

# Children as Content: Rethinking Child Protection in India's Influencer Economy

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## Abstract

The rise of child influencers in India has transformed the domestic sphere into a site of commercial visibility, where minors' identities function as monetizable digital assets across YouTube, Instagram, and short-form video platforms. Existing legal frameworks, particularly the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, are ill-equipped to address the informational and identity-based harms arising from algorithmic amplification and persistent online visibility. Drawing on the Supreme Court's recognition of informational self-determination in *Justice K.S. Puttaswamy v. Union of India*, this paper argues that child influencer protection must be reframed around digital identity, privacy, and economic rights rather than traditional labor paradigms. It highlights the "parental consent paradox" under the Digital Personal Data Protection Act, 2023, and conceptualizes a child's monetized persona as a legally protectable economic asset. Building on comparative frameworks from the United States and France, the paper proposes a three-pillar reform: mandatory trust accounts for earnings, a "Digital Clean Slate" right for post-majority control, and platform-level fiduciary obligations including algorithmic transparency and child-impact reporting. The framework positions childhood as a protected developmental phase, safeguarding identity against premature commercial exploitation

**Keywords:** Child influencers, Digital labor, Personality rights, Child protection, Digital identity

## Introduction

Over the past decade, the rapid expansion of digital platforms such as YouTube, Instagram, and TikTok has transformed the Indian domestic sphere into a site of commercial visibility. Thousands of social media accounts now feature minors engaged in lifestyle vlogging, scripted play, and branded collaborations, generating revenue through advertising, algorithmic amplification, and corporate sponsorships[1]. This emerging "kidfluencer" economy operates within what may be described as a data-driven visibility regime, where children's identities function simultaneously as entertainment content and monetizable digital assets[2].

Unlike traditional labor, digital content is not temporally bounded. A video uploaded in childhood may remain searchable, monetized, and algorithmically profiled indefinitely. This persistence produces long-term data aggregation, durable digital footprints, and reputational lock-in, constraining a minor's future autonomy in ways that conventional labor paradigms do not anticipate[3]. The central regulatory challenge, therefore, is not confined to physical safety or working hours but extends to informational harm and identity formation.

India's principal child labor statute, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986,[4] was designed to address physical exploitation in industrial settings. Its architecture presupposes

a clear employer employee relationship and episodic, site-specific work. In the influencer context, however, these assumptions collapse[5]. Parents often act as managers and economic beneficiaries, blurring the boundary between familial care and commercial extraction, while value generation continues long after filming through platform analytics and algorithmic circulation[6]. More fundamentally, the statute conceptualizes children as physical workers rather than as data subjects whose personas are continuously harvested, indexed, and optimized for predictive advertising systems[7].

This paper argues that the inadequacy of industrial labor law necessitates a shift toward a framework grounded in informational autonomy. Drawing constitutional support from Justice K.S. Puttaswamy v. Union of India,[8] which recognized privacy and informational self-determination as intrinsic to Article 21, the analysis reframes child influencer regulation around control over digital identity rather than hours worked. It critically evaluates the limits of parental consent under the Digital Personal Data Protection Act, 2023,[9] examines the role of personality rights in governing monetized childhood personas, and proposes a statutory “Digital Clean Slate” regime that would enable individuals, upon attaining majority, to erase or reset data profiles constructed during childhood[10]. By relocating the debate from physical exploitation to identity-based harm, this paper advances a normative foundation for protecting childhood in India’s platform economy.

### **Privacy, Fiduciary Duty, and the Commercialization of Childhood**

Any meaningful regulatory response to child influencers in India must be anchored in the constitutional transformation ushered in by Justice K.S. Puttaswamy v. Union of India[11]. In that landmark decision, the Supreme Court clarified that privacy under Article 21 is not confined to spatial seclusion or bodily integrity; it encompasses dignity, autonomy, and, crucially, informational self-determination[12]. The individual’s authority to control the dissemination and use of personal data was recognized as intrinsic to personal liberty.

For minors, this doctrinal position produces a structural tension. A child may lack legal capacity to exercise autonomy independently, yet the constitutional right itself does not diminish on account of age. If anything, incapacity intensifies the obligation of both the State and the guardian to preserve the minor’s informational sphere. In the influencer economy, this requires conceptualizing the “digital persona” as an extension of constitutional identity[13]. Irreversible commercial exposure of that persona before the child can meaningfully comprehend its consequences raises concerns not of parental discretion alone but of constitutional injury.

Indian guardianship law reinforces this protective orientation. Under the Guardians and Wards Act, 1890,[14] parental authority is fiduciary rather than proprietary: guardians hold decision-making power in trust and must act solely in the child’s best interests. This principle is echoed in India’s obligations under the UN Convention on the Rights of the Child,[15] which foregrounds the “best interests of the child” as a primary consideration in all actions concerning minors[16]. However, the influencer economy destabilizes this fiduciary model. When a parent simultaneously serves as content producer, account administrator, and direct economic beneficiary of the child’s online visibility, the structural incentives shift. The fiduciary may become a self-interested commercial actor[17].

This conflict is not merely theoretical. Revenue derived from engagement metrics, brand partnerships, and subscriber growth may directly oppose the child’s long-term interest in privacy or anonymity. Unlike physical labor, whose effects are temporally bounded, digital exposure generates a durable data trail that persists into adulthood[18]. The fiduciary’s decision to monetize a child’s persona today may constrain

that individual's future identity formation in ways that are practically irreversible. Under classical trust principles, such self-dealing would invite strict scrutiny; yet contemporary data regulation does not adequately confront this structural conflict.

The tension becomes more acute under the Digital Personal Data Protection Act, 2023. Section 9(1) mandates verifiable parental consent before processing a child's personal data, positioning the parent as the gatekeeper of informational autonomy[19]. While designed as a safeguard, this model generates what may be termed a parental consent paradox. In the influencer context, the parent is often the initiating force behind the data processing itself. The same individual who authorizes consent is the one orchestrating and profiting from the child's digital commodification [20]. The Act assumes parental neutrality, yet offers no explicit mechanism to address conflicts of interest where consent becomes indistinguishable from commercial authorization.

Further complexity arises from Section 9(3), which prohibits tracking or behavioural monitoring of children[21]. Influencer platforms may contend that algorithmic systems monitor audiences rather than featured minors. However, a functional interpretation suggests that the child's digital identity is inseparable from platform analytics. Engagement rates, watch time, click-through performance, and demographic targeting all feed recommendation engines that evaluate and amplify the child's visibility[22]. The child's "performance" becomes quantifiable data within an ecosystem of behavioural optimization. If such metricization subjects the minor to psychological pressure, coercive visibility, or reputational entrenchment, a purposive reading of the statute would classify this as harmful processing under Section 9(2) [23]. The statutory prohibition cannot be rendered hollow by a narrow technical framing of who is being "tracked."

Comparative regulatory experience offers instructive guidance. French Law No. 2020-1266 [24] specifically addresses the commercial exploitation of minors under sixteen on online platforms. It introduces financial safeguards requiring that a portion of earnings be placed in protected accounts accessible only upon majority, mandates administrative oversight for certain levels of monetized content, and grants minors an enforceable right to erasure upon reaching adulthood, regardless of parental consent. The French model recognizes that platform economies generate structural asymmetries that cannot be resolved through consent alone; instead, they require ex ante oversight and ex post autonomy restoration. Finally, any coherent framework must account for the evolving capacities of adolescents. A purely paternalistic solution that mandates automatic erasure at eighteen risks undermining the expressive freedoms protected under Article 19(1)(a),[25] particularly where older minors have cultivated independent creative identities[26]. The law must therefore differentiate between exploitative exposure imposed in early childhood and self-directed digital authorship in adolescence. A rebuttable presumption model offers a principled balance: a default "Digital Clean Slate" upon majority, coupled with an opt-in mechanism allowing mature individuals to retain content integral to their professional or creative identity. Such a structure reconciles constitutional privacy, fiduciary accountability, and adolescent agency, preserving the core insight that informational autonomy is inseparable from dignity while acknowledging that autonomy develops over time rather than emerging fully formed at the age of majority.

### **The Commercial Value of the Child's Persona**

India does not possess a codified "Right of Publicity" statute. Nevertheless, the judiciary has progressively recognized personality rights as a constitutionally anchored and tortiously enforceable interest under Article 21 [27]. Courts have acknowledged that an individual's name, image, voice, and likeness carry

proprietary and economic value capable of protection against unauthorized commercial exploitation [28 , 29].

The doctrinal implication is straightforward but underexplored in the child influencer context: if the law recognizes the name and likeness of a celebrity as a protectable economic asset, it cannot logically deny similar protection to a minor whose digital persona generates measurable commercial returns[30]. Fame in the traditional sense is not the operative threshold. What matters is the existence of monetizable goodwill. In the influencer economy, the child's face, voice, mannerisms, and daily routines may constitute the primary driver of brand engagement and advertising revenue[31]. The child is not merely participating in content; the child's identity is the content.

This reality raises a fundamental ownership question. When a minor's persona is systematically monetized through brand collaborations, platform advertising, and affiliate marketing, who owns the economic value attached to that identity? Under the Indian Majority Act, 1875 [32] and general guardianship principles,[33] a guardian administers a minor's property in trust and for the minor's benefit. Extending this logic, a child's digital persona along with the data exhaust and goodwill it generates should be conceptualized as a form of quasi-property. It may not fit neatly within traditional property categories, but it possesses identifiable economic attributes, transferability, and revenue-generating capacity.

If this classification is accepted, the consequences are significant. Income derived from a minor's persona cannot be treated as informal family revenue subject to discretionary household expenditure. It is income generated from the commercial exploitation of a legally protected identity interest. The failure to segregate and preserve such earnings would amount, at minimum, to a prima facie breach of fiduciary obligation[34]. The child influencer thus ceases to be framed merely as a participant in family enterprise and instead becomes the rights-bearing owner of an economically productive digital asset.

Comparative experience reinforces the feasibility of such an approach. Jurisdictions regulating child performers have long recognized that parental control over earnings creates structural risks of misappropriation. Contemporary "influencer trust" models adapt this logic to digital labor, mandating financial safeguards and oversight mechanisms[35]. These regimes do not assume parental bad faith; rather, they acknowledge that commercial incentives distort fiduciary neutrality and therefore require structural correction [36].

Against this backdrop, a "Digital Coogan" framework[37] tailored to India is normatively justified. Instead of relying on traditional employment classifications which are largely absent in social media production regulation should be triggered by monetization thresholds. Once a child's content crosses a defined revenue benchmark, statutory protections would activate. First, a mandatory trust account mechanism should require a fixed percentage of gross earnings to be deposited into a blocked account accessible only upon majority[38]. Second, high-revenue accounts should be subject to periodic financial disclosure requirements to prevent diversion of funds under the guise of household necessity. Third, adult children should possess an explicit private right of action grounded in unjust enrichment or breach of fiduciary duty if their childhood earnings were dissipated. Such measures would align personality rights doctrine with guardianship law and close the enforcement gap currently exploited by informal digital economies. Financial protection alone, however, does not resolve the problem of digital persistence. Building upon the erasure principles embedded in the Digital Personal Data Protection Act, 2023, a minor-specific "Digital Clean Slate" right is necessary. Upon attaining majority, individuals should enjoy an unconditional entitlement to de-monetize, delist, or delete content featuring them that was created during childhood[39]. This proposal addresses reputational lock-in and restores control over identity formation

at the moment full legal capacity is achieved. It recognizes that the harm of digital commercialization is not exhausted by lost earnings but extends to the long-term shaping of social and professional trajectories. An argument may nevertheless be advanced that heightened regulation intrudes upon parental freedom of expression under Article 19(1)(a). Such a position, however, fails to distinguish between two constitutionally distinct forms of speech. The ordinary, non-monetized documentation of family life remains protected as private expression and lies at the core of personal liberty. The constitutional difficulty arises only when that expression is converted into a revenue-generating enterprise through advertising partnerships, affiliate marketing, sponsorship arrangements, or platform-based monetization[40]. At that point, the activity assumes the character of commercial speech embedded within economic exchange rather than intimate familial communication.

The State's interest in this domain is not directed at suppressing parental narration of childhood, but at regulating the structured commercial exploitation of a minor's legally protectable identity. Once a child's name, likeness, and persona become instruments of sustained profit extraction, the activity moves beyond the realm of private expression and into the sphere of market regulation. Constitutional doctrine has consistently permitted proportionate regulation of commercial activity, particularly where vulnerable parties are involved[41]. Framed in this manner, safeguards governing monetized child content do not curtail expressive freedom; they calibrate it to ensure that economic incentives do not override the best interests and future autonomy of the child.

### **Embedding Child Safeguards into Platform Infrastructure**

The regulatory inquiry cannot remain confined to parents and guardians; it must extend to the structural authority exercised by digital platforms. For years, intermediaries have relied upon the safe-harbor protections embedded in Section 79 of the Information Technology Act, 2000,[42] framing themselves as neutral conduits of user-generated content[43]. In the contemporary attention economy, however, this characterization is increasingly artificial. Platforms rank, recommend, throttle, amplify, and monetize content through algorithmic systems calibrated for advertising yield. Where recommender systems systematically elevate content featuring minors because it generates engagement and revenue, the platform cannot plausibly claim passive neutrality. It becomes an active participant in the commercial circulation of the child's identity.

The fiduciary turn introduced by the Digital Personal Data Protection Act, 2023 provides a doctrinal pathway for recalibrating this imbalance. Entities designated as Significant Data Fiduciaries (SDFs) are subject to heightened compliance obligations reflective of both scale and sensitivity of processing[44]. Platforms hosting substantial volumes of monetized child content should presumptively fall within this classification[45]. The fiduciary framework carries normative weight: it demands that data processors act in the best interests of the data principal. Where a platform's architecture is optimized to amplify a child's image for advertisement revenue, it participates directly in commodifying that minor's digital persona[46]. Regulatory doctrine must therefore evolve from intermediary immunity toward fiduciary accountability grounded in systemic responsibility.

Oversight cannot be satisfied through formalistic consent interfaces or reactive takedown mechanisms. The structural risks inherent in algorithmic amplification demand systemic intervention[47]. Platforms should be mandated to conduct periodic risk assessment audits examining how recommendation engines affect accounts featuring minors, with particular focus on behavioral profiling, reputational lock-in, and performance-based visibility pressures. Design-based safeguards must complement procedural

compliance. For instance, once an account featuring a minor surpasses defined engagement or revenue thresholds, algorithmic “circuit breakers” could limit automatic amplification pending enhanced safety verification. Data minimization standards should further prohibit the conversion of child-derived metadata into long-term commercial profiling architectures extending into adulthood.

To integrate economic, autonomy, and structural concerns, a three-pillar statutory model is warranted. The first pillar concerns economic preservation. A Digital Coogan-style provision should require a fixed percentage of gross earnings from monetized child content to be deposited into a blocked trust account accessible only upon majority. This mechanism recognizes the quasi-proprietary nature of the child’s persona and mitigates fiduciary risk arising from parental control over revenue streams.

The second pillar safeguards autonomy. Upon attaining majority, individuals should receive a statutory right to review and recalibrate their childhood digital presence. Platforms must provide comprehensive disclosure of all monetized content featuring the individual during minority. Such content should be de-monetized by default unless the now-adult subject provides express, informed consent to continued commercialization. This presumption affirms that parental authorization cannot permanently bind the future identity of the child.

The third pillar ensures structural transparency. Platforms should be obligated to publish periodic “child-impact statements” explaining how recommendation systems treat accounts featuring minors. Compliance triggers can be embedded directly into advertising and payout pipelines, activating heightened duties once follower or revenue benchmarks are crossed[48]. Embedding regulatory architecture within monetization systems enhances enforceability without intruding upon non-commercial family expression.

Measured against constitutional doctrine, these proposals align with the proportionality framework articulated in *Justice K.S. Puttaswamy v. Union of India*. The objective shielding minors from irreversible informational harm and economic exploitation is legitimate. The proposed mechanisms bear a rational nexus to the harms of persistence and misappropriation identified earlier. Their scope is confined to monetized and commercially amplified content rather than intimate familial expression. The framework regulates structured economic extraction, not private storytelling.

### **Suggested Reform Instruments**

1. Statutory Classification of Child-Content Platforms as Presumptive Significant Data Fiduciaries.
2. Mandatory Revenue Segregation through Blocked Trust Accounts.
3. Algorithmic Risk Audits and Engagement Threshold Circuit Breakers.
4. Minor-Specific Right to Post-Majority De-Monetization and Erasure.
5. Child-Impact Transparency Reports Integrated into Advertising Pipelines.
6. Private Right of Action for Breach of Platform-Level Fiduciary Duties.

### **Conclusion**

The kidfluencer phenomenon exposes the structural inadequacy of industrial-era regulatory categories when confronted with platform-mediated commodification. Earlier legal regimes focused on protecting the child’s physical time measured through shifts, wages, and workplaces. The contemporary challenge concerns the governance of digital identity constructed through algorithmic amplification, persistent indexing, and data-driven monetization.

A coherent regulatory architecture must therefore redistribute responsibility across guardians, platforms, and the State. Parents cannot exercise proprietary dominion over a child’s commercially valuable persona.

Platforms cannot invoke neutrality while algorithmically optimizing childhood for profit. The State's role is not to intrude upon family intimacy, but to recalibrate economic infrastructures that convert developmental identity into enduring commercial assets.

By grounding reform in constitutional privacy, fiduciary accountability, and personality rights doctrine, Indian law can transition from a model of reactive content moderation to one of proactive digital stewardship. The central normative commitment is clear: childhood should not be engineered as an extractive resource within the attention economy. It must remain a protected developmental phase in which informational boundaries, future autonomy, and economic entitlements are preserved rather than prematurely appropriated.

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