

Children on Camera, Parents at the Bank The Law and Ethics of Monetising Minors in India's Short-Video Economy

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Abstract – Content with minor children is one of the most sure-fire money spinner categories of the big social media platforms in India. Parents, guardians, and sometimes schools regularly and intentionally record children, even when they are distressed, embarrassed, or deliberately naughty, and then profit from the videos through advertising, brand partnerships, and platform incentive programs. The child is the one who is performing and is incapable of giving consent, has no say over the material and generally does not receive any of the profits. This article explores the question of legitimacy, moral correctness, and social utility of this practice, mainly through the prism of the legal aspect. It charts the relevant Indian framework in the fields of contract law, juvenile justice law, child protection legislation, labour law, data protection law, and consumer protection law and compares it with ground-breaking developments in Europe and North America. The article shows that India has significant and weak, but largely unenforced, legal safeguards and that there is a significant gap in the law on earnings protection and a child's right of erasure. It ends with a call for special legislation for child influencers and presents some concrete solutions that are available today for citizens, regulators, and courts.

Keywords: Child influencers, Sharenting, Parental consent, Digital child labour, Right to privacy, Intermediary liability, Data protection, Right of erasure.

1. INTRODUCTION

Today, if you open any short video app in India, in a matter of minutes, an algorithm will put a child in front of you. A little boy dances along to a popular song. A school-age boy is videotaped crying because of a prank played by his own parents. Leading questions are asked of a little girl to elicit an adorable or embarrassing response. A family channel records a child's sickness, discipline or temper tantrum with dramatic captions and music. Behind every video with hundreds of thousands of views lies a simple economic principle: kids draw attention and attention equals money, which equals adults.

India is now one of the biggest markets for short video content and has hundreds of millions of active users on platforms such as these. In this attention economy of the huge, content with kids is in a strange and problematic place. The child is the product, the performer and the least protected of the participants. A child in a family reel is unprotected and unregulated, and unlike a child actor on a regulated film set, is not entitled to have a share of the money made from his or her image and is not entitled to welfare supervision or to limits on the number of hours he or she can work. The set is the parent's home, the producer, director, and paymaster is the parent.

The practice poses questions that the Indian law, society and scholarship has only just started to grapple with. Is a parent right to give permission, on behalf of a child, for the commercial use of the child's picture, feelings, and private moments. When does it become a criminal act, child labour, or child neglect to film a child for profit. As internationally documented investigations have revealed, when videos of children in undressed or distressed states get into networks of predatory misuse, what happens. What will today's

filmed kids say and be able to do when they turn 18 and find out that the most vulnerable aspects of their childhood were monetized for ads. So are the platforms which host, amplify and monetise this content liable under Indian law.

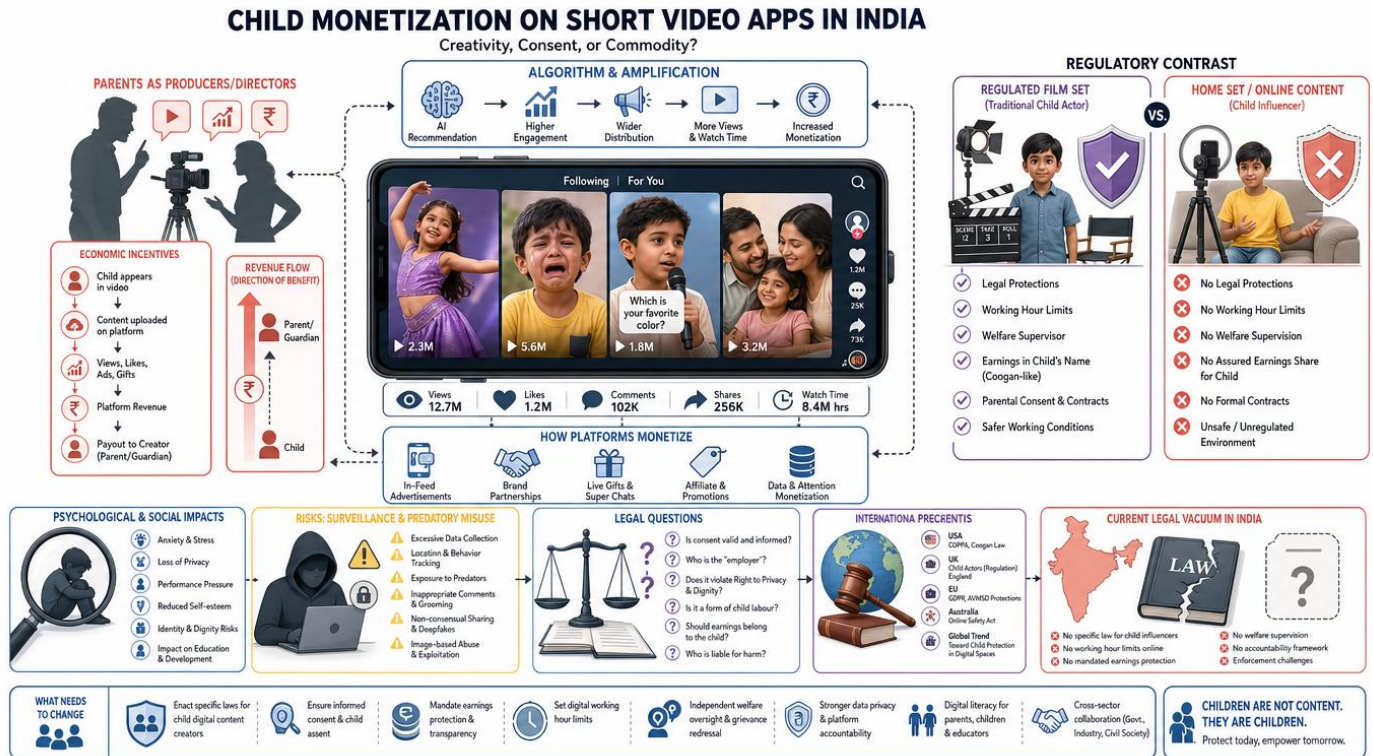


Fig -1: Child Monetization on Short Video Apps in India

These are no longer "what if" questions. There are several jurisdictions overseas that have already enacted legislation addressing child influencers, courts in Europe have ruled on cases involving children and their own parents regarding content posted by children, and prominent family content creators have grown up and started speaking out and, in some cases, suing over their childhood experiences as content. Despite India having one of the youngest populations and largest creator economy in the world, the country hasn't yet introduced any provision to specifically deal with the monetised representation of children on social media.

This article aims to help fill that awareness gap. It explores the phenomenon largely from a legal perspective, but also in its economic, technological, psychological, and social aspects, and poses a question that all viewers, parents, educators, policy makers, and platform designers must face sooner or later, When childhood itself becomes the content, who protects the child.

2. OBJECTIVE OF THE ARTICLE

There are four goals to this article. First, whether under the current Indian law, it would be legal to take the pictures of minor children and publish them for commercial use on short-video platforms with mere parental consent. Second, to make a comparative analysis of the Indian landscape with the evolving international legal landscape in relation to child influencers, children's data, and the right to erasure.

Thirdly, to evaluate the liability of video-sharing platforms under Indian laws for hosting, promoting, and monetizing such content. Fourth, to suggest a realistic and policy-oriented way forward for safeguarding children depicted in monetised digital media and to arm ordinary readers parents, teachers, and citizens with a realistic understanding of the rights, risks, and remedies.

3. METHODOLOGY

This article has been written in a doctrinal research methodology, which involves primary sources of Indian law, such as the Constitution of India, Central statutes, statutory rules, and regulatory guidelines along with relevant judicial pronouncements of India. This is complemented with comparative legal analysis of the legislative developments in European and North American countries that have specific protections for children in monetised online content and by international instruments to which India is a party. Secondary sources include publicly available reports of statutory commissions, regulatory bodies and documented investigations of the misuse of children's online content and published psychological literature on parental oversharing. Every statutory reference and factual statement is taken from authoritative sources and official publications, where empirical data pertinent to India is not available, that fact is stated and not filled up with speculation, but with the understanding that it is a part of the research gap. As stated in the title, this is an awareness piece and no person, platform or company is mentioned, the analysis is on categories of actors and structures of law and not on personalities.

4. THE INCAPACITY OF THE CHILD AND THE LIMITS OF PARENTAL CONSENT

At the heart of the whole inquiry is a principle which has been a part of Indian law for more than a century that a minor cannot give a valid consent for a commercial transaction. The Indian Contract Act, 1872, section 11 in conjunction with the Indian Majority Act, 1875, declare that the minor is incapable of contracting and in *Mohori Bibee v. Dharmodas Ghose*, the Privy Council as early as 1903 held that an agreement made by a minor is void ab initio. If a child is used in monetised content, therefore, he or she cannot lawfully consent to the commercial use of his, her image, voice, or personality. Any "consent" in these arrangements is all parental.

The legal issue of paramount importance is whether parental consent can take the place of the child's consent. Indian law responds with a qualified and progressively more limited answer of 'yes'. The authority of parents and guardians is not over the person of the child but is a trust over the welfare of the child. The Juvenile Justice Care and Protection of Children Act, 2015, puts the best interest of the child as defined in Section 2(9) of the Act at the very core of all decisions made concerning children, including fulfilment of basic rights, identity and physical, emotional and intellectual development. The welfare of the minor has always been the most important aspect in the guardianship jurisprudence in India and not the wishes of the guardian.

The implications of this trusteeship framing of children's content are deep for monetised child content. A family portrait used privately may reasonably be considered to be covered by parental consent; however, if the parent's consent is likely to be to the detriment of the dignity, privacy or emotional wellbeing of the child, and the parent's decision is likely to be for financial gain, then this consent is likely to be overstretched, if not outright breached. A parent who intentionally makes a child cry for a prank video, posts a video of a child being disciplined or embarrassed, or making a living from a child's private moments, is not acting in the child's best interests, he or she is exploiting a conflict of interest. Section 75

of Juvenile Justice Act 2015 makes it an offence for any person who has actual charge or control over a child to willfully neglect the child or cause him to suffer unnecessary mental or physical suffering. The argument, which has not been tested in the courts to any great extent, is serious and is that the continuous creation of a child's distress for commercial content is included in this provision.

THE INCAPACITY OF THE CHILD AND THE LIMITS OF PARENTAL CONSENT

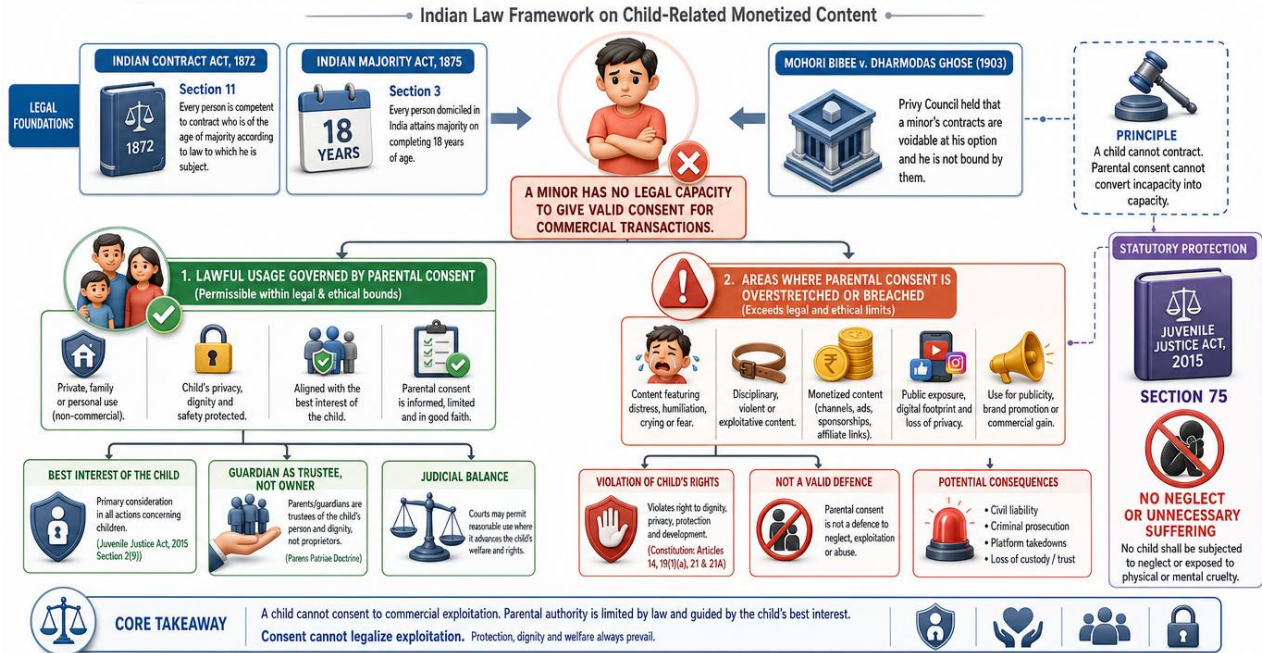


Fig -2: The Incapacity of the Child and the Limits of Parental Consent

Conduct, which is otherwise legally recognised as exploitation, cannot therefore not be legitimized by a blanket authorization, but only by a limited license, which is parental consent.

5. WHEN CONTENT CROSSES INTO CRIME CHILD PROTECTION AND CYBERCRIME STATUTES

A significant portion of the content on Indian short video platforms, geared towards children, is not just ethically dubious, but also potentially illegal. The Protection of Children from Sexual Offences Act, 2012 has been drafted with a conscious intent of being as wide as possible. In Section 13, the words in any form of media are added and the use of a child is explicitly defined as including use through any medium, whether or not for personal use or distribution, of the sexual organs of a child or indecent or obscene representation of a child. Sections 14 and 15 provide for penalties for such use and possession or storage of pornographic material involving a child. Importantly, the law is about the nature of the content and how it is being used, rather than just what the uploader intends. A parent who posts videos of a child bathing, partially clothed or captioned in a suggestive way may think that the content is harmless, but the law considers the content and its use, and there have been many documented international investigations that have repeatedly demonstrated that exactly such innocent content is systematically collected, time-stamped, and passed on in the predatory networks.

This is supported by the Information Technology Act, 2000. Section 67B makes it a crime to publish or transmit material that shows children engaged in sexually explicit acts and, more generally, to facilitate online abuse of children, and it applies to those who create, collect, browse and distribute such material. Section 67B is not dependent on the content of the medium, but on the medium itself, so it is the conduct itself that is captured on social media platforms, whether it is a stranger or the child's own parents.

LEGAL FRAMEWORK GOVERNING CHILD PROTECTION & CYBERCRIME ON INDIAN SHORT VIDEO PLATFORMS

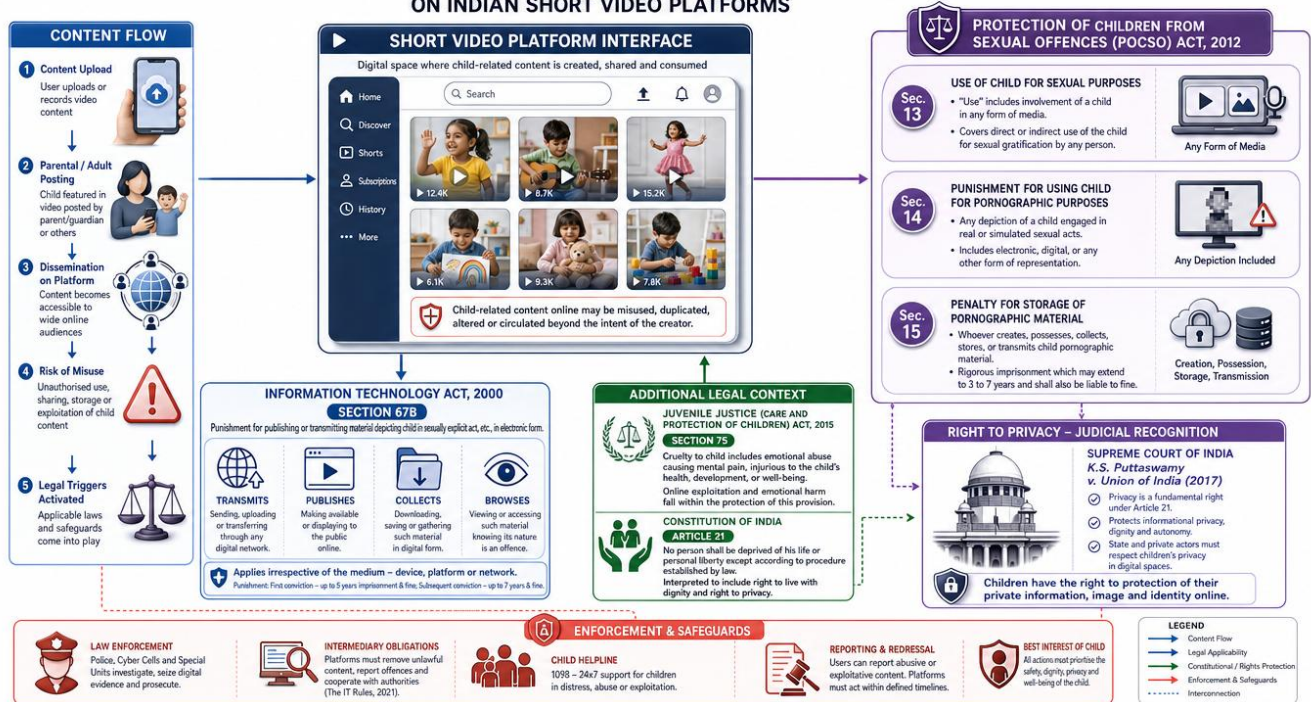


Fig -3: Legal Framework Governing Child Protection & Cybercrime

In addition to sexual, criminal exposure occurs when children are shown in a real situation of distress. The deliberate frightening of children, deceiving them or punishing them for the amusement of the audience in videos is not very comfortable with the above mentioned section 75 of Juvenile Justice Act and the constitutional guarantee of dignity under Article 21. The Supreme Court's decision in *K.S. Puttaswamy v. Union of India (2017)* which recognized privacy as a fundamental right is not a right of the family as a unit, but of the child as an individual, the fundamental rights of a child are not held in commendam by the parent. The implications of the above heading are quite stark monetised child content in India today is not really in a legal grey zone at all, but rather a significant portion of it. It is running on the wrong side of the current criminal laws, with a lack of complaints, enforcement, and publicity as the main protection.

6. THE OVERLOOKED STATUTE MONETISED REELS AS CHILD LABOUR

One of the lesser known aspects of this phenomenon in terms of law is labour law. The Child and Adolescent Labour Prohibition and Regulation Act, 1986 as amended in 2016 bans the employment of children under 14 years in all occupations with a few exceptions, one of which is for a child to work as an artist in the audio visual entertainment industry, which includes advertisement, films, television serials,

and other entertainment or sports activities, subject to prescribed conditions and safety measures, and provided it does not affect the child's school education.

The Child Labour Prohibition and Regulation Amendment Rules, 2017, lay down stringent conditions. They consider the importance of getting permission from the District Magistrate before children take part in productions, limiting the number of hours a child can work in a day and providing rest breaks, having a person responsible for the child's safety who is accountable for this, continuity of education, and, most importantly for current purposes, the requirement to put at least twenty per cent of the money a child earns from the production or event into a fixed deposit account in the name of the child, but held in a nationalized bank, to be credited to the child when he reaches the age of majority.

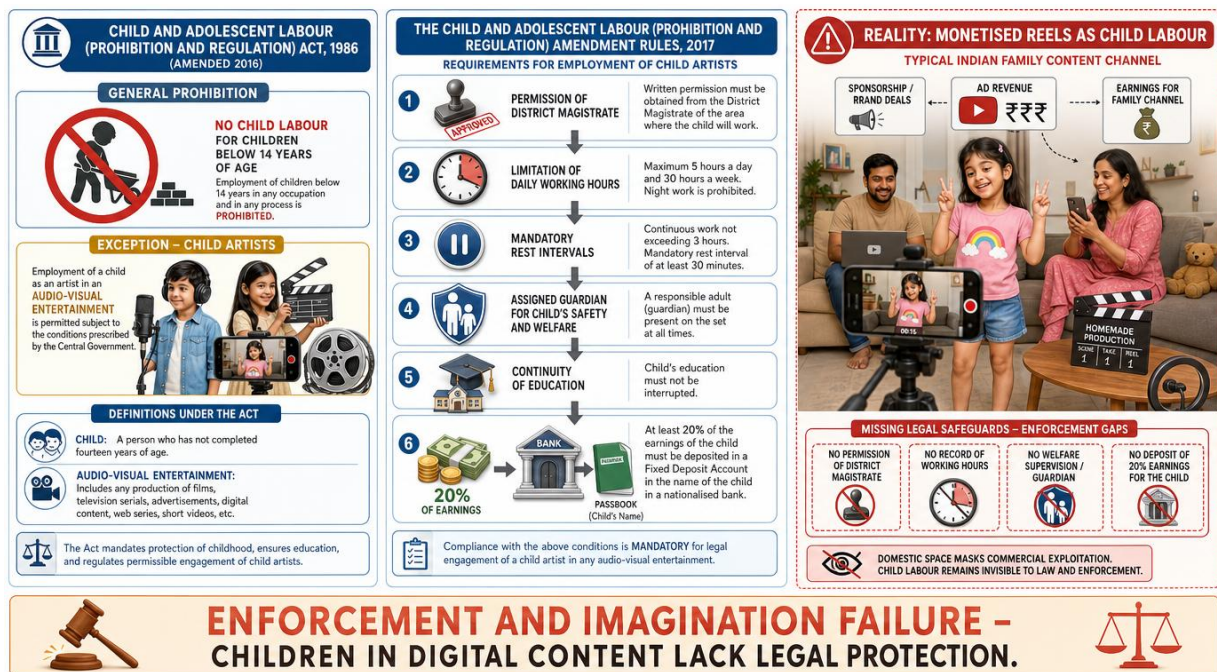


Fig -4: Children in Digital Content Lack Legal Protection

Put the typical Indian family content channel into this context and the extent of the violation becomes apparent. A channel that consistently uses a child, has a production schedule of some sort even if informal and receives advertising or sponsorship income that is significant due to the presence of that child is, in effect, using that child in commercial audio-visual work. But permissions are not asked for, working hours are not recorded, there is no welfare supervision, and it is fair to say that it is not usual for the money to be deposited in the child's name. The domestic setting masks the commercial nature of the activity, and neither the worker nor the employer the parent is aware of it as such, nor will a labour inspector be aware of it as such unless the law is explicitly extended and enforced in this direction.

This isn't a nit-picky detail. That's why the entertainment exception and the rules that accompany it are there: the law acknowledges that children who entertain for profit need protection from the adults who benefit from their entertainment, including, in the past and now, their own families. That this is not being done with digital content is an enforcement and imagination failure, not a principal failure.

7. REGULATORY GUIDELINES ALREADY EXIST AND ARE WIDELY IGNORED

There are not no targeted regulations in India. The National Commission for Protection of Child Rights (NCPCR) has come out with regulatory guidelines in 2022 for children's involvement in the entertainment industry and commercial entertainment activity, which explicitly includes content on social media and streaming platforms in addition to TV and film. Their content is remarkable in the context of common usage of short-video apps.

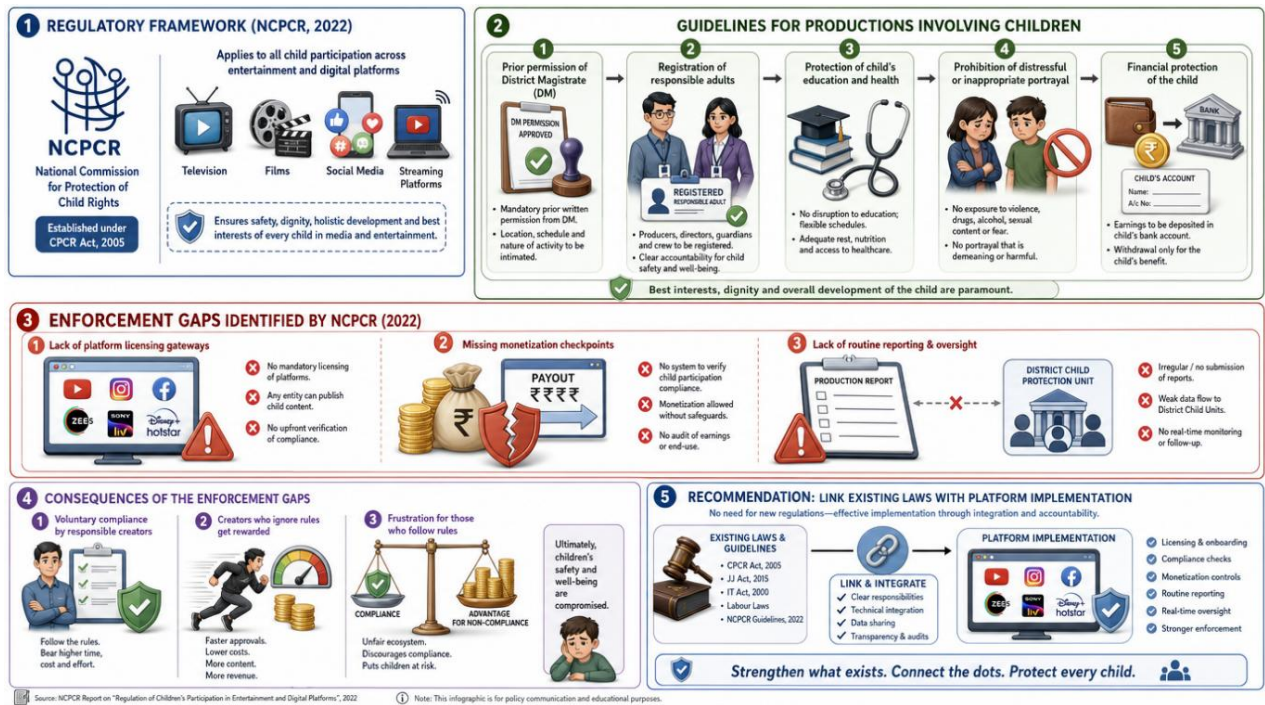


Fig -5: Regulatory Guidelines Already Exist and Are Widely Ignored

Among other precautions, the guidelines include the need for prior permission from the District Magistrate for productions involving children, registration and accountability of the person responsible for the child on set, ensuring the child's education and health are protected, banning the production from placing children in distress, banning the portrayal of children in an inappropriate manner, and financial protection in line with the child labour rules including a portion of the child's earnings to be deposited in the child's name. The guidelines are given teeth to the statutes they operationalize, and the Commission has the powers of a civil court in inquiries, including summoning of persons and calling for records which it has exercised in relation to digital platforms on child safety issues in the past.

There is a huge gap between this framework and the actual behaviour of creators, and it's safe to say the guidelines are not widely known by the families they govern. There is no licensing gateway on any major platform which asks a family channel if permission to use the child's image has been granted by the District Magistrate there is no monetisation checkpoint which asks whether the child's earnings are protected there is no routine mechanism through which District Child Protection Units are informed that a child in their jurisdiction is effectively working daily on camera. If there is no way to deliver regulation, it is not protection, it is a document.

This is a common and wider trend in the governance of child protection in India: the law and regulation is good and in place, but the institutional follow through awareness campaigns, inspection capacity, inter-agency coordination between child rights commission, labour department, police cybercrime unit and information technology ministry is lagging years behind the technology to be governed. This results in a system where in practice compliance is voluntary, and those who comply are punished compared to those who don't, as the unregulated channel can produce more content at lower cost, and faster. This enforcement gap does not need new legislation, but rather the existing legislation to be linked with the platforms where the regulated activity takes place.

8. THE CHILD'S DIGITAL PERSONHOOD DATA PROTECTION LAW CHANGES THE EQUATION

The Digital Personal Data Protection Act, 2023, brings a new concept to the table for most creators, and even many lawyers, every monetised video of a child is also an act of commercial data processing. The Act's definition of a 'child' is quite high for anyone under 18, which is higher than many international regimes and there are three obligations of direct relevance in Section 9. A data fiduciary shall process a child's personal data with verifiable consent of the parent lawful guardian shall not process a child's personal data if such processing is likely to have a detrimental effect on the wellbeing of a child and shall not undertake tracking, behavioural monitoring or targeted advertising to children.

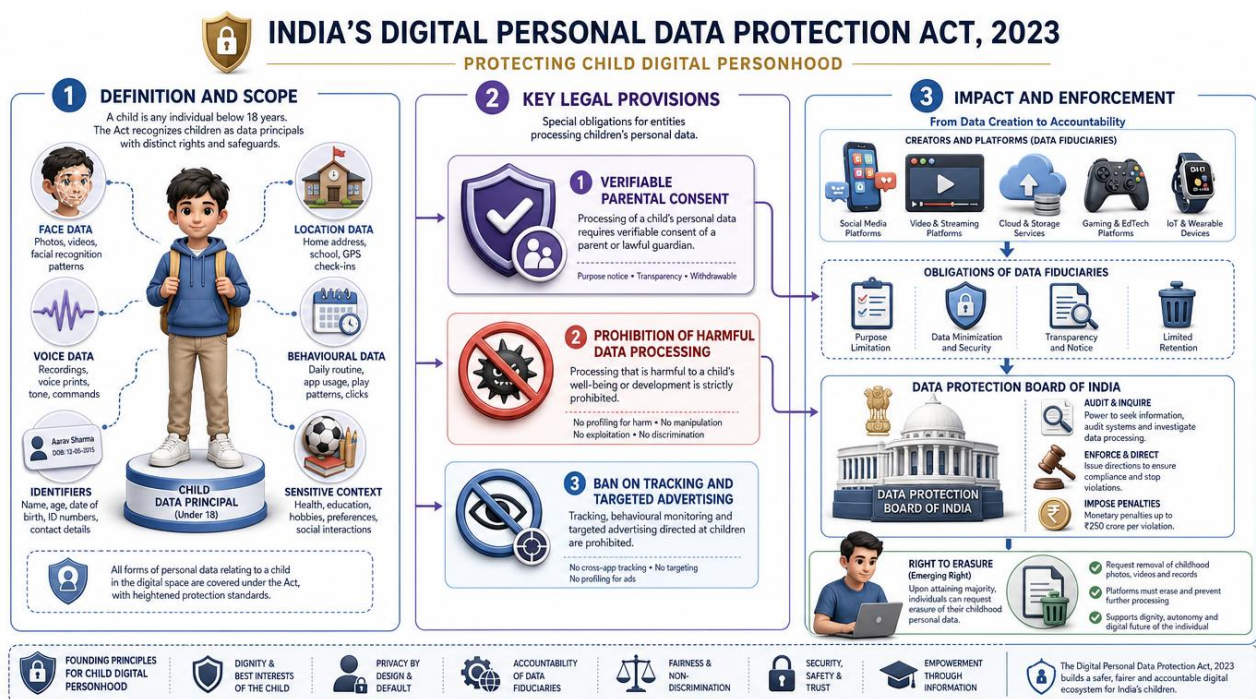


Fig -6: India's Digital Personal Data Protection Act, 2023

These provisions give rise to consequential and largely unexplored arguments, when applied to monetised child content. Personal data is unambiguously data on an identifiable child from a video that shows the face, the voice, the name, the school or home interior, the daily routine. If that information is being processed for commercial purposes, then the processing must not only meet the consent requirement, but the independent statutory prohibition on processing detrimental to the child's wellbeing.

Under the Act, parental consent is not enough even if a parent is fully consenting, they cannot consent to processing that the statute, on its own terms, deems to be harmful. This prohibition is clearly meant to police the zone into which content falls when it is based on a child's humiliation, distress, or exposure.

The provisions which have an impact on tracking and behavioural monitoring and targeted advertising extend further to the platforms. For short-video services, the business model relies on profiling viewers, and optimizing the delivery of advertising, and, when children are the subject of the content but also part of the audience, the restrictions in the Act directly impact the design of the service. For the first time in India, the Data Protection Board of India, the adjudicatory authority established under the Act, can investigate infractions of the Act and award significant monetary penalties, like those in other countries. The more original conceptual impact of the data protection approach is to view the child as a data principal, a human being whose informational life is worthy of protection in and of itself, regardless of the wishes of parents. It is that recognition that gives rise to the right that this article later claims India must make explicit the right of the grown child to demand erasure of the childhood their parents published.

9. ADVERTISING, ENDORSEMENT, AND THE CONSUMER PROTECTION DIMENSION

Child content on platforms is seldom monetised from platform advertising revenues only. Videos include toys, snack foods, educational apps, clothes, and other household items and as the channels grow, so do the brand collaborations videos feature the child using, enjoying or endorsing the product. It's a commercial layer and one that creators rarely consider.



Fig -7: Advertising Endorsement and The Consumer Protection Dimension

India's advertising self-regulatory council has put in place guidelines that will make it mandatory to disclose any material connection between an advertiser and a content creator, whether it is in the form of payment, free products, or other incentives, to make it clear to the audience that the content is paid and

is therefore not a genuine opinion. In essence, content in which a child is excitedly promoting a sponsored product without disclosure is disguised advertising, and advertising that is substantially directed at children is of particular concern, due to the inability of children to perceive persuasive intent a problem long recognised in advertising ethics globally.

The statutory regime is even more stringent. The Consumer Protection Act, 2019 has a very broad definition of misleading advertisement and provides the Central Consumer Protection Authority to investigate and take action against the manufacturer and advertiser of the misleading advertisement as well as against the person endorsing such advertisement with monetary penalties and in appropriate cases, prohibiting the person from making any further endorsement. When the endorser is a child, an obvious and unanswered question is who is liable for the child's endorsement. The minor is incapable of contracting and is incapable of forming the commercial intent that it is required to have, so responsibility must lie with the parent guardian who arranged, filmed and published the endorsement and who received consideration for the endorsement. Family channels run by parents may thus be liable to endorser liability, which they may not have thought of as advertisers at all.

The guidelines released by the central consumer protection authorities on prevention of misleading advertisements have also provided certain guidelines for advertisements directed towards children, such as advertisements which exploit the credulity of children, and advertisements which may lead to unrealistic expectations or harmful behaviour. Together, the advertising and consumer protection framework renders a significant portion of influencer-family activity commercial speech which must be disclosed and is subject to penalty regimes, none of which are currently strictly enforced. This heading is important to the overall argument as each of the areas of law contract law, criminal law, labour law, data protection law, and now consumer law separately addresses the practice of monetizing children. In theory, the phenomenon is not under-regulated, but in practice it is under-enforced and not recognised by those it regulates.

10. EUROPE'S PIONEERING RESPONSE EARNINGS PROTECTION AND THE RIGHT OF ERASURE

The problem is a global one and legislative solutions are practicable as experience in other countries proves. One of the most instructive models that has come to light in Europe in 2020 is the one that has been adopted by one country, which has enacted the first specific statute in the world to regulate the commercial use of the image of children under sixteen years of age on the Internet. It is worth enumerating the structure of the law, as it foresaw almost all the problems raised in this article.

First, it defined a significant amount of child-influencer activity as child performance labour, meaning that when a child's video activity goes beyond certain thresholds of duration and or income, it must be declared or authorised in advance, by administrative means, in order to be protected by the same logic that applies to a child's work on a film set. Second, it required that any earnings that the child had over a small allowance been placed with a public financial institution and held for the child until he or she reached majority, thus eliminating the financial incentive for parents to overexpose their children. Third, and most amazingly, it gave the child the right to erasure independent of parental consent: the platform is obliged to remove the content if the child themselves requests it, thus recognising that the interests of the filmed child and the filming parent can be fundamentally opposed.

In 2024, the same jurisdiction again took up the matter with a law on children's image rights, in which the respect for the child's privacy is a part of the parental rights themselves, which must be taken into

account in any decision on using the child's images, and which gives the court the power to prevent parents from publishing images of their child, if it deems this to be in the child's best interests and there is serious disagreement between the parents and the child. The trend is clear it is from parental discretion to the child's dignitary rights.

The European data protection regime provides the European context. The GDPR also recognise that children's data is deserving of special protection, that consent for information-society services for younger children is only valid with parental consent, and that the GDPR's provisions for erasure give special consideration to deletion requests relating to data which has been collected during childhood, precisely because the data subject at the time is unlikely to be able to appreciate the consequences of the deletion.

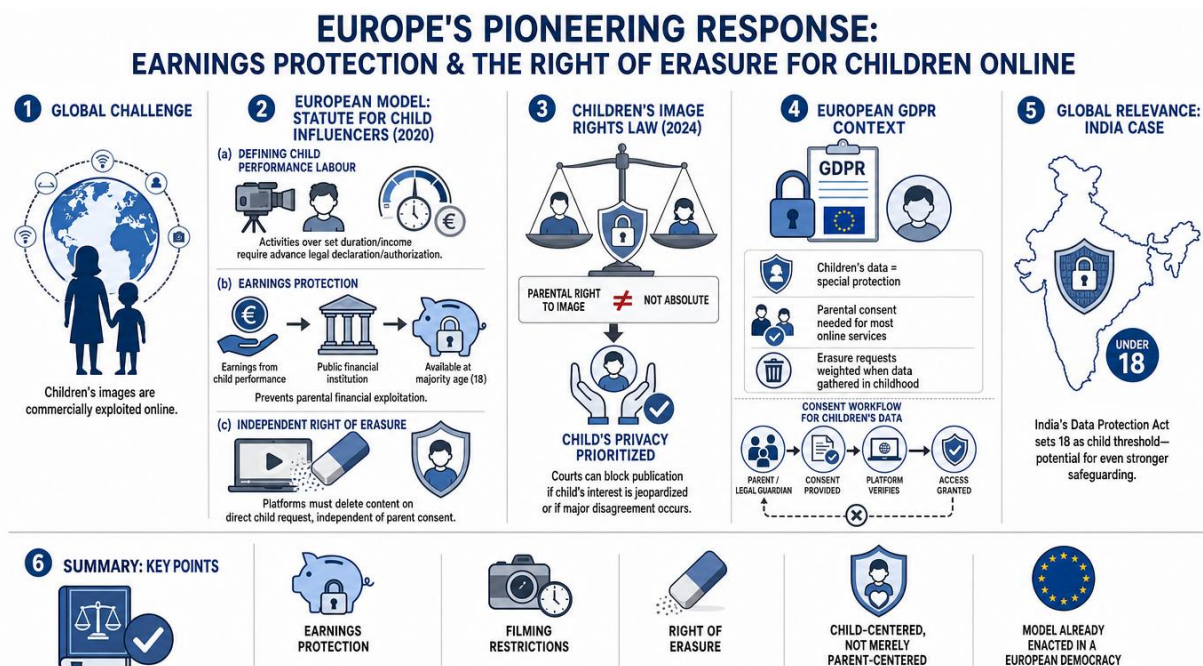


Fig -8: Europe's Pioneering Response Earning protection & The Right of Erasure for Children Online

It is of direct relevance to India. These laws demonstrate that the protection of earnings, filming restrictions, and the right of erasure, for children to exercise, are not some pie in the sky ideal but are law that is in force in a major democracy. If anything, India, where the Data Protection Act already considers anyone under 18 as a child, has a more safeguarding-oriented conceptual base to build on and this has so far yielded no specific outcome.

11. NORTH AMERICA EXTENDING OLD CHILD-PERFORMER PROTECTIONS TO THE NEW DIGITAL STAGE

The North American model is an alternative, complementary model. One American state as early as 1939 had passed a law that a percentage of a child star's money would be held in a protected trust. Over the following decades, the idea of such legislation, which was frequently known by the name of the child star who inspired it, became a part of the traditional entertainment industry. Its problem, which was brought

to light by the advent of family vlogging, was that it was geared towards studios and productions, not parents who want to film their own kids at home for advertising dollars.

In 2023, state legislatures began to fill that gap. One state passed the first legislation in the United States that will allow children who appear in monetised family vlogs to receive a share of the money based on a percentage of their appearance, which will be held in a trust until the child reaches adulthood, and the ability to sue a parent who does not comply. Others followed suit, with laws that also made trust-account requirements apply to online content involving minors, and in one case added a statutory right for the minor, when he or she reaches adulthood, to force the deletion of content that involved him or her as a minor. The federal children's online Privacy statute, for its part, has long prohibited the collection of personal data from young children without verifiable parental consent, and enforcement action against a large video platform last year, which led to a record-breaking settlement with the federal consumer protection regulator and structural changes in how child-directed content is monetised, proved a point of lasting significance: platform behaviour changes when regulators impose financial penalties for child-directed content.



Fig -9: North America Extending Old Child-performer Protections to the New Digital Stage

For India, there are three lessons to be learnt. First, there are now several democratic legislatures that have crossed the conceptual bridge, the monetised filming of one's own kid as a regulable economic activity, without catastrophe. Second, earnings protection is the one most effective lever, as it eliminates the incentive at source, and does not affect the benign family sharing. Third, retrospective rights are important the deletion and enforcement rights granted to grown children recognize that the real victim may be unable to take action until years after the injury. All three insights should be included in any Indian legislation from the beginning and not learnt in order.

12. INDIA'S INTERNATIONAL OBLIGATIONS THE CONVENTION ON THE RIGHTS OF THE CHILD

India's responsibilities in this area do not start with the domestic statute, it starts with international commitment. India ratified the United Nations Convention on the Rights of the Child in 1992, and the Convention has very direct relevance to monetised child content. Article 3 places the child's best interests as a central principle in all actions affecting children, both by the public and the private sectors. Article 16 provides that no child shall have his or her privacy, family or correspondence interfered with in an arbitrary or unlawful manner and the child has a right to legal protection against interference including interference from parents. Article 32 affirms the child's right to be protected from economic exploitation, and from work likely to be harmful or interfere with the child's education or development. The child's view must be considered in decisions that impact on the child (Article 12).

The treaty's monitoring committee in 2021 issued a general comment on children's rights in the digital environment. That document confirms what the Convention's text suggests: privacy, protection from economic exploitation and the right to be heard are all relevant online; states are required to make businesses perform child-rights due diligence, including for those businesses whose services are not aimed at children but have an impact on them; and threats to children's privacy can arise from activities of the parents themselves, such as the publication of children's information, which the committee's discourse refers to, meaning that states are required to ensure that children have remedies.

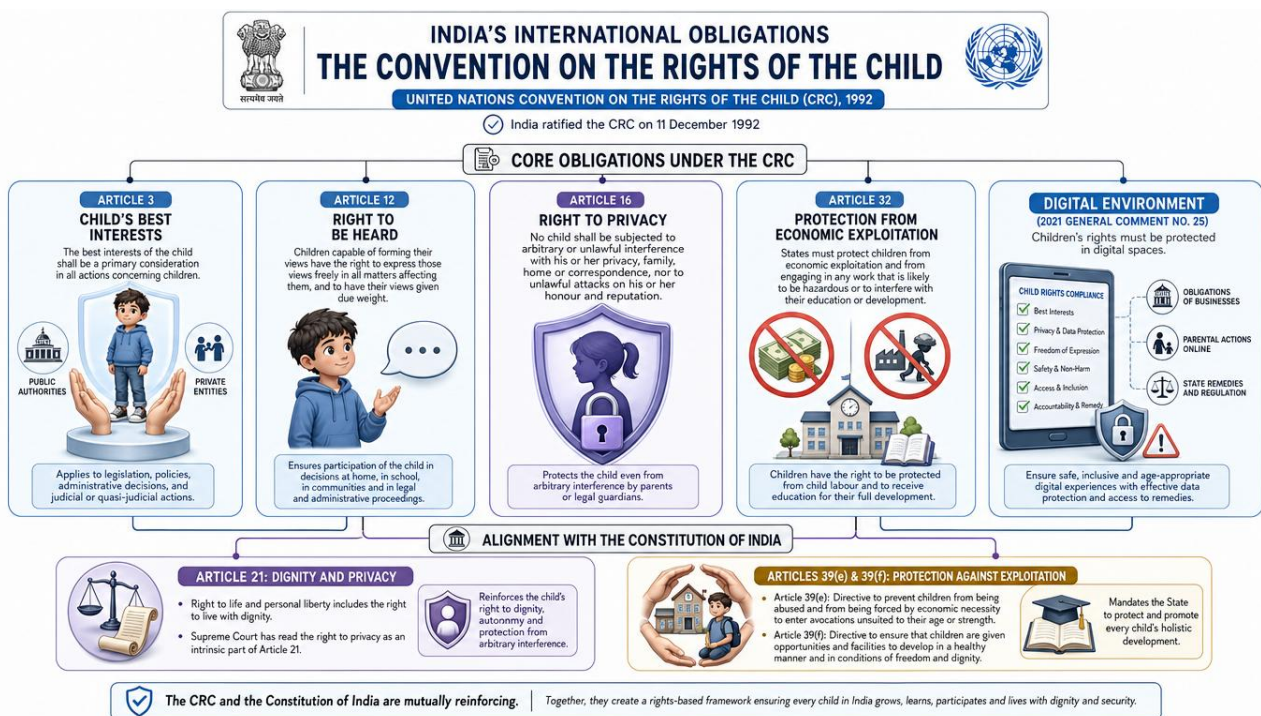


Fig -10: The Convention on the Rights of the Child

Their obligations have domestic legal significance which is well known. The Indian constitutional jurisprudence has always been that international conventions ratified by India can be interpreted into the domestic law, to interpret the fundamental rights and fill the gaps in the legislation, provided they are not inconsistent with domestic legislation. Indian courts have cited the Convention in various child rights contexts and the right to privacy, which was established in 2017, was inspired by international human

rights treaties. The litigant challenging the commercial exploitation of children on social media, whether directed against a parent, a school or a platform therefore comes in with an interpretive framework already put in place constitutional dignity and privacy in Article 21, the directive principles in Articles 39(e) and 39(f) which require protection of childhood against exploitation and abandonment, and a ratified international convention whose application on the digital platform has been authoritatively affirmed. The instruments are waiting for the hands that will employ them.

13. THE PERMANENT FOOTPRINT SHARENTING AND THE HUMAN COST WHEN CHILDREN GROW UP

But apart from the law, there is a unique human damage: a public image is created without the subject's involvement and remains forever. Research dating back more than 10 years has explored the phenomenon of sharenting as described in the international literature of children's lives by their parents, and it has been found that by the early adolescent years a child in highly connected societies has thousands of images of him or herself online, the vast majority of which are posted by adults. When you monetise content, it exacerbates all aspects of this issue, as commercial incentive naturally picks out the most emotionally charged, private or embarrassing content: the tantrum beats the smile, the prank beats the achievement, the illness vlog beats the normal day.

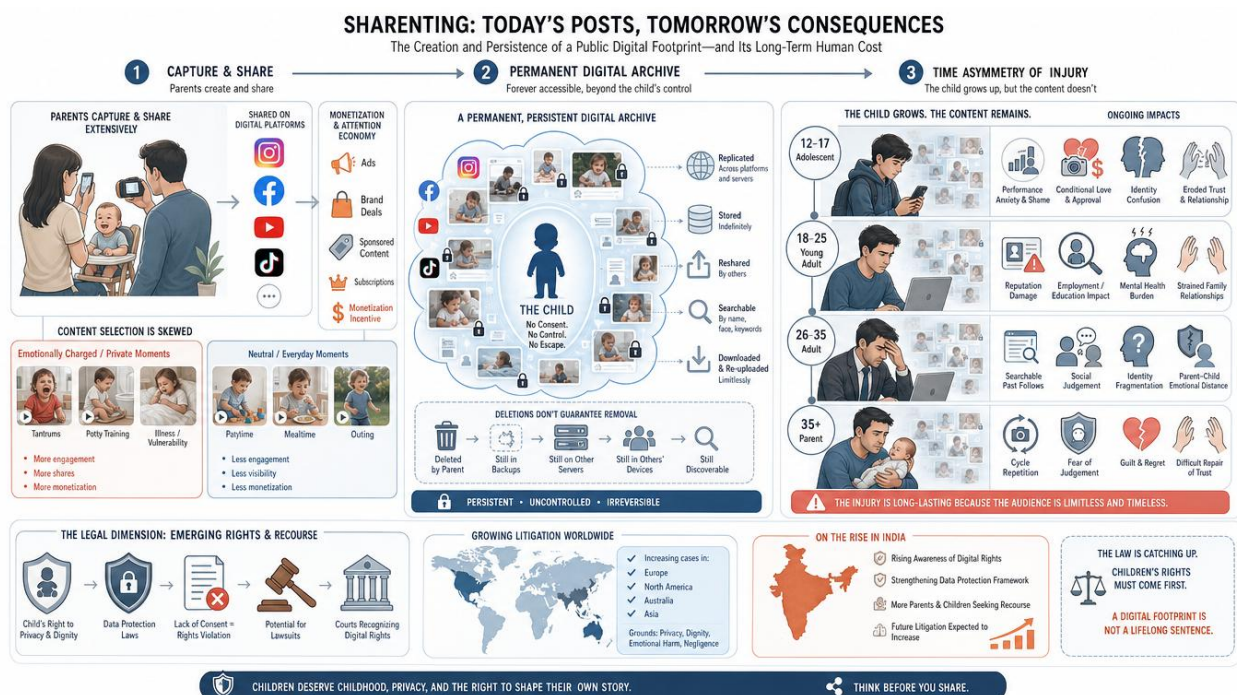


Fig -11: Sharenting Today's Posts Tomorrows Consequences

Think about the time asymmetry of the injury. A video of a four year old's meltdown, released today, will be there when he's 14, staring down at the other kids in class, 24, staring down at the other employees, and 34, staring down at his own kids. Deleting at source does not necessarily mean that it can no longer be found, as search engines, screenshots and re-uploads will make it possible for it to be found. This archive was never selected by the child, cannot be curated by the child and at present there is no legal process to demand its destruction on the child's reaching majority in India.

The psychological literature and the accounts of the first generation to have been raised on family channels abroad tell of converging harms: children learn that their parents' love for them is conditional on being useful for filming, the anxiety of performance and confusion of identity that children feel when they are in front of a camera, the grief and anger that children experience when they discover, in adolescence or adulthood, that moments of genuine pain were contrived, extended, or published for profit, and the lasting damage of parent-child relationship of trust, in some reported cases resulting in estrangement or litigation. In other European countries, litigation by children against parents for the publication of images has already been resolved in court, and adult children of well-known family channels internationally have openly complained about their childhoods in the vocabulary of exploitation and called for the same laws as mentioned above in this article. This reckoning is not just something to be feared, but to be expected in India. Within years, the children who are the anchors of Indian family channels will be majorities, with a fundamental right to privacy, a data protection law, and the common-law of unjust enrichment. It is not a matter of if, but when, the first Indian lawsuit by a grown child against a parent for monetised childhood content will be filed and it would be better for everyone parents included to have rights and duties established before that day, rather than after.

14. IMMEDIATE DANGERS PREDATORY MISUSE, LOCATION EXPOSURE, AND LOST CHILDHOOD

The harms listed above take years to develop; others happen in the short term. The most alarming is the fact that harmless kids' material has been found to be trafficked into the predatory market. Over the last few years, investigations into the videos by international journalists and child-safety researchers have found a consistent pattern videos of kids doing normal activities gymnastics and swimming, bathing and getting dressed are found by a network of offenders, catalogued, timestamped at moments of exposure, and posted in comment sections and external forums, and re-uploaded in curated compilations.

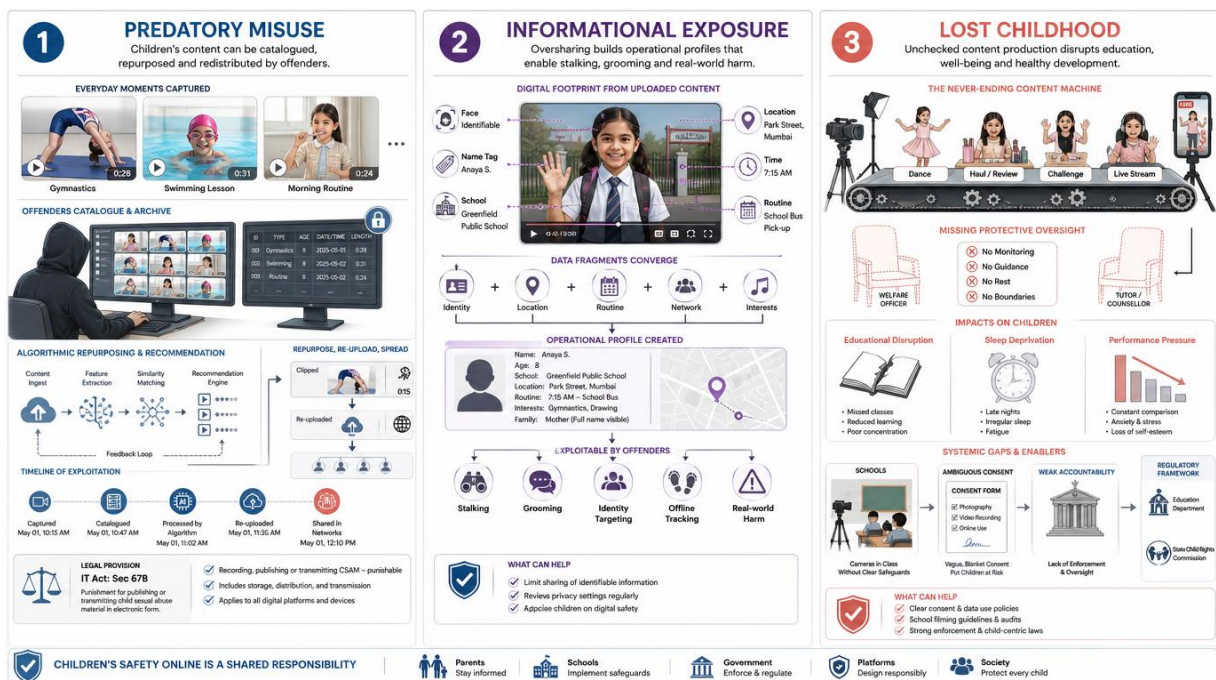


Fig -12: Immediate Dangers Predatory Misuse, Location Exposure, and Lost Childhood

There are documented instances, in which such content has been actively created by platform recommendation systems, optimizing for engagement, and presented to accounts that showed interest in such content in the form of viewing sequences. For the parent, it's a cute video, for a portion of the audience, it's something else, and it's equally effective for both for the platform's machinery. Such downstream misuse is not beyond the reach of the Indian children's content and Section 67B of the Information Technology Act along with storage offences under child protection laws are directly involved.

The second immediate risk is that of informational exposure. Videos of festivals, travelling and events are routinely uploaded to family pages, and they often show a kid's face, their name, their school uniform and therefore their school, their home and neighbourhood, their daily routine, and their real-time location. This information, pieced together from dozens of videos, is a detailed operational profile of a particular child – the type of information that stalkers, groomers and kidnappers would otherwise find difficult to get. It is just this sort of information that is usually made public that serves as the starting point for online grooming, enabling an offender to approach a child in a disarming way.

The third is less noticeable than the loss of childhood. High output channels need a constant flow of materials. There are no working hour limits, no welfare officer, no education tutor safeguarding, and no wrap date for the home set, as compared to a regulated film production. Child's play, sickness, moods, and feelings are stocked. The educational disruption, sleep displacement and need to perform on demand are all invisible, as no outsider ever sees the workplace. The problem is compounded by the fact that schools sometimes allow and even create recordings of the students which might include embarrassing or naughty moments not with informed, revocable, written parental consent, but certainly not with the child's own meaningful consent. If so, then an institution that takes children into its care in place of the parent has a greater responsibility for them, and its involvement in the monetisation and or public display of pupils should be a matter for immediate regulatory action by education departments and child rights commissions.

15. BUSINESS BEHIND THE REELS AN ECONOMY THAT REWARDS MANUFACTURED DISTRESS

To comprehend the practice despite the legal liability mentioned above, one needs to follow the money. The business model of short video platforms is based on a three-way model platform that sell viewers' attention to advertisers, creators provide the content to attract viewers, and platforms return the money to creators through various means such as advertising revenue sharing, platform incentive funds, virtual gifting, brand sponsorships, and affiliate e-commerce. In this market, kids are a very productive factor. When it comes to content that is engaging, content with kids almost always elicits strong emotions tenderness, amusement, outrage, concern, and engagement is what the recommendation systems reward. A family can therefore transform a child's everyday life into a business, without having to invest in a studio, employ staff or capital other than a telephone.

The structural issue isn't that families make money; and the truth is that creator income has helped some Indian families better in terms of material welfare, even in smaller towns where there are few opportunities for formal economic activity. It's the shape of the incentive gradient that is the problem. The market is attuned to emotional intensity, and it always beats ordinariness the set-up prank beats the unscripted moment, the crying child beats the content child, the medical emergency beats the healthy week. Creators react to these signals in a rational manner, and once one of these escalations is successful, it sets a new standard for all imitators. The consequence is a race to the extremes, to greater and more actable child content, and no single family can opt out without jeopardizing their livelihoods.

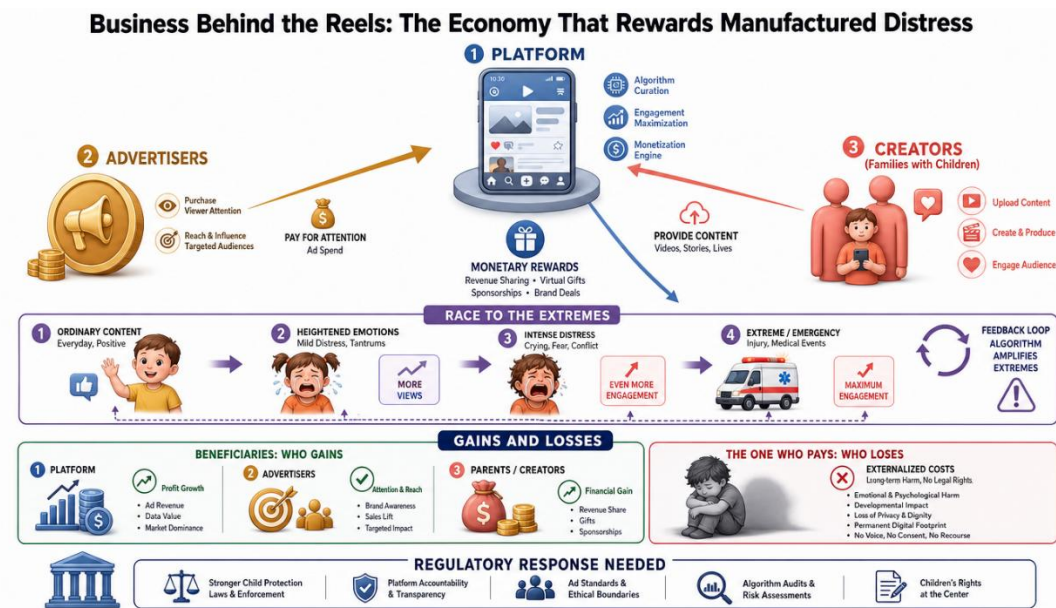


Fig -13: Business Behind the Reels The Economy That Rewards Manufactured Distress

Also see where the gains and losses are. The platform makes money from its ad share and is completely ambivalent towards the impact of the content on the showcased child. The advertiser benefits from attention and seldom checks the production of the ad. The parent is directly benefitted. The child, whose life and character is the product, is given no legal rights to any of it, and is saddled with all the long-term costs, in the typical Indian scenario. This is an archetypal externality, as economists would call, the harm to which goes to someone who is not a party to the deal, namely a minor, who cannot protect himself. Such markets are not self-correcting, but are corrected by regulation, as has occurred in every other industry where child labour has been an issue. That history does not apply to the reels economy. It is just the next episode of its life which is yet to be enacted.

16. THE OTHER SIDE OF THE BALANCE PARENTAL RIGHTS, FREE EXPRESSION, AND THE PERILS OF OVERREACH

The most serious objections to the regulatory programme proposed in this article must be faced if there is to be intellectual fairness.

The first voice is parental autonomy. Indian law, like most laws, assumes that parents not the state are the best judges of their children's upbringing and that state interference in the family is exceptional. Most parents who record their children are not doing so for money, but out of pride and love the system of the greedy few should not lightly be condemned as criminal by the loving many. Any law should therefore be based on objective thresholds in the commercial world, such as the number of posts or the length of time that a person has been Monetising, or the amount of income they have generated, etc., and not simply the presence of a kid on camera, which ordinary family sharing would be completely unaffected by.

The second challenge is freedom of expression. The documentation of family life is protected by Article 19(1)(a) of the Constitution and restrictions must meet the tests of reasonableness under Article 19(2) and, following the privacy jurisprudence of 2017, the proportionality test legitimate aim, rational connection,

necessity and balancing. The goal to prevent children from being exploited economically and harm to their dignity is certainly legitimate, and there is no restriction on speech per se in the rules governing the protection of earnings they merely channel them elsewhere. The film-hour restrictions and distress bans are welfare restrictions that have obvious parallels to those in film-set regulation and are content neutral. The most problematic proposal is the right of erasure which does erase published expression because it is based on the unique situation that the speaker and subject are not the same, and the subject never consented. But there should be exceptions in the law for the true journalistic, educational and artistic portrayal of children.

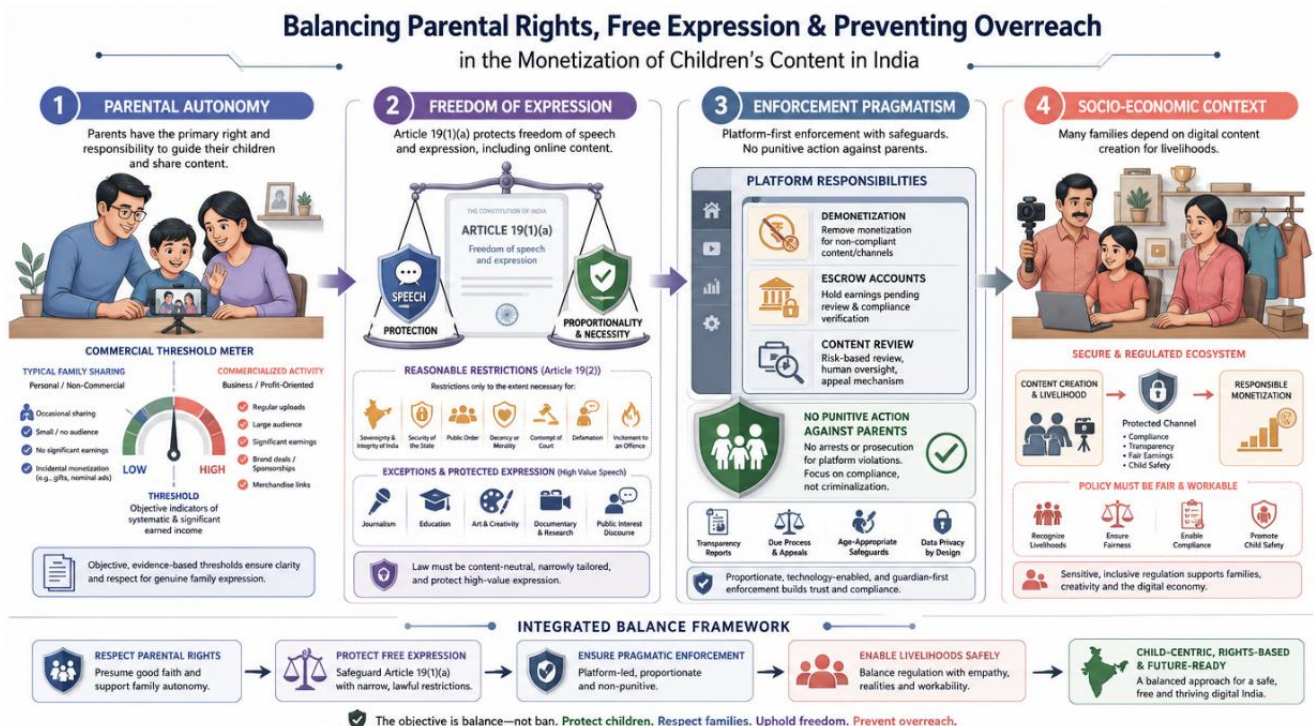


Fig -14: Balancing Parental Rights Free Expression & Preventing Overreach

The third is pragmatic enforcement can be intrusive and therefore could be detrimental to children. Where the investigations go through family channels, children are placed in the stressful situation of being investigated against their parents too many reporting systems mean that too many reports can be vexatious, including in matrimonial cases. So, platform-level structural measures demonetization, limited circulation, earnings to be deposited in escrow accounts should be preferred to punitive measures against parents, with prosecution reserved for situations where the content is clearly sexual or there is clear evidence of cruelty.

Last, it is appropriate to have modesty regarding class and context. For some Indian families, livelihoods are a means out of the precariousness of the situation and a policy framed in metropolitan ignorance of it would be both unfair and unworkable. This is not to be achieved by allowing exploitation because of poverty that's a deal already struck by child labour law – but by making lawful, regulated, child-respecting content creation economically viable, and so compliance a way rather than a punishment. Regulation which withstands these objections will be more focused, more limited and more

constitutionally sound. Regulation which neglects them will be overturned, avoided, or disliked and the children for whom it was intended will be no better off.

17. TECHNOLOGY AS CAUSE AND AS CURE

These technologies that are the foundation of this economy need to be explained in layman's terms, as they are the very thing that is causing the issue and at the same time, the best tools available to solve it.

Recommendation algorithms are prediction systems, They see which videos a viewer watches, replays, likes and shares, and continually choose the next video that they think will keep him or her watching. They have no understanding of the dignity of the child, they maximise a mathematical goal, usually watch time and engagement. When people spend time watching videos of kids either for good or bad the system dutifully provides more, and it's not just the audience of a given channel that's getting more child content, but there's evidence of how the system can create harmful sequences of videos for predatory users elsewhere in the world. On top of this machinery are monetisation systems that connect ads to videos and viewers and then pay out according to formulas based on views and engagement, thus closing the incentive cycle mentioned above that leads to household income.

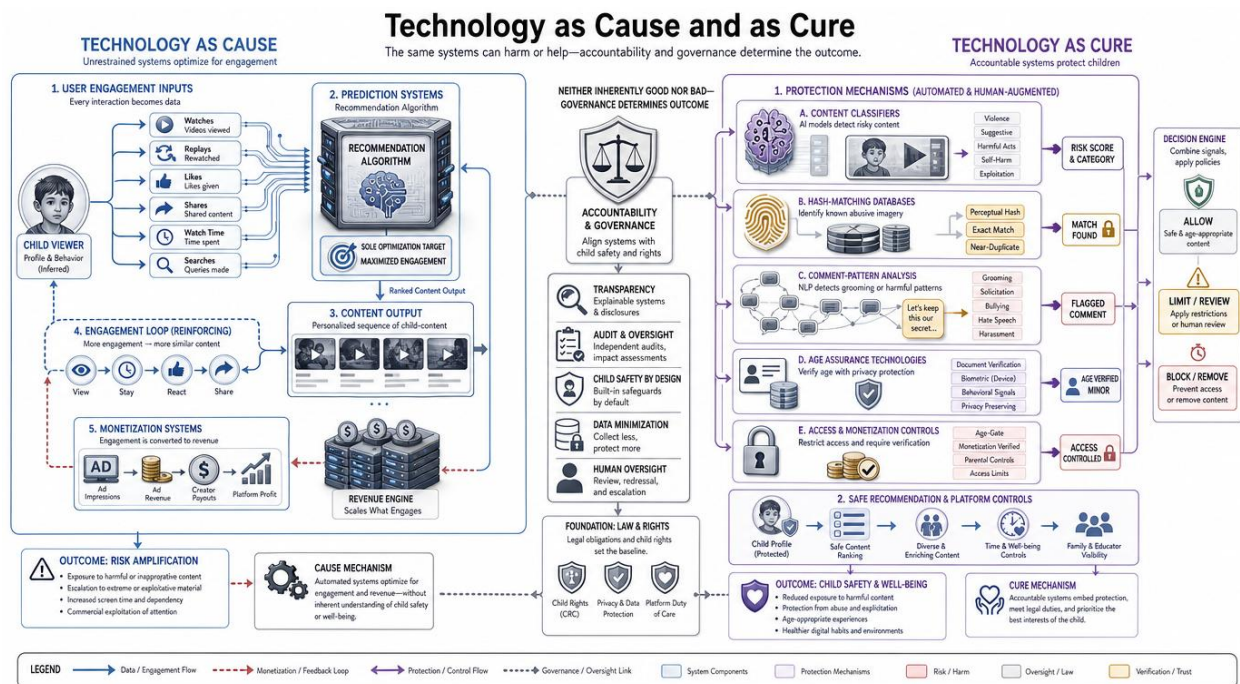


Fig -15: Technology as Cause and as Cure

However, the same technical possibilities can be turned upside down to safeguard children and some of these are already working on a large scale in related areas. The classification of whether a video is predominantly about a minor or not can be done reliably by automated classifiers and already exists on platforms, in some countries, to block comments or adverts on videos targeting minors, due to external regulatory pressure. Known abusive imagery is detected when uploaded, through hash-matching databases. Predatory coordination can be identified using timestamping and coded language, which can be identified by comment-pattern analysis. Age-assurance technologies can allow for the creation

of monetised accounts with minors and ensure that the audiences that are recommended that content are age-assured, from document verification to privacy-preserving age estimation.

The key factor is that none of these protections is an invention, it is an obligation. A platform that can technically verify that the revenue of a channel is derived from a minor can require legal proof of compliance with District Magistrate permission, evidence of a protected earnings account, before allowing monetisation. If a system can recommend a kid's video to a million strangers, it can default that video to restricted circulation as well. India's intermediary due diligence and data protection law provide the regulators with the legal lexicon to make these powers obligations. But technology is not the bad guy in this story, it's the unaccountable use of technology. The industrialisation of exposure can be replicated to protect children, by law.

18. HOLDING PLATFORMS ACCOUNTABLE INTERMEDIARY LIABILITY UNDER INDIAN LAW

Are the platforms legally liable. The answer, according to Indian law is yes but it is becoming a qualified yes. The well-known 'safe harbour' immunity of intermediaries is provided in Section 79 of the Information Technology Act, 2000, and has been expressly qualified. Not available where intermediary conspires, abets or aids the unlawful act, or where when having actual knowledge or government notification of the unlawful content it does not remove or disable access expeditiously. In 2015, the Supreme Court expanded the definition of actual knowledge, stating that it is a court order or notification from the appropriate government agency, but does not shut down enforcement proceedings.



Fig -16: Holding Platforms Accountable Intermediary Liability Under Indian Law

The Information Technology Intermediary Guidelines and Digital Media Ethics Code Rules, 2021, added a lot of weight to these conditions. Intermediaries will be required to carry out specific due diligence, including creating rules to prevent children from being exposed to harmful content and content that violates any law; significant social media intermediaries will have additional obligations, such as

appointing grievance officers in India and reporting on compliance and content showing private areas or impersonation must be taken down within strict statutory time periods if a complaint is made and rules will require platforms to make reasonable efforts to ensure that users do not produce unlawful content, which arguably extends to the design of systems that actively promote unlawful content. If the due diligence is failed, then the safe harbour is lost, and the platform will be liable under any law in conjunction with the uploader. If the users are aggrieved after going through the grievance process in the platform, they can escalate to the statutory Grievance Appellate Committee.

Two additional liability pathways are coming to light. The Digital Personal Data Protection Act, 2023 has made platforms data fiduciaries in their own right, and the restrictions on profiling children, targeted advertising to children, and processing data detrimental to children's wellbeing apply to the platform's own actions the profiling, recommendation and monetisation of children for which there is no safe harbour, as the platform is not merely a conduit for its own algorithms. The penalties for violations of the Act are severe. Constitutional litigation is quite possible on its own public interest litigation could be used to seek mandatory child-content policies, restrictions on monetisation, default protection and enforcement of existing guidelines, using Article 21, 39(e) and 39(f) and the ratified international convention. The international trend is reflected in litigation across the world, including coordinated efforts by dozens of state enforcement agencies, claiming platform design knowingly harms minors. India has one of the biggest bases in the world and thus has the leverage. It has hardly been used to date.

19. A ROADMAP FOR PROTECTION WHAT INDIA MUST DO, AND WHAT EVERYONE CAN DO NOW

The analysis leads to a two-track course enact the missing elements and enforcing the present ones. What's missing is a child-influencer protection statute, and its key elements can be taken from the international models already discussed. It should be used where a minor is the focus of monetised content where there is a significant level of frequency or income. It should stipulate that a significant proportion of the attributable earnings the international rule is that this should be much more than the current entertainment rule of 20 per cent should be paid into a protected account in the child's name until the child reaches majority. It should set limits on the amount of time that children should spend on a film that are age appropriate and not allow filming of children in real distress, in underwear or in embarrassment. Should include a registration process for commercial channels that feature children and District Child Protection Units. Most importantly, it should include a statutory right to erasure for the child, which is to be exercised when the child objects to such content being posted on a platform through an independent mechanism until they turn 18 and unconditionally upon reaching 18, requiring platforms to delete content in which the child was featured as a minor, regardless of parental objections. It should finally consider the child's developing capacity to refuse to have the film made, so that the will of an older child will be final.

No legislative patience is necessary when it comes to enforcement of existing law. Child rights commissions can raise awareness about and enforce the 2022 guidelines for social media creators labour authorities can consider social media channels that are monetized for an extended period of time to be entertainment work and thus subject to child protection laws police cybercrime units can enforce the child protection and information technology laws concerning social media content that shows distress or exposure; consumer protection authorities can take action against undisclosed child endorsements. Platforms should be instructed by the intermediary rules to stop monetisation of child-

centred content if they do not know that this is done in compliance, and to set it to restricted mode with comments and downloads disabled, as well as to keep fast-track reporting systems for child exploitation.

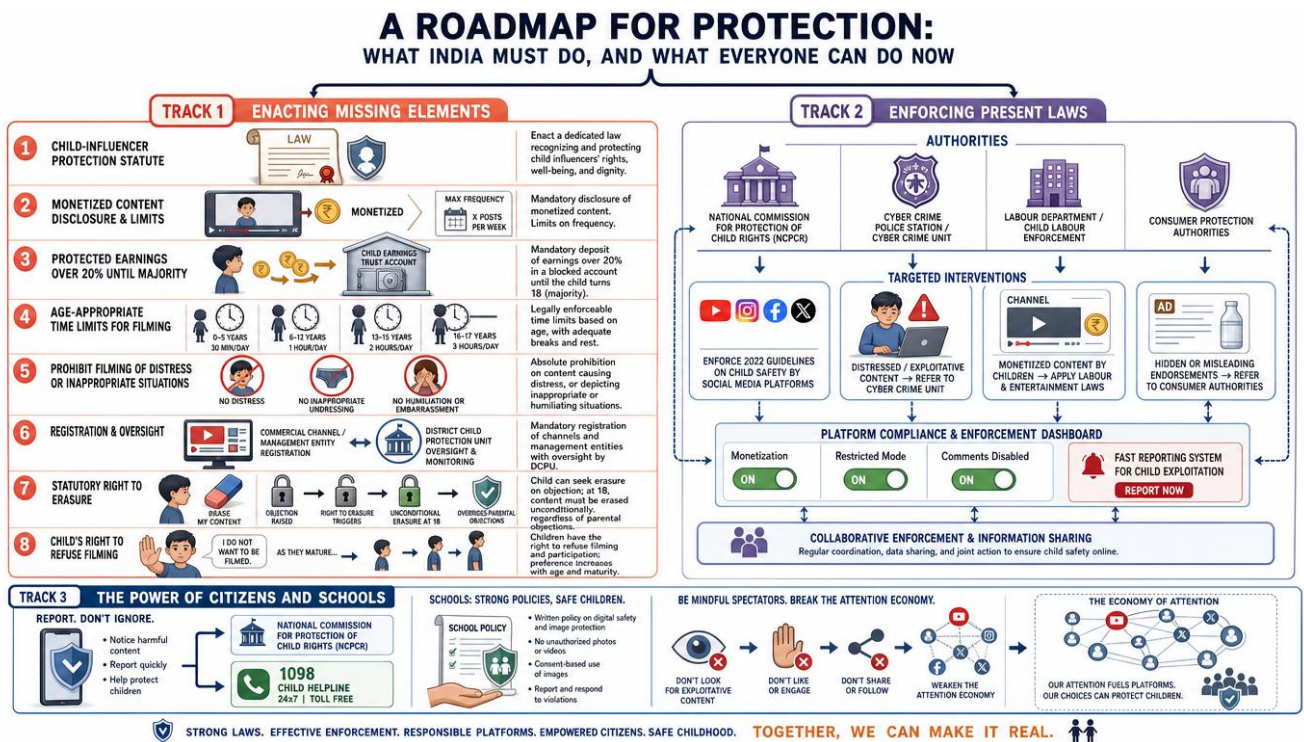


Fig -17: A Roadmap for Protection

The power of citizens is immediate. Exploitative content can be reported via the national cybercrime reporting portal, the national and state child rights commissions as well as the national child helpline. Schools should have written policies to prevent the taking of images of pupils for use in a monetised or public channel without informed and revocable consent and protection. And each spectator has the power to refrain from liking, sharing, and following the lifeblood of the whole system. An economy of attention is very fragile and cannot stand up to a lack of attention.

20. THE RESEARCH GAP

Intellectual honesty is to recognize what is not known and not done the voids are discoveries. The first is legislativ India is lacking both an earnings-protection and an image-rights law for children in monetised online content. The deposit requirement in the child labour rules was written with an eye to discrete productions where there is an identifiable employer, and is not a good fit for continuous channels, which are operated by parents the data protection statute protects the child's data but not the child's wallet and there is no Indian law that currently gives a grown child the right to ask for the deletion of a childhood published by their parents. Precisely these protections have been put in place in jurisdictions across Europe and North America, and India has yet to do so, let alone pass an equivalent.



The second gap is in the realm of the empirical. To the best of ascertainable knowledge, there is no systematic Indian study that has measured the prevalence of monetised child content, the income that has been generated from the same, the educational and psychological outcomes of the children in the content and the downstream misuse of the Indian children's videos. The literature on psychology and investigations used internationally is strong and foreign; Indian family types, economic pressures and platform usage patterns may inflect the phenomenon in ways only domestic research can reveal. This should be a priority research agenda for universities, child rights commissions, and funding bodies, as legislation will be better designed and will be more difficult to oppose if it is based on domestic evidence.

The third gap is enforcement and coordination of institutions. The 2022 guidelines, the labour rules and the criminal statutes analysed above are spread out amongst different ministries, commissions, and enforcement agencies without a lead agency for children in digital content. There is no platform level compliance gateway between the law and the monetisation no training to enable District Child Protection Units or cybercrime officers to identify a monetised family channel as a potential child labour or neglect site. The fourth gap is jurisprudential there has been no reported Indian judgment on a child's claim against a parent or a platform for monetizing childhood content which has squarely dealt with the interplay between the privacy right and the data protection statute and parental authority. All these gaps are open to be closed, and each closing is a research, policy or litigation opportunity for the author.

21. CONCLUSION

The question of this article is quite simple is it lawful and good for society that children are filmed sometimes crying, sometimes embarrassed, always without the ability to consent, and then published for profit on the short-video platforms, with only the approval of their parents. The doctrinal response that has been built up throughout the previous pages is disturbing. Parental consent is not the universal authorization as is popularly believed but is restricted to the best interests of the child as per Indian law. Outside the boundaries of this are a number of laws which already extend to this practice child protection law criminalizing exploitative depiction, information technology law addressing online abuse, labour law regulating child performance and mandating earnings protection, data protection law prohibiting processing detrimental to a child's wellbeing, consumer law governing child endorsements, and constitutional guarantees of privacy and dignity belonging to the child personally. A significant portion of the content shared on Indian platforms every day is not in a legal grey area, it's on very thin ice and in a class of cases, has already slipped through.

It is not a lack of law that India is lacking, but three other things. It is unaware, among parents who truly don't realize that monetizing a kid is a controlled activity, among schools that film pupils without a thought to consent, among viewers who like and finance the entire enterprise. It is lacking in enforcement because there is no institution yet to link the current laws with the platforms where the regulated behavior is taking place. And it has no specific law like those already in place in other countries which will place the money earned by the child in a trust, restrict the amount of filming and allow the grown up child to "erase" the childhood that has been published without his or her consent.

The need is urgent and for generations. Today's family anchors are children who will be 10 or older in the next 10 years. They will look for their names, see their own videos of tantrums, punishments and illnesses, and realize that these times resulted in adults they trusted getting paid. Some will forgive, some will grieve and some will litigate. The decision is up to society whether to offer protection to that generation in time or apologies too late. Each reader contains a part of the solution. Legislators can write regulators can

regulate, platforms can redesign, schools can refuse, researchers can measure, parents can pause before they tap to approve, every viewer can remember that behind the reel is a real child who never signed anything. Childhood is not happy. It's the one show that shouldn't have been put up for auction.

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