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The Evolution of Child Labour in India from Traditional Industries to Digital Platform

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ABSTRACT

Child labour in India has undergone significant transformation over the years, reflecting changes in the country's economic, social, and technological landscape. Traditionally, children were employed in agriculture, carpet weaving, mining, fireworks, beedi making, domestic work, and other informal industries, often due to poverty, lack of education, and family dependence on child income. Despite constitutional protections and legislative measures such as the Child Labour (Prohibition and Regulation) Act, 1986, as comprehensively amended in 2016, child labour continues to persist in various forms. In recent years, the rapid expansion of digital technology has created new and less visible forms of child labour. Children are increasingly involved in content creation, social media influencing, online gaming, digital marketing, data entry, and platform-based gig work, often without adequate legal protection or regulation. While these activities may appear harmless or voluntary, they can expose children to exploitation, excessive working hours, psychological stress, cyber risks, and educational disruption. This evolution highlights the need to broaden the legal understanding of child labour beyond traditional physical occupations to include emerging digital forms of economic exploitation. The study examines the historical development of child labour in India, analyses the effectiveness of existing constitutional and labour law protections, and explores the legal and policy challenges posed by digital platforms. It further emphasises the importance of strengthening enforcement mechanisms, promoting universal education, enhancing digital safety regulations, and ensuring that technological progress does not undermine children's rights. A comprehensive legal framework is essential to eliminate both traditional and modern forms of child labour in India while safeguarding the dignity, education, and holistic development of every child.

Keywords: *Digital Child Labour, Child Influencers, Child and Adolescent Labour Act 1986, Sharenting, Article 24, Legal Regulation, Digital Rights, Child Protection, Online Monetization, Economic Exploitation*

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I. Introduction

The history of child labour in India is usually told as a history of places: the field, the match factory, the carpet loom, the beedi shed, the employer's kitchen. Exploitation was legible because it was physical, and the law built around it assumed an inspector who could walk through a workplace door. Article 24 of the Constitution forbids the employment of a child below fourteen in any factory or mine or in any other hazardous employment,[1] and the statutory scheme that grew from it took the factory gate as its organising image. On the Census of 2011, ten million children between five and fourteen were at work on that traditional understanding of the term.[2] Globally, the most recent joint estimates place some 138 million children in child labour, of whom about 54 million are in hazardous work.[3]

That image no longer describes where a growing share of children's commercially valuable work now happens. The expansion of the digital creator economy has produced a worker the legislature of 1986 did not contemplate: the child performer whose workplace is the family living room and whose de facto manager is a parent. Channels built around children command audiences in the millions and generate advertising revenue, brand sponsorship and affiliate income on video-sharing and social platforms. In its brief for the Sixth Global Conference on the Elimination of Child Labour, the United Nations Children's Fund treats these digital forms as a frontier that existing child labour frameworks were not designed to reach.[4]

This article argues that the Indian framework, for all its post-2016 strength on paper, remains anchored to an industrial conception of the workplace, and that the anchor now holds it away from the site where a growing share of child economic exploitation occurs. The argument proceeds from the statutory text, through the constitutional guarantees and the conceptual distinction between child work, child labour and digital child labour, to the specific gaps in enforcement, privacy and earnings, and closes with reform proposals drawn from comparative practice.

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[1] India Const. art. 24.

[2] International Labour Organization, *Fact Sheet: Child Labour in India* (reporting, on Census of India 2011 data, that 10.1 million children aged five to fourteen years work as main or marginal workers, being 3.9 per cent of that age cohort). The Ministry of Labour and Employment's headline series counts main workers only, and records a decline from 57.79 lakh in 2001 to 43.53 lakh in 2011.

[3] International Labour Organization & United Nations Children's Fund, *Child Labour: Global Estimates 2024, Trends and the Road Forward* (2025) (estimating 137.6 million children in child labour worldwide, of whom 54 million are in hazardous work). These figures supersede the estimate of 160 million published in the corresponding 2020 report.

[4] United Nations Children's Fund, *New Frontiers in Child Labour: Why Digital Risks Demand Urgent Attention* (Feb. 2026) (brief prepared for the Sixth Global Conference on the Elimination of Child Labour, Marrakech, 11–13 Feb. 2026).

II. The Statutory Regime and Its Blind Spot

The governing statute is the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.[5] The name matters. The parent Act was enacted as the Child Labour (Prohibition and Regulation) Act, 1986, and acquired its present short title only when Parliament amended it in 2016.[6] The amendment made two structural changes.

First, it replaced a schedule-based prohibition with an absolute one. Section 3(1) now bars the employment of any child below fourteen in any occupation or process, without exception by industry,[7] aligning the labour statute with the compulsory schooling age fixed by the Right of Children to Free and Compulsory Education Act, 2009.[8]

Second, it created the intermediate category of the adolescent, a person who has completed fourteen but not eighteen years, and prohibited the employment of adolescents in the hazardous occupations and processes set out in the Schedule.[9] The post-amendment Schedule is drastically shorter than its predecessor, listing only mines, inflammable substances or explosives, and hazardous processes within the meaning of the Factories Act, 1948.[10]

The prohibition in section 3(1) is, however, qualified by two exceptions. A child may help the family or a family enterprise after school hours or during vacations, provided the work is not among the hazardous occupations or processes in the Schedule; and a child may work as an artist in the audio-visual entertainment industry, including advertisement, films, television serials or any other entertainment or sports activity except the circus, subject to prescribed conditions and safety measures and without prejudice to the child's school education.[11]

Those two exceptions, drafted with the seasonal farm and the film set in view, now do work their drafters never intended. Commercial content production inside a home satisfies both descriptions at once. The child assists a family enterprise; the child performs for an audio-visual medium. There is no establishment to inspect, no contract of employment to construe and no

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[5] The Child and Adolescent Labour (Prohibition and Regulation) Act, No. 61 of 1986, India Code (1986), as amended by the Child Labour (Prohibition and Regulation) Amendment Act, No. 35 of 2016, India Code (2016) (in force w.e.f. 1 Sept. 2016) [hereinafter the 1986 Act].

[6] Child Labour (Prohibition and Regulation) Amendment Act, No. 35 of 2016, § 3 (substituting the short title in § 1(1) of the principal Act). Section 2 of the Amendment Act correspondingly substituted the long title.

[7] The 1986 Act, *supra* note 5, § 3(1) ("No child shall be employed or permitted to work in any occupation or process.").

[8] The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, India Code (2009) (in force w.e.f. 1 Apr. 2010, vide Notification S.O. 428(E) dated 16 Feb. 2010).

[9] The 1986 Act, *supra* note 5, § 3A; *see also id.* § 2(i) (defining "adolescent" as a person who has completed his fourteenth year but has not completed his eighteenth year).

[10] The 1986 Act, *supra* note 5, sched. (as substituted by § 22 of the Amendment Act of 2016), listing mines, inflammable substances or explosives, and hazardous processes within the meaning of clause (cb) of section 2 of the Factories Act, 1948.

[11] The 1986 Act, *supra* note 5, § 3(2)(a)–(b).

employer distinct from the parent. The result is not a loophole in the ordinary sense so much as a category error: the statute recognises the activity only when it can locate an employer, and in the creator economy the employer and the guardian are the same person.

III. The Constitutional Framework and Child Rights Jurisprudence

The Constitution protects children through a cluster of provisions spanning fundamental rights, directive principles and fundamental duties. Read together, they establish that childhood is a constitutionally protected condition and that the State bears an affirmative duty towards it.

A. Equality and Protective Discrimination

Article 14 guarantees equality before the law and the equal protection of the laws to every person, children included.[12] Article 15(1) prohibits discrimination, but Article 15(3) preserves the State's power to make special provision for women and children.[13] That clause is not an exception to equality so much as an expression of it: differential protection for a class that cannot bargain for itself is what substantive equality requires. A child who signs nothing, negotiates nothing and cannot withhold labour from a parent is precisely the person Article 15(3) contemplates.

B. The Right to Free and Compulsory Education

Article 21A, inserted by the Constitution (Eighty-sixth Amendment) Act, 2002, obliges the State to provide free and compulsory education to all children between six and fourteen years in such manner as the State may by law determine.[14] It is given statutory content by the Right of Children to Free and Compulsory Education Act, 2009, which came into force on the same day as the amendment itself.[15]

Article 21A is the guarantee most directly threatened by monetised content production, because the injury it suffers is invisible. A child who films late into the night is not absent from the school roll; the child is present and exhausted. Educational deprivation of that kind leaves no enforcement trigger and shows up in no register.

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[12] India Const. art. 14.
[13] India Const. art. 15(3).
[14] India Const. art. 21A, inserted by the Constitution (Eighty-sixth Amendment) Act, 2002, § 2 (w.e.f. 1 Apr. 2010).
[15] Right of Children to Free and Compulsory Education Act, *supra* note 8, § 2(c) (defining "child" as a male or female child of the age of six to fourteen years).

C. Prohibition of Employment in Hazardous Work

Article 24 prohibits the employment of a child below fourteen in any factory or mine or in any other hazardous employment.[16] Its reach has always turned on how hazardous is construed, and the Supreme Court has construed it purposively rather than by reference to any statutory list, holding in the Asiad workers case that construction was hazardous employment within Article 24 notwithstanding its omission from the schedule to the then governing statute, and that the constitutional prohibition operates *proprio vigore*.[17]

That interpretive tradition is the strongest resource available for the digital question. Digital hazard is cognitive and psychological rather than physical: sustained exposure to public scrutiny and hostile commentary, algorithmic pressure to publish at a fixed cadence, and, for children drawn into annotation and moderation tasks, exposure to graphic material without any of the safeguards a regulated workplace would require. Nothing in the text of Article 24 confines hazard to the risk of physical injury.

D. The Directive Principles

Article 39(e) directs the State to ensure that the tender age of children is not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.[18] Article 39(f) directs that children be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth be protected against exploitation and against moral and material abandonment.[19] Article 45, as substituted by the Eighty-sixth Amendment, directs the State to provide early childhood care and education for all children until they complete six years.[20]

Article 39(f) carries particular weight here. Its language reaches beyond physical harm to moral and material abandonment, and a child whose image is commercially exploited by a guardian for years, without any claim to the proceeds and without any means of withdrawing consent on attaining majority, has a plausible claim to have been abandoned in exactly that sense.

[16] INDIA CONST. art. 24; *see supra* note 1.
[17] *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235 (India) (holding that construction work is plainly a hazardous employment and that the prohibition in Article 24 must operate *proprio vigore* even in the absence of implementing legislation).
[18] INDIA CONST. art. 39(e).
[19] INDIA CONST. art. 39(f).
[20] INDIA CONST. art. 45, substituted by the Constitution (Eighty-sixth Amendment) Act, 2002, § 3.

E. Fundamental Duties

Article 51A(k) makes it the duty of every parent or guardian to provide opportunities for education to a child or ward between six and fourteen years.[21] The provision is not enforceable at the instance of a citizen, but it is significant here for a different reason: it is the one place in the Constitution that names the parent as the bearer of a child-directed obligation. Where the parent is also the commercial beneficiary of the child's work, that obligation and that interest stand in direct conflict.

IV. Conceptual Boundaries: Work, Labour and Digital Labour

Regulating children's digital activity requires a typology precise enough to distinguish the harmless from the harmful. An indiscriminate prohibition would sweep in ordinary childhood; an indiscriminate permission has produced the present position.

A. Child Work

Light, age-appropriate and voluntary activity contributing to a child's socialisation, skill acquisition and family life: household chores, hobbies, non-monetised creative expression. It carries no commercial profit imperative and is properly outside the reach of labour law.

B. Child Labour

Work that deprives children of their childhood, their potential and their dignity and that is harmful to physical or mental development. It interferes with schooling and involves economic exploitation, whether in the formal or the informal sector. This is the conduct that Article 24 and the 1986 Act address, and the conduct at which the two international instruments India ratified in 2017, the Minimum Age Convention and the Worst Forms of Child Labour Convention, are directed.[22,23]

C. Digital Child Labour

Commercial performance, content creation, product testing or lifestyle broadcasting by a child on a digital platform where the output generates revenue through advertising, sponsorship or affiliate marketing. The activity is domestic in setting but commercial in structure. It has an output, a schedule, a quality standard, a revenue stream and a manager; it lacks only the formal indicia of employment that Indian labour law uses to identify itself as applicable.[24]

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[21] India Const. art. 51A(k), inserted by the Constitution (Eighty-sixth Amendment) Act, 2002, § 4.

[22] International Labour Organization, Convention Concerning Minimum Age for Admission to Employment (No. 138), 1973 (ratified by India on 13 June 2017; minimum age specified, fourteen years).

[23] International Labour Organization, Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), 1999 (ratified by India on 13 June 2017).

[24] Francis Rees, *Famous at Five: Risk Assessing Digital Child Labour*, 34 Info. & Comm. Tech. L. 219 (2025).

V. Platform Dynamics and Empirical Reality

A. How Platforms Organise and Conceal the Work

Digital platforms operate as decentralised intermediaries, and four features of that architecture bear directly on child protection.

Work is fragmented into microtasks. Remote, piecemeal operations allocated and priced by software include training-data annotation, transcription, content moderation and engagement manipulation. Each task is small enough to look trivial; the aggregate is a working day.

Work is managed algorithmically. Assignment, optimisation and evaluation are automated, and the system rewards constant availability. There is no supervisor to hold to account and no shift to which a statutory hour limit could attach.

Work is masked by gamification. Playful interfaces, badges and point systems blur the boundary between recreation and unpaid or underpaid labour, and that blurring is precisely what makes any inference of consent unreliable.

Identity is borrowed. Minimum-age restrictions are routinely bypassed by registering an account with a parent's, a sibling's or a third party's credentials, which leaves the child with no auditable footprint at all.

B. Typologies of Digital Child Labour

Four recurring patterns can be drawn from the emerging research and policy literature.[25]

Data pipelines and micro-labour. Informal annotation operations recruit adolescents to screen and label large volumes of images and text. The work is repetitive, poorly paid and almost entirely undocumented.

Cognitive hazard. Children engaged in labelling or moderation encounter graphic violence and adult material without psychological support or any of the screening protocols a regulated workplace would impose. The hazard is real but appears on no schedule of hazardous processes.

Family monetisation. On video-sharing and live-streaming networks the child is absorbed into a household commercial enterprise in which the parent is manager, producer and beneficiary, and the child is both dependant and principal revenue source. The National Commission for Protection of Child Rights has itself recorded that, with the growth of social media, children are

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[25] United Nations Children's Fund, *supra* note 4; Rees, *supra* note 24.

increasingly being used by parents and guardians for content creation in order to generate followers and to monetise the resulting audience.[26]

Economic disenfranchisement. Child creators generate substantial household income while holding no statutory claim to it, and reach majority with no entitlement to the value their childhood produced.

VI. Research Problem, Objectives and Method

A. The Research Problem

Four problems follow. The parent occupies the roles of guardian and commercial manager simultaneously, and the two roles carry opposed incentives. There is no statutory mechanism securing the child's earnings, so financial exploitation requires no wrongdoing beyond inaction. Work intensity is unregulated, because no statutory limit on filming hours applies to a private home. And the digital footprint created in childhood is effectively irrevocable, because Indian law gives the child no mechanism to withdraw consent on attaining majority.

B. Objectives

The study evaluates the statutory framework governing child labour in India, and in particular the 1986 Act as amended in 2016; identifies the gaps in the regulation of children's commercial activity on digital platforms; examines Articles 14, 21A, 24, 39, 45 and 51A(k) as they bear on child education and protection; and assesses the effects of commercial content creation on schooling, psychological health, financial security and privacy.

C. Method, Scope and Limitations

The study is doctrinal and socio-legal. It analyses primary legal materials, comprising the Constitution, statutory enactments, subordinate legislation, administrative guidelines and Supreme Court jurisprudence, alongside international instruments and peer-reviewed secondary literature. The analytical frame is comparative, setting the Indian regime against foreign legislation that has already addressed child influencers.

Two limitations should be stated at the outset. India maintains no dedicated dataset on child participation in monetised content creation, so the empirical picture is drawn from the international research literature and cannot be assumed to hold uniformly in Indian conditions. And because much of the activity is concealed within households, no reliable estimate of its

[26] National Commission for Protection of Child Rights, *Guidelines for Child and Adolescent Participation in the Entertainment Industry or Any Commercial Entertainment Activity*, pref. paras. 1, 5 (2023).

prevalence in India presently exists. The claims made here about scale are therefore qualitative, and are offered as such.

VII. Observed Patterns of Harm

Three patterns recur in the literature on digital child labour and bear directly on Indian law.

Earnings accrue to the household rather than to the child. Family channels can generate substantial monthly revenue, but the child creator ordinarily has no legal access to it, and in informal digital arrangements children perform for negligible sums. The proximate cause is the absence of any general statutory requirement that such earnings be placed in a blocked account.

Harm is psychological rather than physical. Continuous filming, algorithmic pressure to maintain publication frequency and permanent exposure to public commentary generate risks to identity, dignity and psychological development that existing privacy, child labour and online safety regimes were not built to address.[27] These harms map poorly onto a schedule of hazardous processes organised around physical injury.

Schooling is disrupted without absenteeism. Filming during school hours or late in the evening produces chronic fatigue and erodes the substance of the Article 21A entitlement even where formal attendance is maintained.

VIII. Analysis

A. Enforcement and Domestic Invisibility

Enforcement under the 1986 Act rests on Inspectors appointed by the appropriate Government and, since 2016, on the District Magistrate's inspection and monitoring functions.[28,29] Both presuppose a physical establishment that someone may enter. Digital content creation occurs inside private dwellings, which are neither establishments nor within the inspectorate's mandate.

The enforcement machinery is not weak here; it is inapplicable. Any effective reform must therefore attach the regulatory trigger to something other than premises, and the natural candidate is monetisation itself, because that is the single point at which the activity becomes visible to a third party.

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[27] Rees, *supra* note 24 (analysing risks to identity, dignity and psychological development arising from the commercialised representation of children on social media, and concluding that no existing privacy, child labour or online safety framework in the United Kingdom provides for them).

[28] The 1986 Act, *supra* note 5, § 17 (appointment of Inspectors).

[29] The 1986 Act, *supra* note 5, §§ 17A–17B (District Magistrate to implement the provisions; inspection and monitoring), both inserted by the Amendment Act of 2016.

B. Privacy, Consent and the Digital Footprint

Section 9 of the Digital Personal Data Protection Act, 2023 will require verifiable parental consent before the personal data of a child is processed, will bar processing likely to have a detrimental effect on a child's well-being, and will prohibit tracking, behavioural monitoring and advertising targeted at children.[30] The provision is not yet operative: the commencement notification of November 2025 brought the Act's institutional provisions into force but deferred sections 3 to 17 by eighteen months.[31]

When it does take effect, section 9 will assume that the parent's interest and the child's interest coincide. That assumption fails in the sharenting case. Where a parent uploads a child's image for commercial gain, parental consent operates not as a safeguard but as the very instrument of exposure. Nor does the Act supply a corrective: a person who reaches majority has no clear statutory right to compel erasure of a commercial archive assembled during childhood by the one person legally entitled to consent on their behalf.

C. Earnings and Financial Exploitation

Indian law contains no general provision compelling a parent to hold a child's commercial earnings in trust. Three comparative regimes have addressed precisely this. California requires the employer of a minor performer to set aside fifteen per cent of the minor's gross earnings under the contract in a blocked trust account accessible on majority.[32] France legislated in 2020 to regulate the commercial exploitation of the image of children under sixteen on online platforms, requiring a declaration to the competent authority above prescribed thresholds, directing revenue beyond a threshold to be paid without delay to the Caisse des Dépôts et Consignations and held until the child's majority, and permitting a minor to exercise the right to erasure of personal data without parental consent.[33] Illinois added a section to its child labour law in 2023, in force from July 2024, giving a minor under sixteen who features in at least thirty per cent of a vlogger's compensated content over any thirty-day period an enforceable claim to

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[30] The Digital Personal Data Protection Act, No. 22 of 2023, § 9(1)–(3), INDIA CODE (2023).

[31] Notification G.S.R. 843(E) dated 13 Nov. 2025, bringing §§ 2, 18–26, 35–43 and § 44(1) and (3) of the Act into force on that date and appointing a date eighteen months later for §§ 3 to 17.

[32] CAL. FAM. CODE §§ 6750–6753 (West); *see id.* § 6752 (requiring the employer to set aside 15 per cent of the minor's gross earnings under the contract in trust), *id.* § 6753 (the "Coogan Trust Account").

[33] Loi 2020-1266 du 19 octobre 2020 visant à encadrer l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne [Law 2020-1266 of 19 October 2020 on Regulating the Commercial Exploitation of the Image of Children Under Sixteen Years on Online Platforms], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.], 20 Oct. 2020, arts. 1, 3, 6. The monetary and duration thresholds are left to a *décret en Conseil d'État* and are not reproduced here. *See also* Loi 2023-451 du 9 juin 2023, art. 3 (applying the 2020 Law where the commercial influence activity is carried on by a person under sixteen); Loi 2024-120 du 19 février 2024 visant à garantir le respect du droit à l'image des enfants (amending the Civil Code to make the protection of a minor's image a shared parental obligation).

a share of gross earnings, calculated at not less than half the percentage of content in which the minor appears and held in trust until eighteen.[34]

India's position is not merely that it has no equivalent statute. It is that the general law of guardianship treats the parent as the child's natural protector in precisely the transaction where the parent's interest is adverse.

IX. Judicial and Regulatory Responses

A. The Supreme Court on Hazardous Child Labour

The leading authority remains *M.C. Mehta v. State of Tamil Nadu*, which arose from a petition under Article 32 concerning the employment of children in the fireworks and match factories of Sivakasi.[35] The Court held that economic necessity cannot justify child labour in hazardous industry and issued detailed directions: an offending employer was to pay twenty thousand rupees for every child employed in contravention of the Act into a Child Labour Rehabilitation-cum-Welfare Fund, and where the appropriate Government could not provide employment to an adult member of the child's family it was to deposit five thousand rupees for that child into the same Fund.[36]

Three features of *M.C. Mehta* matter for the digital question. The Court treated child labour as a constitutional wrong and not merely a statutory offence. It fashioned a financial remedy that ran to the child rather than to the State. And it made education a component of relief rather than a separate welfare aspiration. Each of those moves is available again.

The Court had earlier held, in *People's Union for Democratic Rights v. Union of India*, that the constitutional category of hazardous employment is not exhausted by whatever the legislature has happened to list.[37] That holding is the crucial precedent for digital work. In *Bandhua Mukti Morcha v. Union of India* the Court addressed child labour in the carpet industry of Uttar Pradesh and issued welfare directions extending to education and health,[38] and in *Bachpan Bachao Andolan v. Union of India* it prohibited the employment of children in circuses and directed their rescue and rehabilitation.[39]

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[34] 820 Ill. Comp. Stat. 205/12.6, added by Public Act No. 103-0556 (Ill. 2023) (effective 1 July 2024). The section applies where at least 30 per cent of a vlogger's compensated video content over a 30-day period includes the minor's likeness, name or photograph and the content meets the platform's compensation threshold or earns at least ten cents per view.

[35] *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756 (India) (decided 10 Dec. 1996).

[36] *M.C. Mehta*, *supra* note 35, paras. 27, 29–30. The sum of five thousand rupees is a one-time contribution by the appropriate Government to the Fund and not a recurring payment; the Court also indicated a deposit of twenty-five thousand rupees as the alternative to providing employment to an adult member of the family.

[37] *People's Union for Democratic Rights*, *supra* note 17.

[38] *Bandhua Mukti Morcha v. Union of India*, (1997) 10 SCC 549 (India) (decided 21 Feb. 1997).

[39] *Bachpan Bachao Andolan v. Union of India*, (2011) 5 SCC 1 (India) (decided 18 Apr. 2011).

Two observations follow. First, the Court's child labour jurisprudence has consistently expanded the constitutional category beyond the statutory one, which is exactly what a digital claim would require. Second, every one of these cases involved a third-party employer. None supplies a template for a case in which the exploiting party is the guardian, and that is the gap the creator economy exposes.

B. The Regulatory Turn: Child Artists and Digital Media

The most directly applicable Indian instruments are subordinate and administrative rather than statutory. The Child Labour (Prohibition and Regulation) Amendment Rules, 2017 prescribe the conditions on which a child may work as an artist: the producer of any audio-visual media production or commercial event must obtain the permission of the District Magistrate of the district where the activity is performed and furnish an undertaking; no child may work more than five hours in a day or more than three hours without rest; no child may work for more than twenty-seven consecutive days; one responsible person must be designated for every five children; and at least twenty per cent of the child's income must be deposited directly in a fixed deposit account in a nationalised bank in the child's name, to be credited on attaining majority.[40]

The National Commission for Protection of Child Rights carried that scheme forward in its Guidelines for Child and Adolescent Participation in the Entertainment Industry or Any Commercial Entertainment Activity, which extend expressly to content on over-the-top and social media platforms and reproduce the District Magistrate's permission, the hour limits, the twenty-seven-day cap and the twenty per cent deposit.[41] The Guidelines go further than any other Indian instrument in naming the problem: they devote a separate chapter to content created for social media by a child's own family, and they direct that such content be treated as a child working in a family enterprise within the meaning of the first exception in section 3(2) of the Act.[42]

That characterisation is the pivot on which the whole question turns, and it cuts both ways. It brings household content production within a recognised statutory category, which is progress. But the family enterprise clause is an exception to the prohibition rather than a source of obligation, and it carries none of the conditions that the artist clause carries through the 2017 Rules. Treating monetised family content as family enterprise therefore places it inside the one part of the statute where a child may lawfully work and outside the only part where a working child is protected. The Guidelines are, moreover, executive guidance rather than

[40] Child Labour (Prohibition and Regulation) Amendment Rules, 2017, G.S.R. 543(E) dated 2 June 2017, r. 2C.
[41] NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS, *supra* note 26, cls. 1(c), 4, 8(a)(i), 9(a), 10(c), 14.
[42] NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS, *supra* note 26, ch. 3 and cl. 11(c).

delegated legislation: they bind no one directly, they create no offence, and nothing in them is enforceable against a parent who ignores them.

Outside labour law, the Juvenile Justice (Care and Protection of Children) Act, 2015 punishes whoever engages a child and withholds the child's earnings or applies them to their own purposes, and its explanation expressly brings entertainment in public places for economic gain within the meaning of employment.[43] The same Act punishes cruelty by a person having actual charge of a child, including wilful neglect causing unnecessary mental suffering.[44] The intermediary rules made under the Information Technology Act, 2000 impose due diligence obligations on platforms.[45] None of these provisions was drafted with monetised child content in view, but the first of them comes closer than any provision of the labour statutes.

X. RECOMMENDATIONS

A. Legislative Reform

Statutory trust accounts should be made mandatory for monetised content. A defined minimum proportion of the revenue attributable to content in which an identified child features should be placed in a blocked account accessible only on majority. The Illinois formula, which ties the child's share to the proportion of content in which the child appears and gives the child a private right of action to enforce it, is the better model, because it neither depends on a contract of employment nor requires a producer to be identified.[46] The reporting obligation should rest on the platform, which alone holds the revenue data, rather than on the parent.

Filming hours should be capped by primary legislation rather than by rules that apply only where a producer engages the child. The existing limits for child artists, five hours in a day and no more than three hours without rest, supply a ready benchmark, as does the prohibition on work during school hours.

A statutory right of erasure on majority should be created, whether by amendment to the Digital Personal Data Protection Act, 2023 or by rules made under it, so that a person attaining eighteen may require the deletion of commercial content featuring them as a child irrespective of the consent given on their behalf. The French provision dispensing with parental consent for a minor's exercise of the right to erasure is a workable precedent.[47]

[43] The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, § 79, INDIA CODE (2015).
[44] Juvenile Justice (Care and Protection of Children) Act, *supra* note 43, § 75.
[45] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) dated 25 Feb. 2021.
[46] 820 ILL. COMP. STAT. 205/12.6, *supra* note 34 (requiring a set-aside equal to at least half the percentage of compensated content in which the minor is featured, and conferring a private right of action on the minor).
[47] Loi 2020-1266, *supra* note 33, art. 6.

B. Platform Regulation

Monetisation of child-featuring content should require prior registration with the National or a State Commission for Protection of Child Rights, with the platform verifying registration before enabling revenue features. This attaches the regulatory trigger to the flow of money rather than to premises, which is the only point at which the activity is reliably visible to anyone outside the household.

Platforms should be required to disable comments and to restrict behavioural advertising on accounts whose content centres on identifiable children, a requirement that would in any event follow from section 9 of the 2023 Act once it is brought into force.

C. Child Protection and Welfare

Dedicated digital monitoring cells should be established within the National and State Commissions for Protection of Child Rights, with the technical capacity to identify high-earning child-centred accounts and the statutory power to act on what they find.

Public awareness work on the privacy and psychological consequences of commercial sharenting is needed, because the conduct at issue is committed largely by parents who do not perceive it as exploitation and who would not recognise themselves in the vocabulary of child labour.

Periodic educational and psychological review should be required for children featuring in high-earning accounts, modelled on the schooling safeguards already built into the child artist rules and the reporting duty the Guidelines place on school authorities.

XI. Conclusion

The 2016 amendment brought Indian child labour law close to the constitutional promise of Article 24, and it did so by abandoning the schedule-by-schedule approach in favour of a general prohibition. The digital economy has now reproduced the original problem in a form that amendment cannot see. Work that is commercial in every respect that matters is performed in a setting the statute treats as private, by a person the statute treats as protected, at the direction of a person the statute treats as the protector.

The constitutional resources for a response already exist. Article 24 has never been confined to the hazards the legislature happened to list; Article 39(f) speaks to material abandonment as well as to physical harm; and Article 21A is compromised as effectively by exhaustion as by absence. What is missing is a statutory trigger that does not depend on finding an establishment or an employer. Monetisation supplies one, and the 2017 Rules and the Commission's

Guidelines have already assembled every component the trigger would need. Until the law attaches to the revenue rather than to the premises, the fastest-growing form of child economic exploitation in India will remain the one form the law has no occasion to notice.

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