compulsory Education Laws,” *Phi Delta Kappa Educational Foundation*, 1976.

<sup>8</sup> Schuman, “History of child labor in the United States—part 2.”

<sup>9</sup> 16 FR 7008 (“Child Labor Regulations, Orders and Statements of Interpretation”), Jul. 1951, p. 7011. These rules are part of what is known as Child Labor Regulation No. 3.

### III. Why is Child Labor Controversial?

Before discussing whether existing child labor regulations should be changed, it is important to consider why we have child labor laws at all. The US has many existing protections in place for workers at the local, state, and federal levels. What is it about children that requires additional protection?

Debra Satz explains three ethical aspects of childhood that motivate additional labor protection: weak agency, distributive inequality, and harmful outcomes.<sup>10</sup> Children lack the reasoning abilities we expect of adults because they are still developing physically and mentally. As a result, an informed assessment of working conditions rests upon the parents, who may not necessarily have the child's long-term best interests in mind.<sup>11</sup> Children can reinforce or exacerbate generational economic inequality when substituting educational development with labor. This is often seen as unfair because they have no choice but to inherit the socioeconomic status of their parents. Finally, because children are in a stage of development and are expected to have a full life ahead of them, stunting that development through lack of education or through physical harm is seen as particularly wrong in society.

Working is not necessarily bad for children. In fact, instilling work ethic and teaching the value of money are often seen as necessary to ensuring healthy development. Children in poor families can make a material economic impact to their living conditions through work. And parents rightly believe they should have the final say in fostering good values in their children. However, because children are unable to make fully-formed independent decisions, and because loss of development represents a potentially substantial opportunity cost, regulators should pay particularly close attention to ensuring their protection. Nicolás Brando summarizes this argument: there is nothing inherently wrong with child labor; instead, regulators should be concerned with the harms specific to children and the potentially exploitative nature of their work.<sup>12</sup>

The controversy surrounding child labor regulation is ultimately due to the high potential for exploitation, the perceived violations of liberty and parental governance stemming from regulation, and the particularly strong disgust elicited by abuse of the child's well-being. Two recent incidents of child labor abuse exemplify these reactions.

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<sup>10</sup> Satz, Debra, "Child Labor: A Normative Perspective," *The World Bank Economic Review*, 17(2) 2003.

<sup>11</sup> Satz, "Child Labor," p. 300.

<sup>12</sup> Brando, Nicolás, "What (if anything) is wrong with child labour?," *Justice Everywhere*, 2020.

#### IV. Recent Domestic Child Labor Violations

In July of 2022, three investigative journalists at Reuters found that SMART Alabama LLC, a subsidiary of car manufacturer Hyundai, employed several underaged children in their metal-stamping plant, a job which is considered too dangerous for children by law.<sup>13</sup> The journalists interviewed a family of Guatemalan immigrants, whose father confirmed that his three children, aged 12, 14, and 15, all worked long hours in the plant with him and skipped out on school. The father explained that he regretted sending his children to work at the plant but needed the money, and that his children will attend school going forward instead of working. Following the allegations, United Auto Workers was “saddened and disgusted” by SMART’s reported “abusive, exploitive practices,” and Alabama Coalition for Community Benefits wrote that its “shock turned to disgust” when reading the allegations.<sup>14</sup> The US Department of Labor sued SMART on May 30, 2024, alleging “that a 13-year-old worked up to 50-60 hours per week on an assembly line” from July 2021 through early 2022.<sup>15</sup> Litigation is ongoing as of February 2025.<sup>16</sup>

A September 2023 investigative report by the New York Times detailed the stories of migrant children who worked full-time in a Perdue Farms chicken slaughterhouse in rural Virginia (a job considered dangerous and off-limits to children by law).<sup>17</sup> Marcos Cux, a 14-year-old Guatemalan immigrant who entered the US without his parents, found work at a slaughterhouse after purchasing forged documents that overstated his age, along with many other children. While working the night shift, Marcos’ arm was caught in a deboning machine and was nearly torn off. Following an OSHA investigation (which did not discover the child labor), the plant reportedly

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<sup>13</sup> Schneyer, Joshua, Mica Rosenberg, and Kristina Cooke, “Exclusive: Hyundai subsidiary has used child labor at Alabama factory,” *Reuters*, Jul. 2022.

Metal stamping is known as a particularly hazardous occupation, posing amputation risks from heavy machinery as well as exposing employees to flying metal fragments. See MCR Safety, “A Meaningful Review of Metal Stamping and Safety,” Jul. 2019. U.S. Department of Labor, “Federal inspection finds El Paso metal stamping manufacturer willfully exposed workers to amputation dangers; worker suffers severe injury,” Jul. 2021.

<sup>14</sup> UAW, “UAW Statement on New Reports of Child Labor at Hyundai and Kia Suppliers in Alabama,” Dec. 2022. Alabama Coalition for Community Benefits, *Letter from Alabama Coalition for Community Benefits to José Muñoz*, September 22, 2022.

It is notable that no articles criticized the father for encouraging his children to work in a dangerous industrial job.

<sup>15</sup> U.S. Department of Labor, “US Department of Labor files complaint to stop Hyundai manufacturer, partners from using, profiting from oppressive child labor,” May 2024.

To be clear, this violates the FLSA in three ways: employing an under-14 year old, employing a child in a hazardous industry, and employing a child more than the maximum hours per week.

<sup>16</sup> *Su v. Hyundai Motor Manufacturing Alabama, LLC* (MAG2), 2:24-cv-00325, (M.D. Ala.).

<sup>17</sup> Dreier, Hannah, “The Kids on the Night Shift,” *The New York Times*, Sep. 2023. The author earned a Pulitzer Prize for this and other work on child labor violations. The Pulitzer Prizes, “Hannah Dreier of The New York Times,” 2024.

“stopped letting students leave early to catch the school bus” to avoid allegations of child labor.<sup>18</sup> The Department of Labor subsequently announced an investigation in February of 2024, alleging that Perdue employed at least 15 children to clean dangerous equipment in its Virginia slaughterhouse.<sup>19</sup> In an April 2024 letter to Perdue CEO Donnie King, Republican Senator Bill Cassidy described the allegations as “intolerable.”<sup>20</sup> In January of 2025, Perdue paid \$150,000 in civil penalties and \$4 million in restitution to settle allegations of “a systemic disregard for the safety of children” through child labor, and agreed to employ enhanced compliance measures.<sup>21</sup>

## V. Analysis of Recent Child Labor Violations

Ethical analysis can help us understand why people might support strengthening or loosening the law in response to child labor abuse incidents. My analysis employs Wight’s “Agent-Action-Outcome” schema: “An economic *agent* takes an *action* that is expected to produce certain *outcomes*. Ethical frameworks differ in their attention to different stages of this progression.”<sup>22</sup> Public policies that focus on the agent employ character or virtue ethics. Policies that regulate actions fall under deontological frameworks. Finally, policies that judge an action by its outcomes are called consequentialist or utilitarian.

### 1. SMART Alabama Incident: Regulatory Order vs Family Values

Child labor is often seen as controversial because the agent involved (the child) is unable to make fully-informed decisions. As a result, child workers must rely on their parents to make good decisions for them, and the role of virtues in upholding morality is even more important than with adult employees.

The SMART Alabama and similar incidents sparked a wave of new proposals for child labor regulations, often centered around virtue ethics. Proponents of increased regulation argue that because corporations may lack virtues such as Aristotelian justice, they must be cajoled into

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<sup>18</sup> Dreier, “The Kids on the Night Shift.”

<sup>19</sup> U.S. Department of Labor, “US Department of Labor seeks injunction to stop use of ‘oppressive child labor’ by Fayette Janitorial Service at meat processing facilities,” Feb. 2024.

<sup>20</sup> United States Senate, *Letter from Bill Cassidy, M.D. to Donnie B. King*, April 18, 2024.

<sup>21</sup> U.S. Department of Labor, “US Department of Labor reaches agreement with Perdue Farms, secures judgment against staffing agency to address child labor violations,” Jan. 2025.

<sup>22</sup> Wight, Jonathan B., *Ethics in Economics: An Introduction to Moral Frameworks*, Stanford University Press, 2015, p. 11.

doing “the right thing.”<sup>23</sup> Those who want to loosen child labor restrictions instead focus on family values, arguing that the decision to employ children should rest on their parents.

In February of 2024, less than two years after the SMART Alabama incident was first reported, Republican state Senator Arthur Orr introduced a bill (SB53) to loosen child labor laws in Alabama.<sup>24</sup> The bill eliminates the state’s requirement for children aged 14 and 15 to obtain an “Eligibility to Work Form” from their school.<sup>25</sup> The form certified that the student maintained satisfactory grades and attendance. SB53 was voted, signed, and enacted 3 months later, on May 17 (13 days before the Department of Labor would officially sue SMART).<sup>26</sup>

The bill shifts the burden of preventing child labor violations away from the government and toward the parents and employers. Senator Orr took this position, arguing that the government should “let parents and children decide what’s best for them.”<sup>27</sup> He expanded his views in an interview, explaining that the FLSA and other regulations are sufficient protection for child workers:<sup>28</sup>

*The idea that you’ve got to go get permission from the government to get an after-school job, I understand why it was maybe put in place years ago, but in today’s world with all the federal labor laws that apply... I feel comfortable that it is something that we can ... just leave between the parents and the child or the guardians and the child as to whether Johnny or Mary can handle it.*

Senator Orr’s bill is founded on the belief that because parents *should* have virtues most aligned with their child’s success, the government has a duty to respect this role. His argument can be formulated as a “negative right:” schools may not override the parents’ decision.<sup>29</sup> This anti-regulation stance is a pluralist combination of deontological and virtue ethics.

Opponents of the bill instead focused on the government’s duty to protect against corporate and parental egoism, and the resulting consequences of child labor abuse. The Eligibility to Work Form was a mechanism to prevent exploitation by allowing school administrators to override the

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<sup>23</sup> Wight, *Ethics in Economics*, pp. 47-49.

<sup>24</sup> Alabama is not the only state to enact child labor regulatory changes in recent years. For a review of new policies, see Mast, Nina, “More states have strengthened child labor laws than weakened them in 2024,” *Economic Policy Institute Working Economics Blog*, Jun. 2024.

<sup>25</sup> SB53 Engrossed, Alabama State Senate, Feb. 2024. Presently, parents are still required to notify the school of their child’s employer, but they do not need permission from the school.

<sup>26</sup> Bill Track 50, “AL SB53: Child labor, eliminating the eligibility to work form,” May 2024.

<sup>27</sup> Harsen, Lauren, “New bill would loosen requirements for 14, 15-year-olds to work in Alabama,” *WBRC News*, Feb. 2024.

<sup>28</sup> The Valley Labor Report, “Why We Need Less Child Labor Regulations - Alabama State Senator Arthur Orr,” *YouTube*, Mar. 2024.

<sup>29</sup> Wight, *Ethics in Economics*, p. 45.

parents' decision.<sup>30</sup> One critic of the Alabama bill noted that "a 14 or 15-year-old ... who's never been in the workforce in this capacity before [] is susceptible to some real abuses," which justifies the "guardrail."<sup>31</sup> Another critical article explained that child labor abuses are "simply an inevitable outcome of two related trends: deteriorating social welfare and unethical corporate practices aimed at maximizing profits."<sup>32</sup> These arguments center around the *consequences* that arise from relinquishing government control. Many articles against the Alabama bill referenced the SMART Alabama incident as proof of the need for increased regulation.<sup>33</sup>

The consequentialist argument for child work permits is supported by recent research from the University of Maryland.<sup>34</sup> The authors perform a cross-sectional regression analysis, comparing states without a mandated employment certificate for child labor to states with a mandate. The authors regress the log of child labor violation cases per million on a binary variable indicating whether the state uses employment certificates, plus a suite of control variables. Their base model finds that states with mandatory employment certificates have an average of 16.9% fewer child labor violation cases per capita. This result is robust to sensitivity analyses, including the use of instrumental variables regression to account for potential endogeneity. The authors did not have sufficient data to analyze the effect of Alabama's policy change on child labor violations since the bill was enacted so recently. Once enough data is available, an analysis of the within-state effect of SB53 would be a strong contribution to the literature.

The two sides of the debate surrounding Alabama's bill are an example of Kuhn's "crisis of paradigms," in which a resolution cannot be reached because critics focus most of their attention on the consequences of child labor abuse, while proponents of the bill preclude consequences from their ethical approach in favor of duties and values. Bridging the parties will require a pluralist approach that can bring consequentialist research into the conversation, forming a "mature ethical

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<sup>30</sup> Smith, Kayla, "Alabama advocate cautions against passage of new child labor bill, senator calls current law overregulation," *WHNT*, Feb. 2024.

<sup>31</sup> Harksen, "New bill would loosen requirements for 14, 15-year-olds to work in Alabama."

<sup>32</sup> Walicek, Tyler, "Child Labor Could Solve Alabama's 'Labor Shortage,' Says GOP Group," *Truthout*, Jan. 2024.

<sup>33</sup> See, for example, Stephenson, Jemma, "Alabama Senate committee OKs elimination of work form for younger teenagers," *Alabama Reflector*, Feb. 2024; Tyler, "Child Labor Could Solve Alabama's 'Labor Shortage,' Says GOP Group,"; and Marr, Chris, "Youth Work Permits Targeted in Broader Child Labor Law Rollbacks," *Bloomberg Law*, Jul. 2024.

<sup>34</sup> Bao, Fred and Ashish Kabra, "State Mandated Employment Certificate for Minors Reduces Child Labor Violations in the US," *SSRN*, Nov. 2024.

reasoning” through compromise.<sup>35</sup> I believe that proponents of SB53 will only entertain such research if it can be shown to affect social values. For example, if employed 14- or 15-year-olds are more likely to develop addiction and turn to crime later in life,<sup>36</sup> then this would run counter to anti-regulators’ beliefs and cause them to reconsider loosening child labor laws.

## **2. Perdue Farms Incident: A Utilitarian Win-Win?**

Markos Cux explained that he chose to work in a hazardous job at Perdue Farms because his family needed the money. In economic terms, the Cux family believed that the benefit of Markos’ child labor was worth the cost of his absence from school and the risk of serious injury. While Perdue Farms would not explain it this way, they implicitly performed a similar cost/benefit analysis, determining that the benefit of child labor was larger than the cost of appropriate enforcement and of being caught using the labor. Both sides employ consequentialist ethics to justify their decision, making the child labor an apparent win-win situation for Markos and Perdue Farms. So why does the government disagree? We can frame the discussion of child labor policy in economic terms using Mill’s Greatest Happiness Principle.

A typical economic cost/benefit analysis centers around maximizing *welfare*, in which utility (a proxy for happiness) is essentially blind to any social norms. The classical utilitarianism of Jeremy Bentham argues that an action is “good” if it enhances the net pleasure of society. If we restrict our analysis to just Markos and Perdue Farms, the fact that both parties chose to engage in employment reveals that the labor increased their net pleasure. Even if we broaden the scope of our analysis to include society at large, classical utilitarian analysis might classify Markos’ child labor as “good” because consumers benefit from Perdue’s products.

John Stuart Mill argues that a weakness of classical utilitarianism is its failure to consider that “some kinds of pleasure are more desirable and more valuable than others,” particularly for humanity’s higher-order faculties.<sup>37</sup> Mill instead believes that utility should consider the moral aspects of certain actions. For example, the act of religious worship may not produce much utility in the classical sense, but it provides a “higher value” that cannot be replaced by food or drink.

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<sup>35</sup> McGowan, Richard, “The Ethics of Gambling Research: An Agenda for Mature Analysis,” *Journal of Gambling Studies*, 13(4) Winter 1997, p. 285.

<sup>36</sup> Loss of education from child labor would be a key factor here. Even if a working 14-year-old is not truant, they may be too tired to concentrate and thus experience educational deterioration.

<sup>37</sup> Wight, *Ethics in Economics*, p. 30.



Mechanically, Mill proposes that the utility of certain actions should be weighted more (or less) to align with good virtues, calling his technique the “Greatest Happiness Principle.”<sup>38</sup>

We can represent the Perdue incident mathematically with a Greatest Happiness Principle analysis.<sup>39</sup> Suppose that Markos’ utility from working at Perdue is the difference between his hourly income (a good) and the risk-weighted costs of labor (including injury and lack of education):<sup>40</sup>

$$U_M(w, h, C_M) = w \cdot h - C_M > 0$$

Because Markos chose to work at Perdue, this utility is positive (revealed preference theory).<sup>41</sup> Now suppose Perdue Farms’ utility is the difference between their hourly profit from Markos’ labor (revenue minus wage) and the risk-weighted penalty for child labor abuse:

$$U_P(w, h, r, C_P) = h \cdot (r - w) - C_P > 0$$

This difference is also assumed positive by revealed preference theory. Then the combined welfare for Markos and Perdue is the sum of their utilities:

$$U_C = U_M + U_P = w \cdot h - C_M + (h \cdot (r - w) - C_P) = h \cdot r - C_M - C_P > 0$$

Now suppose an ethical regulator believes that the potential harm from Markos’ child labor ( $C_M$ ) should be weighted more, because depriving a child of education is morally wrong. They employ the Greatest Happiness Principle by adding a weight ( $\alpha$ ) to the aggregate utility function:

$$U_{GHP} = h \cdot r - \alpha \cdot C_M - C_P, \quad \alpha > 1$$

The regulator can then solve for the optimal weight  $\alpha^*$  such that the child labor is no longer attractive (utility of 0) for Markos and Perdue:

$$\begin{aligned} 0 &= h \cdot r - \alpha^* C_M - C_P \\ \alpha^* &= (h \cdot r - C_P) / C_M \end{aligned}$$

Enacting regulation to enforce a weight of  $\alpha^*$  would in theory deter Markos from working at Perdue Farms.<sup>42</sup> In other words, the economic analysis above allows a regulator to translate their ethical beliefs into a policy solution. While this analysis helps a regulator understand *how* they

<sup>38</sup> Wight, *Ethics in Economics*, p. 30.

<sup>39</sup> This analysis is admittedly oversimplified, but a more realistic version would reach the same conclusion.

<sup>40</sup> “w” stands for “wage,” and “h” stands for “hours worked.” Assume for simplicity that the act of not working at all provides a utility of 0.

<sup>41</sup> Wight, *Ethics in Economics*, p. 60. Since the costs in this situation are not known with certainty, we might instead say that the utility is positive in expectation.

<sup>42</sup> Weights could be applied to other variables with similar effect. For example, disincentivizing Perdue Farms from hiring children would entail adding a weight to  $C_P$ .

could disincentivize child labor to prevent unethical market outcomes, it doesn't explain *why* they would do so.

The hardline anti-regulation, laissez-faire stance believes that the optimal weight is equal to 1 because Markos (and his parents) have the best information about his risk of injury (reflected in  $C_M$ ), and so the market should dictate the labor outcome. Additionally, they would argue that the unweighted analysis allows Markos to collect income ( $w \cdot h$ ), which can be used to improve his living conditions. Preventing the child labor would guarantee a continuation of Markos' poverty in the short term.

Proponents of increased regulation have several economic reasons why the unweighted analysis is not best for society.<sup>43</sup> First, the cost of a potential injury could be more damaging to the economy than Markos realizes. If Markos cannot afford the cost of healthcare, then the government might end up footing the bill for his treatment. Second, Markos might ignore the fact that work prevents him from attaining an education, which lowers his lifetime earnings potential, and is ultimately bad for both Markos' family and the economy. Third, even if Markos' decision is worthwhile for him, the regulator understands that his decision further solidifies intergenerational inequality. Supposing Markos implicitly discounts the lost value of his future earnings according to an interest rate  $r_M$ , the regulator might choose a "social" interest rate  $r_S < r_M$  which considers how future generations will be affected by the decision.<sup>44</sup> A lower interest rate would place more value on future earnings, stressing the high opportunity cost of forgoing those earnings on Markos' children or grandchildren. Finally, to compensate Markos for the lack of short-term income, the government could employ forward-looking social policy that borrows from the increased future tax earnings from Markos' education.<sup>45</sup>

## VI. Proposed Solution: Updating Civil Penalties

My analysis of the SMART Alabama incident shows that the debate about child labor regulation is split due to a fundamental difference in ethical frameworks. The anti-regulation argument in favor of shifting more power to the parents seems reasonable. However, my discussion of the

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<sup>43</sup> A higher weight could be justified purely by the moral aspect of hazardous child labor, which is often considered wrong for the reasons discussed above. Putting this aside, I discuss additional economic reasons to support child labor regulation.

<sup>44</sup> Wight, *Ethics in Economics*, pp. 204-205.

<sup>45</sup> Alternatively, civil penalties for child labor violations could be used as a source of funding.

Perdue Farms incident shows that the incentives of the family and employer are misaligned with macroeconomic success. My recommendation is to update existing federal policy to align with consequentialist ethics, using the Greatest Happiness Principle to “nudge” self-interested parties away from child labor.<sup>46</sup> Increasing the FLSA civil penalties for child labor violations would strike the balance between deterring future abuse and retaining the liberty of choice for the family.<sup>47</sup> I discuss two examples of how policymakers can set optimal fines to deter violations.

Corporations generally act in their self-interest; they pursue an action if they believe it will maximize profits. An optimal civil penalty would make the pursuit of illegal child labor unprofitable for the firm.<sup>48</sup> For example, suppose meatpacking firm XYZ hires 10 children, paying them \$10 per hour and earning an expected \$20 per hour from their work. Assume that the children each work for 2 years, working 50 40-hour weeks (2000 hours) per year. The total value of their labor is \$400,000.<sup>49</sup> The current FLSA civil penalty is \$11,000 per child, so the expected value of getting caught is only \$110,000 *with a 100% detection rate*. Since the true detection rate is less than 100%, it is clearly profitable for the firm to employ children, which justifies breaking the law. Supposing a more reasonable detection rate of 20%, illegal child labor would be profitable unless the penalty were raised to \$200,000 per child, or approximately *18 times the current penalty*.<sup>50</sup> Informed regulators would perform the necessary research to make these calculations realistic, but they would likely come to the same conclusion: the current penalty is not sufficient to deter illegal conduct.

An alternative (or additional) approach would require a firm to compensate the child worker for the net present value lost as a result of the illegal labor. Quantifying the lost value of a

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<sup>46</sup> Thaler, Richard H., and Cass R. Sunstein, *Nudge: Improving decisions about health, wealth, and happiness*, Penguin, 2009.

<sup>47</sup> Multiple proposed amendments to the FLSA have been introduced to Congress recently, with the intent to increase the civil penalties for child labor violations. For example, the Children Harmed in Life-threatening or Dangerous (CHILD) Labor Act proposes to increase the civil penalty for child labor violations from \$11,000 to \$151,380. The Combating Child Labor Act proposes to increase the maximum civil penalty from \$11,000 to \$150,000, as well as increase the penalty for death/serious injury to a child from \$100,000 to a maximum of \$700,000. The laws have not made progress in Congress and are unlikely to be signed into law. United States Representative Rosa DeLauro, “Casey, Murray, Introduce Legislation to Combat Child Labor Exploitation,” Oct. 2023. H.R.2956 - Combating Child Labor Act, 118th Congress (2023-2024), Apr. 2023.

<sup>48</sup> Motivation for this analysis comes from Hovenkamp, Herbert J., “A Primer on Antitrust Damages,” *Faculty Scholarship at Penn Law*, Mar. 2011.

<sup>49</sup> One could include a discount rate in this calculation for accuracy, but since the discount rate would also affect the labor violation penalty, it matters little to the conclusion. One could additionally factor in state and local regulations to this analysis.

<sup>50</sup>  $400,000 - (10 * 200,000 * 0.2) = 0$ .  $200,000 / 11,000 = 18.2$ .

child skipping school or experiencing mental hardship is difficult, but an approximation has been established by academic research. A 2015 study found that the net present value of lifetime earnings for high school graduates was 0.66 million vs 0.48 million for less-than-high school graduates, a difference of \$180,000.<sup>51</sup> Even if the child was physically unharmed by working illegally, they may have lost substantial lifetime earnings by skipping out on school. It is possible that this penalty would not be sufficient to deter corporations from employing child labor. However, the benefit of this policy would be to reduce intergenerational inequality. Children who were forced into child labor by their families would regain the socioeconomic mobility they lost by missing educational opportunities.

## VII. Conclusion

The use of child labor is and will always remain controversial. This is due to the risk of exploitation inherent to childhood, the drastic consequences for both the child and future generations, and the difficult tradeoff between government regulation and parental rights. But it is also due to a fundamental difference in ethical reasoning employed by the two sides of the policy debate. Bridging the ethical divide will require research on the effects of loosened regulations on family values. I use a mathematical formulation of the decision to allow illegal child labor to focus the economic arguments for and against regulation. Employing principles of economic self-interest, I explain how policies should be updated to align the incentives of children, their family, the corporations, and the social planner. These policy solutions balance the aspects of parental control with the negative consequences of child labor abuse.

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<sup>51</sup> Tamborini, Christopher R., ChangHwan Kim, and Arthur Sakamoto, "Education and Lifetime Earnings in the United States," *Demography*, 52(4) 2015, p. 21. The authors controlled for a variety of demographic information with these results.

Regulators may want to further adjust this figure for the probability of detection, since not all child labor violations will be detected. With an assumed detection rate of 20%, this would imply multiplying the \$180,000 by 5, or \$900,000.

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