CHILD LABOUR REIMAGINED: THE EVOLUTION OF SAFEGUARDS FOR KIDFLUENCERS AND THE IMPLICATIONS OF THE NEWLY IMPLEMENTED LABOUR CODES IN INDIA

Saumya Sirohi, Christ (Deemed to be University), Delhi NCR

Kanupriya Saini, Christ (Deemed to be University), Delhi NCR

ABSTRACT

Kidfluencer refers to the online content creators, specifically children and adolescents. Most of these child influencers are brought forth and into this business either voluntarily or involuntarily by their guardians, in the hope of receiving an income solely based on the child's artistic abilities. With long work hours, no personal remuneration, mental exhaustion, non-compliance with the mandatory education requirements and the violation of privacy, the same can be argued to be a new age child labour in disguise. Ever since the emergence of the Coogan laws, the lacuna in the child protection laws dedicated to audio-visual entertainment has not only been realised, but has also seen the emergence of more adaptive and more inclusive legislations. Globally, four States of the Unites States have enforced specific regulations in 2024-2025 for minors active in content creation, including Australia's complete prohibition of social media for certain age groups with conflicted age-verification protocols. With the implementation of the Four New Labour Codes, India has strengthened its dedication to the International Treaties it has ratified including The United Nations Convention on the Rights of Child, 1990 and the Worst Forms of Child Labour Convention, 1999. The codes have incorporated stricter compliance mechanisms for consensual overtime work and timely stipend with mandatory appointment agreements in audio-visual entertainment industry, however, the statute does not explicitly acknowledge or safeguard the Kidfluencers. Further, the NCPCR Guidelines of 2023 for child performers provide only scant safeguards owing to their recommendatory nature. This paper investigates the abuse prevalent among kidfluencers and the obstacles in implementing a uniform legislation for child influencers in India with respect to the newly introduced Labour Codes.

Keywords: Child Labour, Coogan Laws, Guardians, Kidfluencers, Labour Codes.

INTRODUCTION

Kidfluencers refer to children who are engaged in creating content on social media platforms like YouTube, Instagram, Facebook in addition to other similar digital spaces. Unlike the countries like United Sates and France which are familiar with the concept and legislation regarding child influencers, India witnessed the emergence in the number of Kidfluencers during the Covid era which led to numerous legal and ethical challenges. This highlighted the absence of adequate safeguards for protecting the legal rights and welfare of the minors involved in such activity, considering that their work is not recognised as labour under Indian labour jurisprudence. This is largely because there is no conventional employer- employee relationship, and the children's actions are perceived as everyday behaviour captured on camera rather than a professional conduct.[1] The Indian Kidfluencer market has seen a rapid boost in the number which increased by more than 40% in April 2024 to approximately 80000 at present[2]. With the surge in children creating content on digital spaces there have been cases of exploitation and abuse including loss of privacy, financial exploitation, intense pressure to perform and exposure to online hate, since internet is an unfettered place with few checks and balances. This abuse can range from psychological harm to long lasting social effects, at times interfering with the ability to socialise and interact with peers and understanding the circumstances of their digital activities.

The prominent international framework relating to child protection is the United Nations Convention on the Rights of the Child (UNCRC)[3] which was ratified by India in 1992. It provides a clear outline protecting the child's interest considering its overriding importance through provisions such as Articles 3, 12, 19, 28 and 32 which include right to express views and opportunity to be heard, right to primary education and protection from economic exploitation[4]. The regulation pertaining to children engaged in creating digital content has evolved differently across United States, France and India reflecting distinct legal philosophies towards child welfare. The foremost legislation to protect the child actors emerged in United

[1] Vanessa Cezarita Cordeiro, *'"Kidfluencers" and Social Media: The Evolution of Child Exploitation in the Digital Age'*, Humanium (Oct. 30, 2026, 11:46 PM), https://www.humanium.org/en/kidfluencers-and-social-media-the-evolution-of-child-exploitation-in-the-digital-age/.

[2] Aprajeeta Tripathi, *Kidfluencers: Balancing compliance and reach*, Brand Equity (May 21, 2025, 7:50 AM), https://brandequity.economictimes.indiatimes.com/news/marketing/kidfluencers-balancing-compliance-and-reach/121300192.

[3] Convention on the Rights of the Child,1989 (United Nations Treaty Series).

[4] Falak Doshi, *The Peculiar Phenomenon of 'Kid-Gurus' in India*, Oxford Human Rights Hub (Oct. 30, 2026, 10:36 PM), https://ohrh.law.ox.ac.uk/the-peculiar-phenomenon-of-kid-gurus-in-india/.

States through the Coogan Framework which marked a precedent for other countries to follow. In recent years States such as California, Illinois, Minnesota, and Utah have adopted a framework to recognise Kidfluencing as a form of child labour within the media and entertainment industry. These regulations mandate parents to set up trust accounts for minors' earning, limit their working hours, ensure continuity of school education; and in some cases prohibit the use of their content without their consent, once they reach adulthood[5]. Similarly, France has passed a legislation recognizing the digital rights of Kidfluencers. The legislation restricts the hours that children under the age of sixteen years can work online and mandates the income generated through digital platforms to be deposited into secure bank accounts until they are adults. Moreover, the law creates a "right to be forgotten," which requires internet platforms to take down content upon a kid's request and put an obligation on the company using child influencers to get local authorities' prior consent[6]. The framework adopted by United States and France put them on forefront of safeguarding the interest of these children particularly their retention of income and digital rights. India has numerous legislations pertaining to child welfare, however, there remains an absence of procedural safeguards specific to kidfluencers.

RESEARCH PROBLEM

This research investigates the void in the legislation for regulating participation of minors in monetised social media activity. The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[7], amended in 2016, allows a child to assist in family businesses given that their education is not affected[8]. This research further discusses the loophole that arises when family vloggers categorise content creation as "family business" therefore avoiding scrutiny of labour laws. The New Four Labour Codes have preserved most of the contents of these Acts with few amendments. These codes have brought forth development regarding audio-visual entertainment industry, yet the explicit inclusion of kidfluencers is far from being achieved. Statutes such as Right of Children to Free and Compulsory Education Act, 2009[9],

[5] Katie Lee and Erin Twomey, *From Likes to Laws: State Legal Protections for Child Influencers*, CGS South (Oct. 30, 2026, 10:36 PM), https://csgsouth.org/policies/from-likes-to-laws-state-legal-protections-for-child-influencers/#:~:text=Thus%2C%20states%20are%20beginning%20to,from%20content%20creation%20to%20it.
[6] BBC, France passes new law to protect child influencers (last visited Oct. 30, 2026).
[7] Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, No. 61, Acts of Parliament, 1986 (India).
[8] Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, § 3, No. 61, Acts of Parliament, 1986 (India).
[9] Right of Children to Free and Compulsory Education Act, 2009, No. 35, Acts of Parliament, 2009 (India).

the Juvenile Justice (Care and Protection of Children) Act, 2015[10], and the Protection of Children from Sexual Offences Act, 2012[11] further fail to focus on the children's welfare in digital spaces and to protect them from online hazards.

RESEARCH OBJECTIVES

The research is aimed to determine the void in the recognition, inclusion and protection of child influencers in Indian legislation. With a multitude of definitions of the term 'Child', it is a challenge to categorise the child influencers in a single framework, accompanied by multiple frameworks that concern children, labour and digital autonomy. The research focusses on the absence of protection against potential exploitation of these influencers and their right to consent to informational privacy in the evolving nature of digital personhood.

RESEARCH QUESTIONS

1. Whether Indian legislation incorporates kidfluencers in the definition of Child.

2. Whether the New Labour Codes safeguard the rights of children engaged in monetised digital content creation.

3. Whether Indian legislative frameworks sufficiently safeguard digital autonomy and informational privacy of child influencers.

RESEARCH HYPOTHESES

Indian legislation does not explicitly incorporate kidfluencers in statutory definitions, and owing to the ambiguity in the definition of 'child', India does not have adequate safeguards for the child artists on online platforms. Despite provisions specific to audio-visual entertainment industry, there are numerous facets to kidfluencers, their mode of consent and income generation, which surpasses the safeguards already provided. Considering the exploitation by the guardians, it becomes a pressing need for the State to step into parens patriae and provide statutory safeguards to children against becoming a mere mode of wealth generation under the guise of family enterprises.

[10] Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016 (India).
[11] Protection of Children from Sexual Offences Act 2012, No. 32, Acts of Parliament, 2012 (India).

RESEARCH METHODOLOGY

The research adopts a qualitative doctrinal approach substantiated by empirical research from recent reports, articles, research papers and legislations concerning child labour and kidfluencers in India, with emphasis on the New Labour Codes.

LITERATURE REVIEW

The advent of social media has changed the mode of communication in the Global Village, from literary to audio-visual. This new mode of communication has been incorporated in the commercialization of products with focus shifting from design to persona, from product to individuals, from actors to influencers that determine how products are marketed and sold.[12] Influencers, particularly, kidfluencers have a broad arena of work, and a broader category of ethical exploitation they face[13] with yet, fewer legislative safeguards for the same[14]. While in countries like the Unites States of America, individual States may discern the definition of child entertainers and incorporate the safeguards accordingly[15], there is no uniform statute for the protection of kidfluencers in India[16]. Indian legislation and statutory framework spans across a broad categorization from child labour laws to digital personal data protection and contractual capacity. However, with specific considerations around kidfluencers, they have not been recognized in any legislation and their rights remain scattered in different legislations that contradict each other and challenge the inclusion of child influencers in the blooming landscape of India.[17]

Studies conclusively comprise the risks associated with child influencing, with educational compliances dissipating from the era witnessing a shift in perspective of success, recognition and self-worth. However, a more dangerous perspective emerges with the growing sexualization and cyber-exploitation of the kids in the race of followers and trends[18]. Such

[12] Daniel R. Clark and Alisa B. Jno Charles, *The Child Labor in Social Media: Kidfluencers, Ethics of Care, and Exploitation*, 201 JBE 35, 35-62 (2025).
[13] *Id.*
[14] Munirat Suleiman, *Is Kidfluencing Child Labor: How the Youngest Influencers Remain Legally Unprotected*, Columbia Undergraduate Law Review (Oct. 30, 2026, 1:46 PM), https://www.culawreview.org/journal/is-kidfluencing-child-labor-how-the-youngest-influencers-remain-legally-unprotected.
[15] *Id.*
[16] Biraj Swain and Shubhanginee Singh, *Why are the safeguards against child labour failing child influencers?*, Bar and Bench, (Oct. 30, 2026, 10:46 PM), Why are the safeguards against child labour failing child influencers?.
[17] *Id.*
[18] Nivedha K.V And Jaisvica Kaur Bagga, *Addressing the risks of online sexualisation and cyber-exploitation of minors in influencer culture*, 2(7) IJLRA 5, 5-19(2025).

hazards emerge in the form of hate comments and online trolling that transform into threats and have a lasting impact on natural psychological, emotional and social capabilities of the child.[19] There emerges a pressing need of State intervention in the private spheres of the profession owing to the potential risk of abuse by the guardians of the influencers, who incorporate them in family content, retain the right to consent on behalf of the kidfluencers and also the right to enter into contracts on their behalf, which ultimately, undermines the autonomy and digital privacy of the individuals that are incapable of understanding the circumstances owing to lack of substantial intelligence[20]. With such complications, there is a need to bridge the legal void to provide adequate safeguards to secure right of consent, economic opportunity and overall wellbeing of the child influencers[21].

LEGAL AND CONSTITUTIONAL VOID IN INDIA

Definition of Child

The United Nations Convention on Rights of Child[22] defines a child as 'anyone under 18 years of age'[23]. This primarily extends the protection of child to persons below 18 years of age and widens the scope of laws safeguarding minors in the international arena. When the laws regarding protection on virtual platforms are concerned, these protections extend to individuals below 18 years of age irrespective of the maturity or substantial understanding of the consequences of and protection from harassment[24].

In India, however, there is an ambiguity in the definition of child. The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[25] gives two definitions, that of an adolescent as 'a person who has completed his fourteenth year of age but has not completed his eighteenth year'; and that of a child as a person who has not completed his fourteenth year of age or such as listed in the Right of Children to Free and Compulsory Education Act, 2009[26] and for that purpose, the age specified is the age between six to fourteen years.[27] The Occupational Safety,

[19] *Id.*
[20] Supra at 16.
[21] Stacey Steinberg, *The Art of Sharing: Childr t of Sharing: Children's Rights in the Influencer Er s Rights in the Influencer Era*, 3 FESLR 17, 17-25 (2023).
[22] Supra at 3.
[23] Convention on the Rights of the Child, 1989, art. 1, 1989(United Nations Treaty Series).
[24] *Id.*
[25] Supra at 7.
[26] Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, § 2(ii), No. 61, Acts of Parliament, 1986 (India).
[27] Right of Children to Free and Compulsory Education Act, 2009, § 2(c), No. 35, Acts of Parliament, 2009 (India).

Health and Working Conditions Code, 2020[28] retains the definition of an adolescent as under The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[29], and defines an adult as a person who has completed eighteenth years of age[30]. Under the Digital Personal Data Protection Act, 2023, a child is one who has not completed the age of eighteen years.[31] Therefore, while a child receives consensual discretion on online platforms till the age of eighteen, on the other hand, he/she is safeguarded against child labour and family businesses only till the age of fourteen. Further, adolescents are not protected from child labour above the age of fourteen, however, their consent is regulated by their parents legally, until the age of eighteen.

The discrepancy in the age in the multiple definitions of 'child' creates a gap in the extent of protective measures and excludes a majority of individuals in need of the protection. The conflict evolves when the consent of the parent is weighed more important than that of the child itself, even though Article 21 of the Constitution of India[32] extends the right to life and personal liberty[33] to the child as well. Being the creator and distributor of the content, utilising his personal skills and taking into account the intellectual maturity at a certain age of adolescence, the right of consent being scraped away from the individual is a grave loophole, which gives the parent the freedom, not only to excessively indulge in and deter the content and skill of the individual, but also, to manipulate the content whimsically in order to increase the monetary gain. The same is being done by indulging the child into vulgar and sexual content as well. Study in International Journal for Legal Research & Analysis emphasizes that the prioritized engagement and biased algorithms of social media push the child influencers into normalising sexualization for generating content that qualifies as sensational.[34] According to National Crime Records Bureau, cybercrimes against children in India have soared, particularly in terms of sexual abuse.[35]

On the other hand, since, only the maximum age is guided by the DPDP Act, it brings into question the minimum age of the child. Whether a child of 3 years can be allowed into content

[28] Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020(India).
[29] Supra at 7.
[30] Occupational Safety, Health and Working Conditions Code, 2020, § 2(1)(b), No. 37, Acts of Parliament, 2020(India).
[31] Digital Personal Data Protection Act 2023, § 2(f), No. 22, Acts of Parliament, 2023(India).
[32] INDIA CONST.
[33] INDIA CONST. art. 21.
[34] Supra at 19.
[35] *Id.*

creation, with minimal guidelines same as that of a 17 years-old, if only the requirement of parental consent is fulfilled, is the posed question. This welcomes a list of hazards to the child, not only educational and physical but mostly psychological and social. At the age at which evaluating consent is a challenge, allowing parents to indulge the individual into an activity that invades and involves personal autonomy and biology and which yields income, must be considered as forced labour.

Section 3 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[36] prohibits the employment of any child in any occupation or process. The exceptions include an occupation for helping his family or family enterprise, which is only to be done after school hours and during vacations and which must not be hazardous occupations. The second exception is working as an artist in an audio-visual entertainment industry[37], however, it must be subjected to 'such safety measures, as may be prescribed'. Section 3A of the same Act of 1986 prohibits employment of an adolescent in certain hazardous occupations and processes.[38] The List of Occupations and Processes[39] prohibited under the Act excludes audio-visual entertainment of any kind.[40] It includes only the non-industrial activity posing physical hazards, however, is non-inclusive of hazards such as sexualization of the content that the child is involved in and is pushed into by their parents that manage their accounts[41].Online interaction and content creation exposes the children and adolescents to potential hate, abuse and scrutiny[42] which is a harm to their psychological and social well-being. It not only interferes with their interactions on virtual platforms but also the physical interaction as in educational institutions where the online trolling extends to a more physical and targeted impact. Moreover, the exceptions to the prohibition of employment of child lack the procedural safeguards, such as, the mandate of working of children only after school hours and only during vacations lack both protocol and check mechanisms, due to which the vulnerable group becomes easier to be incorporated in prohibited employment.

[36] Supra at 7.
[37] *Id.*
[38] Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, § 3A, No. 61, Acts of Parliament, 1986 (India).
[39] Child and Adolescent Labour (Prohibition and Regulation) Act Schedule, 1986, No. 61, Acts of Parliament, 1986 (India).
[40] Child and Adolescent Labour (Prohibition and Regulation) Act Schedule, 1986, § 3 A, No. 61, Acts of Parliament, 1986 (India).
[41] INDIA TODAY, Paedophilia, stalking, abuse: What kidfluencers pay to make money online - India Today (last visited Oct. 30, 2025).
[42] Supra at 16.

Therefore, the only framework that protects the children and adolescents from child labour and the one that extends the consent doctrine, both lack structural connection with each other, and in the gap between the two, the sensitivity of the individuals in blatantly distinguished. The various definitions and age limits of a Child makes ambiguous, the need for protection and the kind of protection required, the intellectual cognitive development and the kinds of hazards that they are being protected against.

ETHICAL CONSIDERATIONS AND THE RIGHT TO DIGITAL DIGNITY

Right to Consent

Right to digital dignity is foremostly expressed through consent to indulge in social media on one's own terms. It is merely the right to personal autonomy exercised on online platforms. As such, this personal autonomy has been discarded when it comes to family enterprises in audio-visual entertainment. Section 3 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 allows children to work in audio-visual entertainment and particularly in family enterprises, as exceptions. However, there are certain mandates for these allowances, that it shall not hinder the school education of the child and that the engagement in family enterprise shall only be done after school hours and during vacations. The exceptions to the prohibition of employment of child in the Act of 1986 lack the intrinsic sensitivity and procedural safeguards, which eventually violates the digital dignity of the child. The same is done in two ways- one, by not considering the consent of the individuals and second, by not ensuring procedural safeguards to verify the fulfilment of the mandatory education. However, according to section 9 of the Digital Personal Data Protection Act 2023[43], the consent of the lawful guardian suffices for the accessing of personal data of the child, here, anyone below the age of 18 years of age. Therefore, however there are distinctions in labour restrictions, there is no distinction for the individual's consent according to age.

The prohibition on labour is for the protection of a vulnerable group of individuals which can be divided into two groups- one that have intellectual maturity to form consent and one that is incapable of doing so. The basis of the same can be accrued to the awareness of consequences of the content creation, which range from income generation and retention, to, hate, trolling, bullying and sexualization of the individuals, irrespective of age. When the individuals are

[43] Digital Personal Data Protection Act 2023, § 9, No. 22, Acts of Parliament, 2023(India).

being exposed to such hazards, emotional, social and psychological, it erodes the innocence and childhood of the individuals and creates long lasting effects on their upbringing and their interaction with the society at large[44]. The issue arises when parents that manage the accounts of these influencers neglect the long-term effects of indulging their child into media which is sexual in nature to promote their content and the absence of consent and substantial awareness of consequences of the children calls for the State to provide protection. The absence of consent of the individual makes them vulnerable to the exploitation by their guardians under the guise of family enterprises and further undermines their digital autonomy. The prohibitions of the 1986 Act, in Section 3A failing to protect the adolescents against non-consensual labour in audio-visual industry violates their digital dignity as well as amounts to a failure in protecting them against the harms of cyberbullying which ranges from 3.3 to 60.56 % among adolescents in India.[45] This is not only a violation of digital dignity and informational privacy but also that of right to life and personal liberty. In such amalgamation of groups, it is necessary to understand, that it must be the consent of the adolescents, and the parens partriae nature of the State for the child below 14 years of age, in determining the extent of indulgence in so called family enterprises, particularly, those employing exploitative measure to generate income through content creation. Therefore, as far as Section 9 of the Digital Personal Data Protection Act, 2023[46] is concerned, it violates the Fundamental Right to life and personal liberty of the children and adolescents by not acknowledging their consent in business that generates income and affects their social, psychological and physical state of being, and extends so far as to make them vulnerable to cyberbullying. The same is done by stripping off their protection against the exploitation, the foremost being their right to consent in informational privacy.

The Right to Digital Autonomy also includes the Right to Erasure of personal data and the same is guaranteed under section 12 of the Digital Personal Data Protection Act, 2023[47]. The provision grants an individual the option to correct, complete, update and erase the data which is inaccurate, misleading, incomplete or unnecessary, with the condition that the individual must have previously consented to the processing of the same.[48] In the peculiar case of the child influencers, the legal safeguards excludes them since, they are not allowed to consent to the processing of their personal data and therefore, cannot request erasure of the same and

[44] Supra at 16.
[45] Vijayarani M and others, *Silent Screams: A Narrative Review of Cyberbullying Among Indian Adolescents*, National Library of Medicine (Oct. 30, 2026, 10:46 AM), https://pubmed.ncbi.nlm.nih.gov/39238690/.
[46] Supra at 44.
[47] Digital Personal Data Protection Act 2023, § 12, No. 22, Acts of Parliament, 2023(India).
[48] *Id.*

further, cannot request such erasure on the condition that the same was used against their will. Although, section 9 of the same restricts the State from monitoring data of the child which has detrimental effects on the well-being of the child[49], such effects can be overruled on the basis of the allowance under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[50], for audio-visual entertainment industry. Furthermore, there is no regulation under the Digital Personal Data Protection Act, 2023 to allow a major to request erasure of the personal data that was shared during his age of minority. Also, it is essential to note that the only hope of the right to erasure of personal data cannot be exercised, since the Digital Personal Data Protection Act of 2023 has only been partly enforced.

Right to Compulsory Education

The compulsory education of the child is a part of their Fundamental Rights as envisaged under the Constitution which is 'a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards', according to the Ministry of Education.[51] Furthermore, the Right of Children to Free and Compulsory Education Act, 2009[52] mandates the compulsory education to all children of the age of six to fourteen.[53] However, the family vlogs and family run content records every facet of the life of the child. The hours of work poured into content creation attribute to the school hours[54] as well due to brand deadlines and maintenance of engagement and reach of the content. The same has grave impact on their education, owing to missing verification protocols and lack of compliance mechanisms. Moreover, the kid influencers choose their career over their education and choose not to pursue the compulsory education as well; the same is further promoted by their parents[55]when the family enterprise ends up being the personal enterprise of the parents and the child only remains as a source of income for this enterprise[56]. With lack of non-compliance mechanisms, the violation of Article 21A becomes an evident reality, furthermore, with only parents' consent sufficing the career of these children, it is difficult to determine whether the violation stems from the child or their parent. However, the lack of a

[49] Supra at 44.
[50] Supra at 20.
[51] Department of School Education and Literacy, https://dsel.education.gov.in/en/rte (last visited Oct. 29, 2026).
[52] Right of Children to Free and Compulsory Education Act, 2009, No. 35, Acts of Parliament, 2009 (India).
[53] Right of Children to Free and Compulsory Education Act, 2009, § 1, No. 35, Acts of Parliament, 2009 (India).
[54] Supra at 52.
[55] Parvana K B, *The legal and ethical void in the States' kidfluencer boom*, The Indian Express (Oct. 30, 2026, 2:46 PM), The legal and ethical void in the States' kidfluencer boom.
[56] Supra at 16.

minimum age for such labour includes children as young as pre-schoolers being involved in kid-influencing. When seen only as a source of income generation, these children are more prone to being deprived of their right to compulsory education. Therefore, Section 9 of the Digital Personal Data Protection Act, 2023[57] and Sections 3 and 3A of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[58] stand in violation of Article 21A of the Constitution, by not taking into account the physiological, social and psychological hazards that a child and adolescent is vulnerable to, in audio-visual entertainment industry. Further, their right to mandatory education, due to lack of procedural safeguards, faces numerous violations. The only statutory protocol for online platforms that is, the Digital Personal Data Protection Act, 2023 has only been partly enforced, leaving a void in safeguarding the children and adolescents on online platforms, when facing exploitation by their guardians and the consumers of their content.

NCPCR Guidelines: A Closer Approach Vis-À-Vis the Enforcement Dilemma

The National Commission for Protection of Child Rights (NCPCR)[59] issued Guidelines for Child and Adolescent Participation in the Entertainment Industry and Any Commercial Entertainment Activity, in the May of 2023[60]. These guidelines serve as the closest approach towards addressing and regulating child influencers and the content created by them on social media platforms and other platforms. These guidelines emerge from the judgment by the Hon'ble High Court of Delhi[61], wherein, Child Labour was defined as a system of employing a child for services and remunerating the child in lieu of such labour[62]. The Guidelines of 2023 mandate compulsory education, due rest, strictly appropriate content protocols and wage retention for the child to be used upon majority. However, these Guidelines rely crucially upon the regulations by Social Media Intermediaries and parental consent for child's participation. The question, therefore, persists, regarding free and uninfluenced consent of the participant, and where, such consent is mentioned in Chapter 3 of the Guidelines, there is an absence of mechanism for consent validation. The penalties listed under the Guidelines can only be

[57] Digital Personal Data Protection Act 2023, No. 22, Acts of Parliament, 2023(India).
[58] Supra at 40.
[59] NCPCR, *Guidelines for Child and Adolescent Participation in the Entertainment Industry and Any Commercial Entertainment Activity*, NCPCR, (May. 18, 2023), https://www.ncpcr.gov.in/uploads/16844053596465fc6f115d1_guidelines-for-child-and-adolescent-participation.pdf.
[60] *Id.*
[61] Save the Childhood Foundation v. Union of India and Ors, [2005] WP 2069 (CRL).
[62] Supra at 59.

complied under violations of particular statutes, such as Child and Adolescent Labour Act, 1986[63], Protection of Children from Sexual Offences Act, 2012[64] and Violation of Juvenile Justice (Care and Protection of Children) Act, 2015[65] and if the violations are not constituted or reported under these acts by the social media intermediaries, there are no practical compliance mechanisms to monitor the violations. The Guidelines provide for excessive responsibility and compliance for parents and social media intermediaries, but no explicit mandate or monitoring of the violations by the two. The Guidelines lack the complaint mechanism for reporting abuse by the Child Influencers and any Other Violation, under the Guidelines[66] shall be punished under the law being in force[67]. Post these Guidelines, the primary law being in force regarding labour are the New Labour Codes. However, the 2020 Code lacks explicit inclusion of child influencers or particular enforcement provisions for the Guidelines of 2023. Moreover, Section 13 of the Commissions for Protection of Child Rights Act, 2005[68] reflects that NCPCR is mere recommendatory in nature and does not render the power to enforce the Guidelines of 2023, as reiterated by the Hon'ble Supreme Court of India[69]. Therefore, the only law which could have enforced or made mandatory the compliance of these Guidelines[70] is the New Labour Codes, which have not explicitly achieved so.

EXTENDING SAFEGUARDS TO CHILD INFLUENCERS UNDER THE NEW LABOUR CODES

The New Labour and Industrial Code has proven to be a breakthrough in Indian Labour jurisprudence by consolidating over twenty-nine Labour legislations with prominent amendments with regards to wages, working conditions and social security[71]. The Occupational Safety, Health and Working Conditions Code, 2020[72] consolidates 13 major labour legislations and aims at safeguarding worker rights and providing safe working conditions[73]. The Code of

[63] Supra at 7.
[64] Supra at 11.
[65] Supra at 10.
[66] Supra at 59.
[67] *Id.*
[68] Commissions For Protection of Child Rights Act, 2005, § 13, No. 4, Acts of Parliament, 2006 (India).
[69] Dinesh Biwaji Ashtikar v. State of Maharashtra and Ors, [2026] SLP 56 (CS).
[70] Supra at 59.
[71] Cyril Amarchand Mangaldas, *A Guide to The New Labour Codes: What you need to know*, Cyril Amarchand Mangaldas (Feb. 30, 2026, 1:46 PM), https://www.cyrilshroff.com/wp-content/uploads/2025/12/Guide-to-the-Labour-Codes.pdf.
[72] Supra at 29.
[73] Press Information Bureau Government of India, *Occupational Safety, Health and Working Conditions (OSH) Code, 2020*, PIB Backgrounders (Nov. 22 2025), https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/nov/doc20251122702801.pdf.

2020 is crucial for understanding the inclusion of the child influencers under the New Labour regime through two main classifications- the audio-visual workers[74] and contract labour[75]. Section 2 of the Code of 2020 defines 'audio-visual worker' as a person, who is employed, through a contractor or directly as an artist of audio-visual production and receiving due remuneration. A contractor is defined under the act as a person who supplies contract labour for the establishment as a human resource, in addition to other responsibilities[76]. A contract labour is defined as a worker deemed to be employed in an establishment by a contractor and who receives social security coverage[77]. As such, when classifying child influencers, they are engaged in audio-visual production as artists on social media platforms that provide the influencers as human resource to certain brands for promotional deals which forms the mode of remuneration. Child content creators primarily monetize their content through two channels- Brand Endorsement and Monetization of the content on YouTube[78]. Given that a significant portion of their income is derived from YouTube, their economic activity is largely governed by the platform's policies and community guidelines. If a creator's content violates these guidelines, YouTube has the right to remove, suspend or demonetize the channel, thereby affecting the child's source of income. The platform has substantial control over both the income and regulation of content of these children. Therefore, this places the platform analogous to that of an employer and child influencers qualify as contract labourers, receiving due remuneration in lieu of the services in audio-visual entertainment industry. It can be concluded that the new labour codes include the child influencers indirectly or through vague provisions, but do not incorporate them in a full-fledged manner. When interpreted such, the child influencers may be deemed to be included under audio-visual workers through social media intermediaries and receive remuneration through works of the establishment or agreements with brands.

Section 66 of the Code of 2020 prohibits employment of an audio-visual worker without an agreement, which may be entered into by the artist and, in this case, the contractor or the social

[74] Occupational Safety, Health and Working Conditions Code, 2020, § 2(1)(f), No. 37, Acts of Parliament, 2020(India).
[75] Occupational Safety, Health and Working Conditions Code, 2020, § 2(1)(m), No. 37, Acts of Parliament, 2020(India).
[76] Occupational Safety, Health and Working Conditions Code, 2020, § 2(1)(n), No. 37, Acts of Parliament, 2020(India).
[77] Supra at 78.
[78] YouTube, *YouTube channel monetization policies*, YouTube Studio App Help Centre (Jul. 15, 2025), https://support.google.com/youtubecreatorstudio/answer/1311392?hl=en.

media intermediaries[79]. Therefore, the Code might provide for an agreement-based audio-visual production guaranteeing due remuneration and social security, however, the child influencers cannot be truly considered as contract labourers under the Code, since, there is a prevalent absence of agreement with the social media intermediaries and the direct collaboration with brands do not account for periodical increment in pay or coverage of social security benefits as a mandatory requirement for being employed in contract labour. Further, the agreements in focus cannot be executed by children below 18 years of age and their right to consent to such agreements is retained exclusively by the parents of these influencers, as discussed above under the right to digital autonomy. Therefore, there exists a lacuna in law through which the kidfluencers can be forced to enter into brand promotions and contracts for such purposes that they may neither comprehend nor consent to. Due to the conflict of digital autonomy and contractual rights of audio-visual workers in the context of kidfluencers, the Code of 2020 does not explicitly include child influencers as workers and thus, are deprived of rights of social security and payment of due remuneration. Therefore, there still exists a need for reform for their explicit inclusion, their right to consent to the content, working conditions and the right to retain their monetary gains. In the absence of these inclusions and penal provisions for non-compliance, the lacuna in the labour welfare prevails, especially for the persons under 18 years of age engaged in monetised content creation as their exploitation continues without being realized or categorized as a statutory violation.

Article 19(1)(g)[80] provides the right to practise any profession or to carry out any business, trade and profession[81]. Article 19(6) of the Constitution provides that the above provision shall not prevent State from imposing reasonable restrictions in the interest of the public[82]. As such, the condition listed under Section 3 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[83] of fulfilling the compulsory education and working only after school hours and during vacation can be considered the reasonable restriction for family enterprises. These legal safeguards lack the procedural safeguards to ensure the same. The child influencers can neither exercise their right to freedom of Trade and Profession with their consent because of not being acknowledged for the same, nor are they being entirely restricted by the reasonable restrictions under the legislation. With no control over the consent, education and safeguards

[79] Occupational Safety, Health and Working Conditions Code, 2020, § 66, No. 37, Acts of Parliament, 2020(India).
[80] INDIA CONST. art. 19, cl. 1(g).
[81] *Id.*
[82] Supra at 80.
[83] Supra at 8.

against digital exploitation, the child influencers cannot furthermore, retain the income generated through their skill-based promotion contracts with brands. Section 11 of the Indian Contract Act, 1872[84] states that a person below the age of majority, that is 18 years old, cannot enter into a contract and such an agreement stands as void ab initio[85]. The same puts forward two main wants in law- one, that although the age of majority is 18 years old, that of a child being protected under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[86] is only under 14 years old and second- that since such a child can partake in family enterprise on digital platforms, using their skill and substantial time and efforts, they do not have a right to be remunerated for the same. Most of the accounts of the kidfluencers are being regulated and managed by their parents and their contracts with brands, which is the prominent source of their revenue generation, is being entered into by their parents who may entirely retain the consideration for the same[87]. Unlike the Coogan laws in the United States of America, where the child artists have a right to retain the income generated based on their talent, there is a lack of such legislation in India for receiving and retaining their income. Therefore, while on one hand, the kidfluencers generate revenue for the influencer marketing industry of India which is estimated to cross the INR 3000 crore mark by 2026[88], on the other, the child influencers remain unprotected and unpaid for their skills and labour while exercising their fundamental right to freedom of trade and profession.

SUGGESTIONS AND RECOMMENDATIONS

The findings of the research suggest that while there are more than 80000 child influencers in India[89], contributing substantially to India's economy[90], the legislative safeguards presently remain passe. The foremost challenge is the categorization and inclusivity of child influencers in the definition of 'child'. A more uniform definition, incorporating a uniform age for the provision of such safeguards would provide a recognition to the concerned group of individuals. Secondly, despite the Digital Personal Data Protection Act, 2023[91] recognizing and protecting the data of the children, there needs to be a recognition of their personal

[84] Indian Contract Act, 1872, § 11, No. 9, Acts of Parliament, 1872 (India).
[85] *Id.*
[86] Supra at 7.
[87] Supra at 4.
[88] Devina Sarwatay, *Kidfluencers in India: Commodification, Consumption, and Perpetuation of Dominant Culture*, 11 Sage Journals. 1, 1-6 (2025).
[89] Supra at 2.
[90] Supra at 88.
[91] Supra at 57.

autonomous and free consent to indulge in and perform on online platforms. The doctrine of parental consent needs to be minimized with reference to the potential abuse of the kidfluencers. The absence of inclusion of the Child Influencers in the New Labour Codes of 2020 has widened the gap between achieving and safeguarding the rights of these performers, while the same are provided to their adult counterparts under Audio-Visual Workers and Contract Labour. Research suggests that while children of a certain age are capable of forming consent, the others remain incapable of understanding the consequences of being in audio-visual entertainment industry and the long-term effects of the same. Therefore, there must be a legitimate, reasonable classification of the same for consensual contribution in family business and where there is a potential for abuse, a minimum age for the same can lead to formal safeguards. The same will provide active procedural safeguards to guarantee the right to personal liberty to the individuals. The right to erasure of personal data must be free and a certain ease in requirements such as previous consent will provide the influencers to have their data deleted upon reaching substantial intelligence, which was previously shared without their consent, being considered as unnecessary, also accompanied by a compensation for their financial, mental and physical injury that such content has caused.

The Coogan legislation fulfils the requirement for the income generation and retention for individuals, irrespective of their age. However, India does not recognize agreements entered into by minors and therefore, the right to enter into brand promotional agreements, as a primary source of income remains with the guardians solely. This undermines the right to due remuneration for the child influencers who contribute their time, efforts and skills in the profession, and the revenue generated can easily be retained in form of family enterprises with the guardians only, who may potentially exploit and undermine the educational, social and psychological well-being of the child. Legislation similar to the Coogan framework can establish the right to retain income, right to personal liberty in trade and profession, both being Fundamental Rights under the Constitution of India[92] and will provide the necessary recognition and inclusion of safeguards specific to kidfluencers in India. Although the Guidelines of 2023 paved a way for such income-retention protocols for these influencers, the lack of enforcement of the same have rendered the Guidelines mere suggestive in nature. Further, more procedural safeguards and compliance mechanisms, particularly for the age verification, consent verification and educational qualifications are required in order to

[92] Supra at 32.

promote and recognise kidfluencing as the blooming profession in the digital age and protect the children against psychological, sexual, educational and social abuse. Such legislative safeguards would ensure that the State provides adequate protection to the group, vulnerable to exploitation by their lawful guardians, the consumers of their content and long-term social trauma associated with it.

CONCLUSION

Through the analysis of statutory legislations, the study highlights the ambiguity in the definition of the term 'child' with conflicting age from 14 years to 18 years. Legislations like the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986[93] exclude the children and adolescents from the safeguards against forced labour on online platforms. Particularly the legislation does not recognise sexual, psychological and long-term social exploitation on online platforms and audio-visual entertainment industry that kidfluencers are a part of. The laws stand in stark contradiction, where on one hand they are granted the right to freedom in trade and profession and working in family enterprises, on the other hand, their consent to the same is restricted to their parents' will, similar to their freedom to enter into brand collaborations and to retain the generated income. Such void compromises various rights of kidfluencers including the fundamental right to freedom of speech, trade and profession and the right to personal liberty by stripping away the right to consent of the child influencers, right to enter into contractual collaborations and forced labour despite the substantial intelligence to understand the same. Further, by not incorporating a minimum age for working on social media, the children without substantial intelligence to understand the hazards, become vulnerable to being used by their parents for content creation and revenue generation, neglecting the psychological impact that erodes the innocence and childhood of the individual. Hence the research suggests inclusivity in the legislation and uniformity among the different laws to incorporate safeguards for child influencers and to widen the ambit of hazardous occupations to include psychological hazards amidst forced labour. The absence of inclusion of kidfluencers in New Labour Codes has further led to the realization that there needs to be a sensitive approach towards kidfluencers owing to two reasons- firstly, we are specifically concerned with children and adolescents whose capabilities are in a dilemma due to their engagement in a business, where their consent is immaterial yet the effects on their well-being is greatly influenced by it. Secondly, audio-visual entertainment industry, specifically through

[93] Supra at 7.

online social media platforms is a specific platform, where working conditions cannot be regulated, including working hours and minimum wages. The paper contends the urge to bring a statutory safeguard to these influencers, in a field, far from regulation, yet in dire need of it.

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