UNDERAGE AND UNDER PROTECTED: THE CASE FOR CHILD INFLUENCER LAWS IN INDIA

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ABSTRACT

The meteoric rise of India's digital economy has transformed child social media influencing and parental "sharenting" into highly lucrative commercial markets, leaving minors vulnerable to unique forms of exploitation. This paper doctrinally analyzes India's legislative landscape to assess its efficacy in safeguarding child influencers' rights to privacy, autonomy, and fair compensation. The analysis reveals critical statutory gaps: traditional frameworks like the Child and Adolescent Labour Act (CALPRA) fail to account for digital workplaces, lack clear employer-employee definitions, and fail to provide enforceable mechanisms against financial or data exploitation by guardians. By evaluating comparative legislative models from Illinois and France, this study advocates for structural legal reforms. It recommends expanding domestic labor codes to legally recognize digital child creators, mandating protected financial trust funds, establishing independent oversight for working hours, and enforcing a statutory duty of care on social media intermediaries and advertising brands.

Keywords: Child Influencers, Digital Labor Law, Commercial Sharenting, Right to Privacy, CALPRA 1986, Minor Financial Exploitation.

I. Introduction

The pursuit of fame and universal adulation has often motivated parents to introduce their children to the world of performing arts from an early age. While the concept of child celebrity performers is not novel, with the same being traced back to 18th Century to child prodigies like Mozart and Beethoven, it has never been as commonplace as it is today. From Victorian age, where infants often performed in Victorian theatres and travelling carnivals[1] to today's social media age, the scope of children's work in the media industry has undergone a drastic change.

Traditionally, child performers would perform their artistic talents in media productions in exchange of monetary compensation. In the modern social media age, each waking moment and daily routine of a child is susceptible to commodification and being sold as content to thousands of people within seconds. This practice is not only limited to professional 'family bloggers' and 'kidinfluencers' but has become so widespread that the Wall Street Journal in 2012 coined the phrase "sharenting"- a portmanteau for the word sharing and parenting referring to the parent's habit of sharing personal photos, videos and information of their children online[2]. What began as an innocuous habit has now evolved in an industry generating millions in revenue worldwide. This has raised concerns regarding the privacy, autonomy and financial rights of these child influencers. This paper shall doctrinally analyze the current legislative landscape as to whether it can protect the rights of these children and protect them from exploitation.

II. Blurred boundaries of digital child labour

The problem with regularization

Traditionally, labour has been defined as any productive activity undertaken in exchange of monetary compensation, namely wages[3]. The parents and guardian of child influencers have staunchly argued that their social media content generation lies outside the scope of this definition. They insist that these children are not 'working' but rather being filmed doing their

[1] Adam Gopnik, "What Do We Want from Our Child Stars?"*The New Yorker,* Oct 20, 2025.
[2] Allison Lichter, "Oversharenting: Parents Juggle Their Kids' Lives Online" *Wall Street Journal,* May 16, 2012.
[3] NCIB, 'Labour Laws in India', available at: https://ncib.in/pdf/ncib_pdf/Labour%20Act.pdf (last accessed 20 June 2026).

regular day to day activities[4]. This insistence is majorly driven by the desire to maintain the façade of authenticity and retain the connection with the targeted audience by portraying the children as any other 'normal kid' rather than a celebrity[5]. And this creates a legal obstacle in regularizing this industry. Additionally, the remuneration in case of social media influencing is diversified and may include revenue from brands and sponsorships, merchandising, subscriptions among many others. So the issue arises as to what content shall constitute child labour and what is not[6]. Further, to bring child influencers within the scope of labour law, there first needs to be established an employer-employee relationship. The question is then who shall be the employer in this case? Even adult social media influencers are touted as independent contractors, though it is a complicated position[7]. This gets further complicated in case of children who have even lesser control and autonomy on the content that is put out on their social media pages than their adult counterparts.

Understanding India's digital landscape

To understand why regulating child influencer industry is important, it essential to first understand the scope of India's digital landscape and the stakes involved. The size of India's digital economy is on a meteoric rise, especially thanks to affordability of internet. service[8]. As of 2026, there are over 1 billion internet users in India along with 660 million smartphone users[9]. On the social media front, the two most famous sites are Youtube and Instagram having 400 million and 350 million users respectively. This makes India the biggest market for YouTube globally and second largest market for Instagram behind United States[10]. Among these social media users, approximately 113 million users who are below the age of 18[11].

This growth in digital userbase has resulted in a community of 3.5-4.5 million content creators

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[4] Julia Carrie Wong, "'Kidfluencers' are earning millions on social media, but who owns that money?" *The Guardian* , April 24, 2019.
[5] Crystal Abidin, '#familygoals: Family Influencers, Calibrated Amateurism, and Justifying Young Digital Labor' (2017) 3(2) Social Media + Society
[6] Liselot Hudders and Emma Beuckels, "Children making big money : the implications of Kidfluencing as new form of child labor" 18(4) *Journal of Children and Media* 638-645(2024)
[7] *Ibid.*
[8] What is the State of India's Digital Economy in 2026? A Comprehensive Market Overview, *available at:* https://digitalinasia.com/india-digital-market-overview-2026/#how-big-is-india-s-digital-economy (last visited on June 21, 2026)
[9] *Ibid*
[10] *Ibid.*
[11] Students, Screens, and Human Capital Formation in India, *available at:* https://www.orfonline.org/expert-speak/students-screens-and-human-capital-formation-in-india (last visited on June 21, 2026)

across these social media sites[12]. And these creators form an important cogwheel in marketing landscape of India where even niche influencers can convert 10-15% of their advertisement views into actual sales[13]. Even the child influencers are on steep rise with 2025 seeing a 41% increase from the year 2024[14].

Need for regulation

The child influencers face multiple dangers many of which are unique to their field only. And First, is the issue of wage exploitation. Even though many child influencers in lakhs of rupees, they may not always have the access to these wages. In an ideal scenario, wages earned by child artists should be used for the benefit and welfare of the children, but that may not always be the case. In 2023, NCPCR had issued guidelines to protect rights of child artists working in the entertainment industry. In a bid to protect the financial rights, the guidelines have put a dual obligation on parents and producers to ensure that 20% of the remuneration should be put in a fixed deposit account in a nationalized bank to be credited to the artists once he turns 18[15]. However, these guidelines are not enforceable which leads the child influencers vulnerable to financial exploitation.

The second issue pertains to regulating the workspace where these child influencers work in. Traditional child artists working in movie and television productions are protected by the Child And Adolescent Labour (Prohibition And Regulation) Act of 1986 which not only ensures that children are working in a safe environment but also ensures that their education is not interrupted in pursuit of the work assignments being undertaken by them. However, the child influencers are excluded from the ambit of this protection as their workplace is their own home and the crew working on the content are their own parents or guardians.

Thirdly, the concept of commercial sharenting is at odds with the right to privacy as guaranteed by the judiciary under Article 21 of the Indian Constitution[16]. The private data of the children in the form of photos and videos is shared with the world at large, for a monetized incentive.

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[12] *Supra* note 8.

[13] Social Media Marketing in India 2026: Why the Old Playbook Is Dead (And What Actually Works Now), *available at: https://eravue.com/blog/social-media-marketing-2026* (last visited on June 21, 2026)

[14] Kidfluencers: Balancing compliance and reach, *available at:* https://brandequity.economictimes.indiatimes.com/news/marketing/kidfluencers-balancing-compliance-and-reach/121300192 (last visited on June 22, 2026)

[15] NCPCR, "Guidelines For Child And Adolescent Participation In The Entertainment Industry And Any Commercial Entertainment Activity" (2023)

[16] *Justice K.S. Puttaswamy & Anr*. vs. *Union of India & Ors,* AIR 2017 SC 4161

This raises issues over the children's consent and autonomy over their own data and it becomes that state's responsibility to neutralise and maintain the balance between all the stakeholders. This is even more important in the case of social media influencers because as the digital footprint is harder to erase than its traditional counterparts and may have many unintended consequences in the future. As New York Times rightly observed this would be the "first generation to inherit a social media presence, and privacy risks, they didn't ask for.[17]" Even in present time, this digital content exposes these children to negative attention in the form of cyber-bullying, hate comments and in some extreme cases sexual and violent threats,[18] all of which negatively impacts the mental health and welfare of these child influencers.

Children are often seen as a vulnerable group of the society mainly because they are dependant on the adults in their life for protection and providing their most basic necessities. When the adults in their life stand to make financial incentive from the labour of these children, the law needs to cover these specialized situations.

III. International Initiatives

This section shall delve into the steps taken by the governments of countries across the globe to protect child influencers in their countries.

United States

The legislatures at state level have taken initiative to expand and amend their labour codes to keep pace with the changes brought in by the advent of social media. For instance, Illinois in 2024 passed Child Labor Law of 2024 has explicitly included the terms 'vlogging' and 'online platform' within its ambit to especially target the family influencers. Vloggers as per this act include any person who is making video content in exchange of compensation but includes any content produced by individuals of 16 years old or less[19]. The major provisions of the act though are section 95 and 100 which pertain to minors featured in family vlogs. As per section 95, the parent vlogger who is featuring minors in their content, have to maintain records of

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[17] New York Times, *If You Didn't 'Sharent', Did You Even Parent?,* 2019 *available at: ,* https://www.nytimes.com/2019/08/07/opinion/parentssocial-media.html (last accessed on June 26, 2026)

[18] Anesha George, 'Meet India's young influencers, who've taken YouTube by storm' Hindustan Times, April 28, 2019

[19] Playing or Being Played?: Legal Protections for Children in the Family Influencer Economy, *available at:* https://journals.law.harvard.edu/jsel/2025/11/playing-or-being-played-legal-protections-for-children-in-the-family-influencer-economy/ (last visited on June 23, 2026)

revenue provide them to the minor on a regular basis[20]. If the parent fails to maintain the record or does not provide them to the minor, they shall be liable to face a private civil suit. Section 100 deals with the compensation to the minors. It mandates the adult vlogger to maintain a trust fund in which part of compensation received from any vlog featuring the minor shall be put and which can be used by the child after reaching the age of majority[21]. If the mandate is violated, the minor may enforce an action for both actual and punitive damages along with litigation costs.

French Model

The French legislators have enacted a one of its kind legislation dealing with financial rights, work environment and privacy of the influencers below 16 years of age. In France, one of the three key elements of employment is the subordination relationship i.e., there should be an obligation to perform the work as per the pre-determined conditions. In case of child influencers and minors appearing in family vlogs, this subordination relation is impossible to prove in light of parental relationship[22]. The legislators recognized this gap in the legislation and amended various sections of the Labour Code.

In order to extend the protections available to traditional child artists, to child influencers as well, an ad-hoc system has been prescribed for those working under their parents or guardians[23]. The code has prescribed the permissible working hours as well as mandated parents to deposit child's income to a public financial institution if it exceeds a pre-determined limit which can be accessed by the child once he attains majority. The legal guardians may make use of part of the income of the child, but only after permission from the competent authority. Further, in cases where the income of the child has to be put in a fund in the public institution, the burden is on the advertisers making use of the child's platform to do the same[24].

Thus, a balance has been struck between the protecting children's rights, parental obligation

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[20] Illinois Child Labor Law, 2024, s.95
[21] *Ibid ,* s.100.
[22] Marie-Andree Weiss, 'Pour les Enfants: A New French Law Regulates Influencers Who Are Under the Age of 16, *available at:* < https://www.maw law.com/uncategorized/pour-les-enfants-a-new-french-law-regulates-influencers-who are-under-the-age-of-16/> (last visited on June 23, 2026).
[23] Law of October 19, 2020 aimed at regulating the commercial exploitation of the image of children under the age of sixteen on online platforms, *available at:* < https://better-internet-for-kids.europa.eu/en/rules-guidelines/law-october-19-2020-aimed-regulating-commercial-exploitation-image-children-under> (last visited on June 23, 2026).
[24] *Ibid.*

and platform's responsibility which can be a lesson for other nations.

IV. INDIA'S CURRENT LEGISLATIVE FRAMEWORK

Constitutional Provisions

The makers of Indian Constitution have enshrined protection from labour in hazardous occupations like mines, factory or ant other dangerous work as a fundamental right available to all children below 14 years of age[25]. The state had also been directed to ensure that children are not forced in a job or vocation inappropriate or dangerous for their age, along with ensuring that children are given an opportunity to grow up in a healthy environment suitable for all-round development[26]. By 86th Amendment, the legislators have also added Article 21A which provides free and compulsory education to children between six to fourteen years of age. The state via Constitution had undertaken to protect children from any form of exploitation which has manifested into various legislations as described below.

Judicial organ of the state plays a crucial role in protecting the citizens from previously unforeseen exploitations via judicial review. The Indian judiciary has also played its part of widening the scope of protection to Indian citizens by giving a broad reading to the Articles containing fundamental rights. One such protectionist precedent has been *Justice K.S. Puttaswamy & Anr*. vs. *Union of India & Ors*[27] which has enshrined Right to Privacy under Article 21 i.e., right to life and liberty. This is an essential provision in context of child influencers because while the Court's judgement has provided this strata with the right to maintain their privacy, there exists no mechanism of enforcing this right against the parents and guardians who may misuse their position of trust for financial gain.

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (CALPRA)

CALPRA is still the centrepiece legislation dealing with child labour in the country. For the purpose of this Act, a distinction has been made between a child and an adolescent. The Act prohibits children i.e., individuals below the age of 14 are completely banned from partaking in any profession except for home-based employments[28]. Whereas adolescents i.e., individuals

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[25] The Constitution of India, art. 24.
[26] The Constitution of India, art. 39 (e) and (f).
[27] AIR 2017 SC 4161
[28] CALPRA, 1986 (Act 39 of 1986), s. 3

between the age of fourteen and eighteen years of age are permitted to undertake employment anywhere except for in hazardous occupations[29].

For children, along with the exception in family-based enterprise, another exception has been carved out which is for child artists working as an actor, singer or athlete[30]. Now, a broad reading of the section may include child influencers within the scope of permissible employment but no judicial precedent or legislative rules have addressed this regulatory gap.

Protection of Children from Sexual Offences Act, 2012

POCSO is a specified legislation dealing with protection of children from sexual exploitation in India. Unlike CALPRA, this Act has been more conscious of the harms that children are exposed to in the digital realm. For instance, the Act has defined 'child pornography' as any visual media containing sexually explicit content involving children[31]. Along with that the Act also penalises using, storing and dissemination of material containing child pornography[32].

However, there still remain gaps which the act has failed to address. One of the major drawbacks of the Act is that it has failed to penalise commercial monetisation of child sexual abuse material (CASM) via social media platforms and has not put any obligation on digital intermediaries hosting such material on their platform. The Act provides for no preventive measures on the behalf of the digital platforms either. There are no specific provisions for guardians or parents enabling their children to make inappropriate content for monetary benefit leaving the children vulnerable to exploitation.

Information Technology Act, 2000

The central legislation regulating the digital landscape in India in Information Technology Act, 2000. The Act has made specific provision for protecting children from digital sexual exploitation via 2008 Amendment which criminalises transmission and publication of sexually explicit content involving children[33]. However, for purposes of social media influencers, the section cannot be read to be broad enough to include 'sexually suggestive' content. The IT rules of 2021 have tried to put onus on the social media intermediaries by making them liable

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[29] CALPRA, 1986 (Act 39 of 1986), s. 3A

[30] *Supra note 28.*

[31] The Protection Of Children From Sexual Offences Act, 2012 (Act no. 32 of 2012), s. 2(da)

[32] The Protection Of Children From Sexual Offences Act, 2012 (Act no. 32 of 2012), S.13, 14 & 15

[33] Information Technology Act, 2000 (Act 21 of 2000), s.67B

to delete any offensive content within the prescribe time limit in order to be protected by the safe harbour provision of the Act[34]. Though this provision does not concern with protecting children in particular, it still puts a duty of care on the social media sites to moderate the content on their platform.

NCPCR Guidelines

The National Commission for Protection of Child Rights ('NCPCR') has realised the precarious position of child influencers and content creators and thus in 2023 had issued a set of progressive guidelines for children and adolescents employed in entertainment sector[35]. The guidelines have included content creation on social media as work under family enterprise and should have similar regulatory standards[36]. Accordingly, children employed in this sector shall be allowed to take adequate rest and the work shall not interfere with their education, co-curriculars and overall development of the child. However, these guidelines are not enforceable and have not yet contributed to a substantive change in the socio-legal position of the children.

V. Findings & Recommendations

Shortcomings of the present legal framework

The Act dealing with children and adolescents employed in the workforce i.e., is silent on the topic of digital workplace and employment. There still remains an ambiguity as to whether a family YouTube channel is a family enterprise or whether an Instagram account featuring advertising content is exempted under the exception dealing with child artists working in media industry[37]. Therefore, there have been made no provisions for working hours, conditions and environments for children working as social media influencers or content creators. Neither there are any provisions for protecting financially protecting such children from exploitation at the hands of their guardians and family.

Further, the judiciary has so far remained silent on the question of privacy, autonomy and financial rights of children who are sometimes being filmed during their most intimate moments for public consumption. That is majorly because there is no enforcement and

[34] Information Technology Act, 2000 (Act 21 of 2000), s.79

[35] National Commission for Protection of Child Rights (NCPCR), 'Guidelines for child and adolescent participation in the entertainment industry or any commercial entertainment activity' (NCPCR , 2023)

[36] *Ibid*

[37] *Supra* note 28

overseeing machinery keeping an eye on the working conditions of these children. Consequently, these children may be forced to work overlong hours and not even see a dime of their income being used for their benefit.

Recommendations

India needs to follow France's footsteps and expand the Labour code to include social media influencers and content creators. The child influencers should be given protection equivalent to those working as child actors in the very least. Additionally, the guardians of the child influencers should also be obligated to set aside part of their income in a separate fund to be accessed by the child once he attains majority.

Secondly, there should be a mandate on the guardians to maintain a record of working hours of the child influencers and the income generated with that content. This record keeping should be overseen by a third-party authority having the power equivalent to the District Magistrate. The main responsibility of the authority should be to ensure that these records are updated in a timely basis and the reporting is correct and accurate. Adequate time needs to be set aside by the guardian for the education and co-curricular activities of the child to ensure their healthy development away from their commercial commitments.

Additionally, some duty of care has to be put on the social media intermediaries under the IT Act, 2000 and POCSO Act, 2012 to moderate more strictly the content which featuring children and adolescents. Further, some onus has to be put on the agencies and brands employing the child influencers to put part remuneration in a separate fund in a nationalised bank to be used only for the welfare of the child along with ensuring safe working conditions for the making of their advertising content.

The labour law of the country has not moved beyond the analogous world. Given the size of India's digital economy, it is imperative that a regulatory mechanism is developed which keeps apace with the developments made in the technological realm. For that the State would have to answer difficult questions with respect to parental rights and autonomy of the minors. But, if we have to protect the most vulnerable group of our society, the legislators and the judiciary would have to undertake the initiative to broaden the scope of our laws.

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