
REGULATING CHILDREN'S ACCESS TO SOCIAL MEDIA IN INDIA: TOWARDS A RIGHTS-CALIBRATED FRAMEWORK

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ABSTRACT

India is home to more than 600 million internet users, a large proportion of whom are children who spend several hours each day on social media platforms. Despite this extensive engagement, the country does not yet have a dedicated legal framework regulating minors' access to social media. This paper examines how India can address this regulatory gap through a comparative study of three major international approaches: the outright ban model adopted by countries such as Australia and China, the parental consent framework followed in France, Denmark, and Brazil, and the platform accountability approach reflected in the European Union's Digital Services Act and emerging Canadian regulations.

The analysis demonstrates that each model faces important limitations. Complete bans are difficult to enforce and may drive children toward unregulated online spaces. Parental consent systems often struggle with verification and practical implementation. Accountability based regimes place significant responsibilities on regulatory institutions, requiring resources and capacities that many countries, including India, are still developing. The paper then evaluates India's existing legal framework, including the Information Technology Act, the Protection of Children from Sexual Offences Act, and the Digital Personal Data Protection Act, 2023, which is not yet fully operational. It also considers the judiciary's cautious approach toward intervening in this policy area.

Placing the discussion within India's constitutional framework, particularly Articles 15(3), 21, and 19(2), as well as the privacy principles established in *K.S. Puttaswamy*, the paper argues that neither blanket prohibitions nor unrestricted self regulation satisfy the requirements of proportionality. In response, it proposes a rights calibrated framework built on three core elements: a tiered system of age based access, platform centred accountability as the primary enforcement mechanism, and privacy preserving methods of age verification that avoid Aadhaar linked surveillance.

The paper concludes that India should not simply replicate foreign regulatory

models. Instead, it should develop an approach that reflects its unique demographic scale, constitutional commitments, and technological realities. Any effective regulatory framework must be enforceable, rights conscious, and supported by long term investments in digital literacy and online safety awareness.

I. Introduction

A NITI Aayog report in 2023 suggested that the average time period for which Indian children aged 11-15 and 16-18 remain online is four and six hours respectively.¹ Children aged 6 to 10 years also spend an average two and a half hours online daily, a major chunk of which includes time spent on social networking sites.

Today's children are digital natives. Their social interactions occur in online environments that affect their social identity, mental health, and development. This reality is still not addressed by the law.

Governments across the globe are now starting to take action. Australia, Canada, France, Denmark, China, Brazil, and other countries have already developed or are in the process of developing legislations to restrict children from accessing social media sites. Today's digital age exposes children to various dangers as a result of online connectivity. Corresponding issues associated with allowing children access to the internet includes online harassment, digital addiction, exposure to inappropriate content, disrupted sleep patterns, and declining mental health among the youth.

India does not have any dedicated laws that specifically restrict or regulate children's access to social media. The available laws with Piecemeal Protection do not provide a Regulatory Structure either in place or enforceable, like the Information Technology Act, 2000 (IT Act), the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and the Digital Personal Data Protection Act, 2023 (DPDP Act).² Given the global trend in laws, it will be hard for India to excuse its inactivity on the subject further.

The paper is structured in four sections. Section I introduces the paper. Section II undertakes a comparative analysis of global frameworks for children's social media regulation and identifies

¹ Niti Aayog, Children's Internet Use and Online Safety in India 14–16 (2023).

² Information Technology Act, No. 21 of 2000, India Code (2000); Protection of Children from Sexual Offences Act, No. 32 of 2012, India Code (2012); Digital Personal Data Protection Act, No. 22 of 2023, India Code (2023).

the inherent structural deficit in the frameworks. Section III maps the current legal and judicial landscape in the Indian jurisdiction. Section IV highlights the constitutional provisions and Section V suggests a 'rights calibrated'- three-pronged framework of regulation as a valid solution suited to India's unique context.

This paper contends that India must forge its own path that steers clear of the blanket ban offered by the extremes of the Australian response and the self-regulation that was permitted in the European Union prior to the advent of the Digital Services Act. Why? Because the far-reaching nature of statutes such as Article 15(3) read with Article 21 of the Constitution of India demands a child-protective response and the Supreme Court of India's judgment in *K.S. Puttaswamy v. Union of India*³ similarly militates against the coercive surveillance mechanisms adopted elsewhere. There is a potential for a proportionality-based tiered response that is rooted in the provisions of the Digital Personal Data Protection Act, 2023 and that invests accountability in platforms.

II. Global Models of Regulation

Three regulatory models have emerged across the international community- the banning model, parental consent model and platform liability model. All three provide important lessons for India, as well as critical pitfalls that India must avoid.

A. The Ban Model

The outright ban approach is best exemplified with Australia's case. Through the legislation implemented in November 2024, Australia's government became the first government in the world to ban access to social media platforms for children under the age of 16.⁴ This law applies to the ten major social media platforms: TikTok, YouTube, Instagram, Facebook, Snapchat, X, Reddit, Twitch, Threads and Kick and leaves WhatsApp and YouTube Kids aside. A fine of up to AUD 49.5 million (USD 34.4 million) applies to the companies that breach the law. The platforms have to verify the age of users by multiple methods and are not allowed to take self-reporting as a 100% verify method.

³ *K.S. Puttaswamy v. Union of India*, (2019) 1 S.C.C. 1 (India).

⁴ Online Safety Amendment (Social Media Minimum Age) Act 2024 (Cth) (Austl.); see also Hanibal Goitom, Australia: Social Media Banned for Children Under 16, Libr. of Cong.: Glob. Legal Monitor (Dec. 8, 2024), <https://www.loc.gov/item/global-legal-monitor/2024-12-08/australia-social-media-banned-for-children-under-16/>.

However, China has also developed its own variation on the ban model. Its cyberspace regulator runs a programme called "minor mode" which implements device-level bans and apps that apply age-based restrictions to screen time. In China, the internet regulator announced in September 2025 that it would begin a two-month rectification of platforms that leads to "negative outlook on life".⁵ This step blurs the line between child-protective help and outright content censorship. Such injustice becomes a warning to all other jurisdictions how banning-models can get misappropriated by the state.

In Karnataka, the Chief Minister Siddaramaiah had announced a social media ban for children under 16 years.⁶ The objectives stated for this ban were - to tackle digital addiction, sleep disorders and cyber bullying issues faced by children. However, there have been no further developments such as policy or implementation framework from the concerned government as of date. The announcement has sparked reactions, and one pragmatic question that needs to be answered is – what is the utility of a ban that has no enforcement programme?

B. The Parental Consent Model

There is another group of countries that offers parental consent as a preventive measure as opposed to full prohibition. France is one of the most visible showcases. In June 2023, France passed the bill, obligating the platforms to verify the age and obtain parental consent if the user is below 15. In January 2026, the National Assembly passed another bill, obliging the platforms to restrict any new account creation of the under 15 users and block any existing accounts, if the user is below 15.⁷ However, no agreement has been made between the two houses of the Parliament of France. In the Parliament of the upper house, an education minister has proposed a distinction between two platforms. One platform is placing a threat to the physical, mental, or moral development of a child and another platform, which can be used with parental consent.

In November 2025, Denmark's Minister announced a political agreement to prohibit social

⁵ Cyberspace Admin. of China, Notice on the Special Rectification of "Negative Outlook on Life" Content on Online Platforms (Sept. 2025) (China); see also South China Morning Post, China Cracks Down on "Negative Outlook on Life" Content (Sept. 2025).

⁶ Press Release, Office of the Chief Minister, Government of Karnataka, Karnataka to Consider Social Media Restrictions for Children Under 16 (2025); see also The Hindu, Karnataka CM Siddaramaiah Flags Social Media Ban for Minors (2025).

⁷ Loi 2023-566 du 7 juillet 2023 visant à sécuriser et réguler l'espace numérique [Law 2023-566 of July 7, 2023 to Secure and Regulate the Digital Space], Journal Officiel de la République Française [J.O.] [Official Gazette of France], July 8, 2023; Projet de loi visant à interdire les réseaux sociaux aux mineurs de moins de 15 ans, Assemblée Nationale (adopted Jan. 2026) (Fr.).

media access to children under 15.⁸ Parents will also be allowed to give consent to access specific platforms from the age of 13, but only after an individual evaluation. At the same time, the Danish digital affairs ministry is working on a digital application that will contain access to tools for verifying the age. The law is expected to take effect in the middle of 2026.

In 2026 March, the Brazil Digital Children and Adolescents Statute came into act.⁹ This regulation obliges social network users below 16 to connect their social network profiles and accounts to a legal guardian. Besides, it forbids the addictive characteristics of the platform (for example, the infinite scroll) to minors. A variant of this regulation is adopted in Vietnam, only on the basis of monitoring. From 2024, Vietnam's parents would be required to register their children's social network accounts and monitor its online work. In early 2026, strict identification and age verification practices entered into effect.¹⁰

C. The Platform Accountability Model

The European Union enacted the Digital Services Act (DSA).¹¹ This model holds the platform accountable and not parents or the state. Platforms are required to assess and mitigate systemic risks to minors and maintain complete transparency about content moderation. The European Commission has additionally developed an EU-wide age verification application.

Accordingly, Canada's Bill C-34 is a hybrid model.¹² It permits companies to exempt themselves from the limitations for users under 16 to some extent if they can demonstrate adequate protections for those users. More importantly, it extends regulation to AI chatbot services and includes broader safety and transparency provisions. Also, under this model, the main obligation is on the platform rather than the parent or child.

D. A Critical Observation: Structural Flaws in Each Model

India should learn from the flaws that these models have, and not replicate it.

⁸ Ministry of Digital Affairs, Government of Denmark, Political Agreement on a Minimum Age for Social Media (Nov. 2025) (Den.).

⁹ Lei No. 15.211, de 2026 (Estatuto Digital da Criança e do Adolescente) [Digital Statute of Children and Adolescents], D.O.U. (Braz. 2026).

¹⁰ Decree on Management, Provision and Use of Internet Services and Online Information (Vietnam) (as amended 2024–2026).

¹¹ Regulation 2022/2065, of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act), 2022 O.J. (L 277) 1.

¹² Bill C-34, An Act Respecting the Protection of Minors in the Digital Age, 1st Sess., 45th Parl. (Can. 2025) (as introduced).

The ban model is impractical, albeit symbolic. Banning social media would, however, be equivalent to placing a bandage on a broken hand. It does not fix the problem. History has given us some lessons. The country's attempts to ban access to pornographic websites and politically sensitive platforms has largely failed. Users always find a way to bypass the law. And children are not different. The lack of information, coupled with the ban would only heighten their curiosity. It would drive them to utilize the more underground platforms that are less regulated and more susceptible for abuse.

The parental consent model is plagued by the issue of enforceability. The example of France is illustrative: a parental consent law was passed in 2023, but more than two years later, technical hurdles render it unenforceable. There is a huge difference between passing a law and enforcing it.

However, the platform accountability model- while it may be legally complex, needs monitoring institutions that are technically adept, independent and able to implement accountability across global platforms. As it stands, most states, including India, do not yet have such institutions.

India's response to this global legislative trend is admittedly delayed. However, a delay is not necessarily an impediment.

[III.] India's Legislative Framework and its Gaps

A. Legislative Framework

India saw its first digital laws with the passage of the Information Technology Act, 2000. S.67B prohibits creation, possession, and distribution of sexually explicit material involving children.¹³ Offenders shall be punished with imprisonment for a term which may extend to five years and with a fine which may extend up to rupees ten lakh. Other provisions of the act also deal with privacy infringement and transmitting offensive, sexually explicit or harmful content. However the act does not specifically have any laws that address minors using social media and algorithms exposing them to harmful content.

The Protection of Children from Sexual Offences Act, 2012 prohibits the use of a child for the

¹³ Information Technology Act, No. 21 of 2000, § 67B, India Code (2000).

purpose of pornography and provides punishment for the storage or dissemination of such material under Sections 13 and 15 of POCSO.¹⁴ POCSO is a landmark legislation which has a narrow focus on the sexual exploitation of children. Digital addiction, cyberbullying, and mental health deterioration fall entirely outside its reach.

The existing legislation that applies most directly is the Digital Personal Data Protection Act, 2023. The issues related to the processing of children's data are laid down in section 9, which provides three conditions.¹⁵ Firstly, a service provider must get verifiable parental consent before the processing of the child's data. Secondly, the child's well-being should be taken into consideration regarding the processing, and thirdly, behavior tracking, targeted advertising, and tracking of children shall be prohibited. A child is defined as someone under the age of 18 in the Act.

There is, however, an important limitation. The DPDP Act has a phased rollout. The substantive provisions of the Act will not be fully enforceable or applicable until May 14, 2027.¹⁶ The rules to implement Section 9, which specify how valid parental consent has to be obtained, the age verification parameters, and the period for compliance for the platforms have not yet been notified. At this time, the Act is a mere framework statute without the implementing provisions that would actually make it effective on the ground.

The IT Rules, 2021 require intermediaries to restrict digital content by age and provide parental locks for specific rated materials. It also mandates the removal of harmful content for kids on platforms within a specified time limit. The Ministry of Education's PRAGYATA guidelines offer age-appropriate screen time.¹⁷ However, this is merely advisory in nature and has not been adequately enforced.

The Digital India Bill or Digital India Act is a reformative bill in the process currently.¹⁸ The bill is directed at repealing the IT Act, 2000 (Information Technology Act, 2000). The aims of

¹⁴ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 13, 15, India Code (2012).

¹⁵ Digital Personal Data Protection Act, No. 22 of 2023, § 9, India Code (2023).

¹⁶ Ministry of Electronics & Info. Tech., Government of India, Notification on Commencement of the Digital Personal Data Protection Act, 2023 (2025) (providing for phased implementation, with substantive provisions taking effect no later than May 14, 2027).

¹⁷ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Gazette of India, pt. II, sec. 3(i) (Feb. 25, 2021); Ministry of Educ., Government of India, PRAGYATA Guidelines for Digital Education (2020).

¹⁸ Ministry of Electronics & Info. Tech., Government of India, Draft Digital India Bill (2023) (proposed legislation, not yet enacted).

this proposed bill includes progressive mechanisms of age-appropriate safeguards, enhanced age-gating mechanisms, prevention against addictive content and algorithmic transparency, specifically for children.

B. Judicial Landscape

The Indian judiciary has been approached in this matter but refused to intervene. In the case of *Zep Foundation v. Union of India*, a public interest petition was filed before the Supreme Court of India to forbid children below the age of thirteen from having access to social media, and for directions to put in place an efficient age-verification system, which should include biometric verification.¹⁹ The petition was dismissed by a bench consisting of Justices B.R. Gavai and Augustine George Masih, which held that restricting access to social media groups based on age is a legislative policy matter and the Court does not have the jurisdiction to intervene in the matter. The petitioner was, however, permitted to make a representation before the competent authorities.

The same outcome was followed in case also *Child Rights Foundation v. Union of India and Ors.* 2018, an issue was raised before the three-judge bench headed by Chief Justice Dipak Mishra which included Judges A.M. Khanwilkar and D.Y. Chandrachud.²⁰ The bench recognised that the concerns raised were valid but refused to issue any directions to enforce a ban on social media. The bench held that the policy decision is in the hands of the legislature and not the judiciary.

The Madras High Court in *S. Vijayakumar v. Union of India and Ors.* espoused a tangentially different view.²¹ The Court noted that the present mechanisms fall short and unequivocally asked the Union Government to consider borrowing from Australia's framework. This is not a direction per-se but reflects the growing recognition among Courts.

C. Policy Acknowledgments

Furthermore, the present system's inadequacy in India has been recognised at the policy level. The Economic Survey 2025-26, submitted in Parliament on January 29, 2026 pointed out that

¹⁹ *Zep Found. v. Union of India*, W.P. (C) Diary No. 8128 of 2025 (S.C., India) (Gavai & Masih, JJ.)

²⁰ *Child Rights Found. v. Union of India*, (2018) (S.C., India) (Mishra, C.J., Khanwilkar & Chandrachud, JJ.).

²¹ *S. Vijayakumar v. Union of India*, W.P. No. 8800 of 2025 (Mad. H.C., India).

digital addiction is fast becoming a national problem.²² Surveys show that mobile and internet penetration is almost universal among the 15-29 years' population. The use of social media among people aged 15-24 is also associated with increased levels of anxiety, depression and sleep debt.

According to the Annual Status of Education Report (ASER), 2025, about 76 percent of children in rural India, aged 14 to 16 use smartphones mainly for social media and only about 57 percent use the smartphone for academics. NITI Aayog's 2025 strategy paper on Children Online Safety also clearly identified the increasing digital risks that children and minors face and the gaps and deficits in already available mechanisms.²³

India's Information Technology Minister has announced that the government is in talks with social media platforms for their proposed age-based restraints, similar to measures now adopted in Australia and others. These conversations are ongoing as of present date but show no promising signs of impending legislation.

IV. The Constitutional Framework

Any regulation in India regarding access of children to social media has to stand the test of the constitution. Social Media had not been there when the constitution was drafted, although the subsequent interpretation of various provisions of the constitution by the courts has made them contemporary to the situations emerging with time. The constitution does not either prescribe or prohibit a ban on social media for children. It requires any regulatory action to be proportional, calibrated on the rights and consistent with the continued understanding of the constitutional values in present times.

A. The Enabling Provisions

Article 15(3) of the Constitution authorizes the State to make special provisions for children and women.²⁴ This is the most powerful constitutional justification for age-based regulation of social media. Article 39(f) of the Directive Principles of State Policy directs the State to ensure that children are protected against exploitation and that opportunities and facilities are provided

²² Ministry of Fin., Government of India, Economic Survey 2025–26 (Jan. 29, 2026).

²³ ASER Ctr., Annual Status of Education Report (Rural) 2025 (2025); Niti Aayog, Strategy Paper on Children's Online Safety (2025).

²⁴ India Const. art. 15, § 3; id. art. 39(f).

for their healthy development. Directive principles are not independently enforceable in a court of law. However, they have been consistently read alongside fundamental rights to inform the interpretation of the State's obligations. Together, Article 15(3) and Article 39(f) create a strong constitutional mandate for legislation that protects children in the digital space.

B. The Constraining Provisions

The Constitution of India provides for freedom of speech and expression as a fundamental right shared equally by children and adults. Given that social media serves as a public forum for adults and children to create and share content as well as engage in discussion, restricting access to social media effectively restricts this fundamental freedom. Therefore, any restriction on access to social media must satisfy the "reasonable restriction" standard established by Article 19(2) of the Constitution of India.²⁵ A complete ban on access to social media across all platforms, all types of content, and does not consider any differentiation by age does not satisfy the reasonable restriction standard because it is not narrowly tailored to the specific harm to which it is seeking to address and will fail to satisfy the proportionality analysis used by Indian courts when assessing the constitutionality of a law limiting the exercise of a fundamental right. Accordingly, the framework proposed in this paper does not rely upon a blanket ban but instead identifies a tiered system of age- and harm-specific restrictions.

The right to live a dignified life guaranteed by Article 21 has been interpreted to provide an individual with the right to privacy, the right to mental health, and the right not to suffer from mental harm.²⁶ These three rights are in conflict with each other in the context of access to social media and children. The unregulated availability of social media has the potential to negatively impact a child's mental health and development, which are the exact type of harm that Article 21 protects against. However, the methods currently used to enforce access restrictions (i.e., biometric and identity-based age verification) create an alternative Article 21 issue associated with the right to live a dignified life.

K.S. Puttaswamy v. Union of India (2019) established that privacy is a fundamental right under Article 21²⁷ and any framework that connects Aadhaar (or another government-issued ID) to social media use would create an ongoing record of all online activity done by a child based on

²⁵ India Const. art. 19, § 2.

²⁶ India Const. art. 21.

²⁷ K.S. Puttaswamy v. Union of India, (2019) 1 S.C.C. 1 (India) [hereinafter Puttaswamy].

the child's identity. This is the type of excessive and disproportionate surveillance the Supreme Court rejected in *Puttaswamy*. The appropriate solution is not to trade one aspect of Article 21 for another, rather, the solution is to use verification methods that verify the child's age without also identifying the child. Verification methods that do not use identifiable information will protect the child's privacy while still letting the child use social media and other online programs.

For this reason, the regulatory response should be limited. In *Shreya Singhal v. Union of India* (2015), the Supreme Court found that Section 66A of the IT Act was unconstitutionally vague and overbroad.²⁸ A blanket ban, like the one the Court struck down, would nearly always have an overbreadth problem. Because of this, regulation should be narrowly and tiered in order to ensure compliance with the Constitution.

V. A Proposed Framework for India

Based on the global architectures outlined and on the gaps in India's existing architecture and the constitutional constraints discussed above, it is proposed here that a multi-layered, platform-accountability-first framework be developed.

The basis for this framework is built on two fundamental assumptions. The first assumption is that technology will persist. As past events with banning content in India have demonstrated, a ban is ineffective without providing education and alternative means of protecting children. The second assumption that underpins this framework is the belief that it is not pragmatically viable to replicate another country's model. Given India's population and its composition, there is no one-size-fits-all approach.

A. A Tiered Age-Based Access Regime

Three distinct levels of regulation are proposed in the framework on the basis of age.

Complete prohibition on social media access for children under 13 is recommended. Full platform liability should apply for any breach. No exceptions should be permitted.

Given the characteristics of the 13 to 15 age group, it should be possible to access the platform

²⁸ *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

only when verifying the consent of parents, custodians or responsible adults. Algorithmic amplification of content should not be used in relation to this age group. Behavioural advertising should be excluded with respect to this age group. The obligation to ensure and verify these restrictions should be placed on the platform.

For the children between the age of 16 to 18, privacy-by-default settings should be mandatory. Algorithmic feeds should not be switched on by default but should require affirmative opt-in. Several features that may lead to addiction or any other harm should be restricted for this cohort, like infinite scroll and autoplay.

B. Platform Liability as the Cornerstone

The most important principle of the proposed framework is that accountability for compliance must lie with platforms rather than parents or children. The framework proposes that it is unreasonable for parents to monitor children's social media. Unfortunately, these services are built to be addictive. The people who create the platforms need to be responsible for making them 'child-safe'.

There must be a mandatory requirement imposed upon platforms to undertake periodic algorithmic audits with respect to the specific content that is being targeted at minors. There should be accessible and efficient grievance redressal mechanisms available on the platform for lodging child safety complaints. It must be made mandatory for the platform to remove any content that poses a danger to child safety in a timeframe as specified. Any act in violation of these rules should be penalised. Moreover, the safe harbour immunity against legal liability that platforms enjoy under the IT Rules, 2021 must be made conditional on the fact that the platform provides evidence of compliance with child safety guidelines. A particular platform that does not safeguard children from harm must not enjoy the benefit of safe harbour from liability for the harm caused as a result.

C. Age Verification Without Surveillance

The most challenging is age verification, both technologically and constitutionally. Aadhaar is a hope to make mass-scale age verification operational, but since assigning Aadhaar to access social media would create a detailed database of every Indian child's activity on every social media platform, associated with the unique NID, this is also a huge breach of a child's privacy

rights identified in the case *Puttaswamy*²⁹ and should not be done.

This paper recommends an age estimation mechanism which preserves the privacy of users. The EU's model of an independent age verification application, which confirms that a user meets the minimum age requirement without disclosing their identity to the platform, offers a useful template. Once the Data Protection Board is constituted, it shall release guidelines on the technologies permitted for the implementation of age verification in India, as well as the standards for privacy compliance of the same. Technologies that require the collection of biometrics from children must not be permitted unless independent adjudication of systemic privacy compliance has been established.

D. Digital Literacy as an Equal Priority

There should also be active attempts to equip parents, teachers, and children to handle the challenges presented by the digital world. Digital literacy should form part of state investments in child protection policy. This does not replace regulation. It accompanies it.

Implementation of a system of weekly classes teaching digital literacy is imperative in schools and colleges. The classes should endeavour to explain the pros and cons of social media, what constitutes harmful content, how to safeguard oneself against online predators and acceptable online behaviour. The state should also proactively support and establish parent-teacher associations surrounding the digital etiquette of children. The PRAGYATA guidelines released by the Ministry of Education are an excellent template although they do require statutory backing.

Finally, it is essential that there is open communication within the families. University of California has reported that children whose parents/guardians engage them in talking about social media, are more equipped to use it than the kids who are strictly forbidden from having it.³⁰ Therefore, it is the responsibility of the State to conduct seminars and awareness programmes to promote such interactive culture rather than encouraging the perception of policies as something that is enforced upon families instead of with families.

²⁹ *Puttaswamy*, supra note 27.

³⁰ Univ. of Cal., Family Communication and Adolescent Social Media Use.

E. Institutional Architecture

Without an adequate institutional mechanism, effective enforcement is not possible. We recommend that the National Commission for Protection of Child Rights be strengthened with an additional digital safety division. A second option may be to create a Children's Digital Rights Commissioner as part of the Data Protection Board. Such a Commissioner or group within the NCPC may perform the following functions: undertake active audits of online platforms to assess compliance, receive and respond to complaints regarding the rights and safety of children online, and make recommendations for action or direction to the relevant Ministry.

The grievance redressal mechanism must be efficient, timely and effective. The platforms should be mandated to respond to complaints related to child safety within 24 hours and take necessary action to resolve the complaint within a specified statutory time limit along with penalties for delay or failure to comply.

Moreover, the developer of the framework should commit to a transparent recognition of the fact that the regulatory framework will not be infallible. It should strive not for an impenetrable protective wall. Rather, it should aim to protect and limit harm significantly and robustly. The framework should, even then, seek to accept that children will find their way onto platforms and access content. The design of any platform should, therefore, not seek to exclude children; rather, there should be an implicit expectation that they are present and platform architecture should incorporate safety accordingly, rather than augmented in emergency situations after harm has occurred.

VI. Conclusion

Social media platforms are here to stay. The key question for India is not whether children will access social media, but rather how this access will happen, what the conditions of access will be, and what kind of safeguards there will be in place.

It is clear from the experience of other jurisdictions that the response in terms of legislation to address the issue has come swiftly but, in most cases, without sufficient foresight. Blanket bans on the use of social media by children have been issued without any enforcement provisions. Laws requiring parental consent have been introduced without the requisite technology in

place. Accountability mechanisms have been legislated without the capacity to regulate these within jurisdiction. All these are lessons for India.

India has the constitutional authority, legislative framework, and policy recognition to take the initiative. It is clear that Article 15(3) and Article 21 of the Constitution provide for the justification for the legislative intervention. The DPDP Act, 2023 is the foundation for the comprehensive framework to follow.

The need of the hour is the political will to take action and act wisely. India needs to take its time as it develops a framework that is proportional to its population, enforceable in terms of law, respects privacy, and is reflective of actual life in India. The most viable way forward is a tiered access based upon the age of users; an effective accountability regime for the platforms once this is established; providing digital literacy training for children; establishing an independent agency to manage and regulate access to online services based upon the age of the use and engaging with these children to provide them with the tools they need to successfully navigate the online world.

The children using social media today will all be citizens, professionals and lawmakers. The framework India creates now will create their perception of technology and of the law interacting with them, and therefore will affect how those children view each other in a future society.