



## Columns

## Why are the safeguards against child labour failing child influencers?

*We need to evolve laws on mandatory informed consent from children generating significant income for the family through social media platforms.*



School children

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As parents have started seeing social media as a potential source of family income, child influencers and family vlogging have shaped the landscape of the creator economy. We are witnessing an unprecedented phenomenon of the rise of child influencers. They are on platforms like YouTube and Instagram to record their daily adventures, review toys, educate, unbox, prank, or recite spiritual texts.

The trust and innocence children bring with them allow them to have successful audience engagement and earn through brand partnerships and sponsorships.

In the past few weeks, the relentless online trolling of Abhinav Arora, a ten-year-old self-proclaimed ‘spiritual orator,’ has pushed us for a broader conversation on the role of parental responsibility, [consent and autonomy of children in such content creation](#).

Parents may be driven by the desire to give their children a jump start in their career or bloom their talents by sharing them on social media. As YouTube and Instagram prohibit [the use of their services](#) by people younger than 13 on their platforms without parental permission, children are content creators on the channels run by their parents. However, putting children on such platforms comes with the risk of exposing them to intensive scrutiny, online hate and potential abuse, hurting their childhood.

## The Child Labour Act

In India, the *Child Labour (Prohibition and Regulation) Act, 1986* regulates the employment of children and adolescents in any occupation. The [2016 amendment](#) to Section 3 of Act of 1986 specifies that a child can be permitted to work if he "helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations." The law specifies “family enterprises” as “any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons.” The [National Commission for Protection of Child Rights guidelines](#) consider the content created by children or their family for economic gains as a family enterprise, and such activities should not be detrimental to the growth, education and overall development of the child.

However, parents operating accounts for minors, where the child is solely responsible for revenue generation, should not be considered as family enterprises, but [personal enterprises of parents](#) operating from home settings employing their child. These children are not covered under employment contracts and are vulnerable to parental exploitation. Parents running family vlogs don't wait for after-school hours or vacations to film their children, as every aspect of their daily life is documented. There are no fixed working hours or guaranteed share in remuneration for children.

To address this in the US, [Illinois has introduced changes in the Child Labor law](#) ensuring that children who appear on their parent’s monetised content online should receive a share in the gross earnings from such content.

As social media visibility is run by algorithms, parents tend to push their children towards content creation, which will increase their account's viewership and sponsorship. In these circumstances, where children may be eager to use social media to interact with the world, they remain obligated to perform as per the parental guidance for the [family's financial well](#)

being. Children who have grown up under the shadows of parents who monetise their personal moments by sharing them on social media have been vocalising the life-altering impact it has on their mental development and how it has exposed them to physical harm.

The UK House of Commons Digital, Culture, Media, and Sports Committee report of 2022 on influencer culture notes that youngsters are probably more susceptible to the psychological adverse effects of upholding an influential persona. Producing influencer material may be laborious and time-consuming, which may strain some kids, mainly if the parents receive financial compensation.

Additionally, the 2016 amendment to the Indian law allows the child to work "as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed. "Provided that no such work under this clause shall affect the school education of the child."

In the case of Abhinav Arora, he is constantly confronted with the status of his schooling. He has claimed that he and his sister have not been able to attend school because of YouTube trollers. In situations where parents have the incentive to earn money off their children, it is a matter of concern as to how much of the work children do and what cost it has on time spent in school and a normal childhood. We need to strengthen present mechanisms to scrutinise and ensure that the minimum number of working days and instructional hours in an academic year as mentioned in the Right to Education (RTE) Act, 2009 is adhered to for all employed children.

Parents running their children's social media channels often escape any accountability by claiming that they are only assisting their children in what they want to do. In several instances where parents monetise their child's talents for profit, it becomes difficult to differentiate where the boundaries of responsible parenting stop and exploitative parenting start.

Considering the changing working platforms for children, the present provisions of domestic labour laws need to be broadly interpreted along with universal child rights envisaged under the United Nations Convention on the Rights of the Child (UNCRC). This can help us develop a national legal framework for children and parents engaged in income generation from content on social media.

## Provisions of the UNCRC

The UNCRC is rooted in the principles of non-discrimination, equal importance, and universal entitlement of the rights of children. Article 12 of the CRC states that children capable of forming independent views should have the right to express themselves in matters that affect them. Children should be free to express themselves creatively. Still, because of their age and dependence on parents and guardians, they cannot have an informed and independent decision-making process. Even when children give consent to parents to be recorded and broadcasted on social media platforms, they may not fully understand the digital footprint they are leaving and the potential physical vulnerabilities they are exposing themselves to along with the long-term implications on their mental and emotional health. We need to evolve laws on mandatory informed consent from children generating significant income for the family through social media platforms.

Article 19 of the CRC obligates the state to develop appropriate measures to protect children from any form of abuse or exploitation under parental care. Article 32 recognises the right of the child to be protected from economic exploitation and any work that prohibits their overall well-being. It is mental, emotional and financial exploitation of the children when parents are treating the child as an asset in their business model or, at times, making the child a business model.

Article 31 of CRC recognises the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the child's age, and to participate freely in cultural life and the arts. The boundaries of work and play remain blurred for child influencers. We need specific legislative intervention on work permits and working hours to regulate child labour in family enterprises to protect children from parental exploitation.

### **Expanding the legal regime around child labour laws**

Several countries have already started acknowledging the potential harm to children engaged in the creator economy. In 2020, France passed a law to protect child influencers by covering them under the French Labour Code like child models or child actors. Under the law, parents will need government authorisation before children can be involved in online activities involving their labour. Children can now assert their right to be forgotten by asking the social media platform to remove any content featuring them without the parent's consent.

The Australian government is planning to introduce legislation to ban social media for children under sixteen years. There will be no exemption for parental consent and tech companies will be responsible for enforcement.

The present law and NCPCR guidelines in India must evolve their interpretation of family enterprises, considering new workplaces and labour relations for children. The exceptions

under Section 3 of [The Child Labour Act, 2016](#) need an overhaul to recognise child content creators working for families as employees like those working in the creative entertainment industry. The provisions of the RTE Act 2009 need to be strictly enforced to ensure that all working children are not denied their right to education and enjoy childhood.

While it is the responsibility of parents to protect their children, social media platforms also need strict regulations to protect children from turning into digital commodities. We need to focus on creating a healthy childhood for our children instead of treating them as assets for revenue generation. The present labour law needs to step up and its application needs to be fit-for-purpose.

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*The opinions expressed are personal.*

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