

Virtual Stage, Real Work: Child Influencers and Universal Human Rights Norms

Miss Bhagyashree M. Patil¹

Abstract:

With the rapidly changing socio-political and technological landscape, the definition and manifestation of child labor are also shifting beyond traditional industries. The discourse of child labor has traditionally focused on employment of children in physical spaces such as factories, fields and domestic work. Previously, global efforts have been made for putting an end to child labor, however, with rapid development of digital economy, a new form of child labor is emerging, though less visible but equally concerning. In the recent years, world has witnessed the rapid emergence of child influencers, often achieving celebrity status and substantial financial gains. While this new form of digital engagement provides ample opportunities for income and creativity, it also brings to the light serious implications about welfare of children, including risk of exposure to public scrutiny, psychological stress, absence of legal framework and most importantly financial exploitation in the hands of parents or guardians of such children. This article examines the phenomenon of child influencers on social media platforms like, YouTube and Instagram, where children often create monetized content that may erase the difference between creative expression and exploitative labor. This study then proceeds to critically analyze the ethical, psychological and legal aspects of digital participation of children, asking whether such activities violate the principles of International Human Rights outlined in frameworks like, Universal Declaration of Human Rights and United Nations Convention on the Rights of the Child. It further highlights the gaps in existing legal framework and protection of children from digital exploitation especially in countries like India, where the intricacies between technology, tradition and economic aspiration complicates regulatory oversight.

Key Words: *Child Labor, Social Media, UNCRC, Human Rights, Child influencers*

Introduction

The term “Child Labor” refers to “work that deprives children of their childhood, their potential and their dignity and that is harmful for physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children.”² The phenomenon of child labor has been recognized as a violation of fundamental human rights of children, depriving them from realizing numerous basic rights like, right to health, right to childhood, right to education, right to development and right to dignity and standard of living. In common circumstances, child labor refers to “work that children are too young to perform or that by its nature or circumstances can be hazardous.”³ Under the realm of International Human Rights Law, this issue of child labor has been tackled by international

¹ Assistant Professor, Adv. Balasaheb Apte College of Law, Dadar, Mumbai

² International Labour Organization, What is Child Labour?, International Programme on the Elimination of Child Labour (IPEC), <https://www.ilo.org/international-programme-elimination-child-labour-ipecc/what-child-labour>

³ United Nations Children’s Fund, What is Child Labour?, UNICEF <https://www.unicef.org/protection/child-labour>

frameworks like, Universal Declaration of Human Rights⁴, United Nations Convention on the Rights of the Child (UNCRC),⁵ and various other conventions adopted by International Labor Organization.

The nature of child labor has evolved and developed with the changes in the society and economies. In this contemporary world, the definition of what constitutes ‘work’ has been expanded with the rapid growth of digital economy. “With the decline of television, advertisers and brands have flocked to social media influencers, defined as ‘a person who is able to generate interest in something by posting about it on social media’, to promote their products.”⁶ “Marketing agencies are now using child influencers to sell toys and other products for both children and adults.”⁷ Child influencers or Kid influencers are those children who post on various social media platforms thereby generating large number of followers, viewers and very often earn money through such platforms. Many a times such online presence of children may appear as a part of creative and artistic expression, it brings forth crucial ethical and legal implications. As opposed to adult social media influencers, these child influencers work in a legal grey area where there is limited or no protection, as in regular circumstances activities and presence of these children on social media is managed and controlled by their parents or guardians.

This evolving phenomenon of child influencers challenges traditional perception of child labor and highlights the serious concern about observance and compliance of such practices with international human rights norms protecting basic rights of children, enshrined in the UDHR and UNCRC. This Article reexamines the existing definitions of child labor in light of evolving digital realities. It seeks to critically analyzes and explores the phenomenon of child influencers and their social media presence, risk of potential exploitation, undue pressure from parents and guardians and loss of childhood, through the human rights’ lens. The central focus of this article lies in the question, whether children who are involved in influencing are sufficiently protected under existing international human rights narratives. In the end it suggests, with the rapid growth of digital economies, it is a need of an hour to address this issue to ensure protection of rights and well-being of the child influencers.

Methodology

This study is based on doctrinal research methodology. It focused on the critical analysis, examination and interpretation available legal framework, international norms of human rights and normative framework related to child labor and rights of children. UNCRC, ILO Convention No. 138 on Minimum Age, ILO Convention No. 182 on the worst Forms of Child Labor and UDHR are central to this research as these are the key instruments addressing issue at hand. It also draws attention upon existing available academic literature, including research papers, scholarly articles, legal commentaries and books that critically evaluate concept of child labor, digital rights and participation of children in influencing on social media⁸. The study further engages with few real-world well-known examples of child influencers. Lastly, it comparatively reviews the legal framework from different

⁴ G.A. Res. 217 A (III), Universal Declaration of Human Rights, U.N. Doc. A/RES/217 A (III) (Dec. 10, 1948).

⁵ Convention on the Rights of the Child, 1989, UN Doc A/RES/44/56.

⁶ MiKayla B. Jayroe, Kidfluencers: New Child Stars in Need of Protection, 76 ARK. L. REV. 771 (2024).

⁷ Kopal Mittal, Child’s Play No More: Regulating Child Influencers in India, HNLU Student L.J. 44–64 (2024).

⁸ Das, B., Pandya, M., Chaudhari, S., Bhatt, A., & Trivedi, D. (2021). Global Research Trends and Network Visualization on Climate Action : A Bibliometric Study. Library Philosophy and Practice (E-Journal).

<https://digitalcommons.unl.edu/libphilprac/5818/>

jurisdictions, such as, India, US and France, to identify legal gaps concerning human rights of child influencers.

Reassessing the Meaning of Child Labor in the Era of Digitalization

“Child labor is a complex phenomenon, resulting from household decisions influenced by many factors including income, uncertainty and relative returns to work and education, among others”.⁹ Due to diversity in factors leading to child labor there is no single universal definition accepted by all the countries. Usually, the term child labor is imaged as children working in factories, restaurants, shops, agricultural fields, domestic work and in any other hazardous environments. These labor practices are visible and they were the primary focus of international human rights norms, such as those by ILO, UNICEF, etc. The globally adopted intranational instruments like ILO Convention No. 138 on the Minimum Age, ILO Convention No. 182 on the Worst Forms of Child Labor and the United Nations Convention on the Rights of the Child, made an attempt to set legal boundaries which defined the term child labor. “Child labour is the exploitation of children through any form of work that interferes with their ability to attend regular school or is mentally, physically, socially and morally harmful”.¹⁰

Nevertheless, with the advancement in technology and digital economy, the age-old boundaries of child labor have been shifted from field, factories and household to the digital space, where children are active participants in influencing on social media sites like YouTube and Instagram. Unlike traditional form of labor and employment, influencing takes place in informal and unregulated environment of social media platform. Gone are those days when parents used to take photos and videos of their children to share with their friends and family. With the advent of social media, now parents share these photos and videos on their social media handles and sometimes even there are social media handles in the name of children and even unborn. “A child does not need to wait until they are an adult to be an influencer. When an influencer is a child, they are often referred to as a kidfluencer.”¹¹ Kid-influencers or child influencers have become a large part of advertising on social media and have been instrumental in this new medium of marketing. Through posting paid content, collaborative post, monetized video, children and their parents can make a lot of money. “There are several successful child influencers like, Ryan Kaji of “Ryan’s World”, who has earned approximately \$180 million from playing with and reviewing toys on YouTube channel, or ten-year-old Lorenzo Greer, known as “Tekkerz Kid”, who earns more than 400,000 Euro pounds per year as an influencer.”¹² In India for example, “Kyra Kanojia’s channel where she reviews toys and she has done sponsored posts where toys are sent to her for free or videos are such which are essentially advertisement for brands”.¹³ One more example from India is, “Anantya Anand, better known as MyMissAnand, who has millions of followers and regularly features in sponsored content”.¹⁴

⁹ A. Cristóbal Dammert, J. de Hoop, E. Mvukiyehe & F. C. Rosati, *Effects of Public Policy on Child Labor: Current Knowledge, Gaps, and Implications for Program Design*, 110 *World Dev.* 104–123 (2018).

¹⁰ International Labour Organization, *What Is Child Labour?* (2012), <https://www.ilo.org/international-programme-elimination-child-labour-ipecc/what-child-labour>

¹¹ Madyson Edwards, *Children Are Making It Big (for Everyone Else): The Need for Child Labor Laws Protecting Child Influencers*, 31 *UCLA ENT. L. REV.* 1 (2023-2024).

¹² *Id.*

¹³ Mittal, *supra* note 7.

¹⁴ *Id.*

Such kind of online presence of children on social media, where very often they earn handsome sum of money, which may be seen as a form of artistic and innovative expression, it calls attention to serious question of protection of child influencers from exploitation and violation of their rights. It mandates need for making distinction between voluntary creative content and exploitative labor on social media. “Unlike adult influencers, child influencers operate in a legal grey area where protections are limited or non-existent. Their activities may involve significant time commitments, emotional labor, public exposure and financial transactions – hallmark of economic activity that mirror traditional forms of labor.”¹⁵ Furthermore, these child influencers and their activities on social media are controlled by their parents and/or guardians, who very often have control on the earnings and dictate the content.

At national level, by recognizing need to make necessary changes in laws relating to child labor, France, UK and USA has taken some steps. Even in India, some changes have been made in the existing legal framework, however same is insufficient to deal effectively with this new phenomenon. Thus, it challenges the traditional understanding of child labor and necessitates a re-evaluation of definition in light of changing circumstances. Most importantly, it brings attention about conformity of such activities with international human rights law. It emphasizes need to explore and critically analyze complicated relationship between child influencers and human rights narratives, highlighting the foreseeable danger of violation of basic rights of child influencers.

Child Influencers from The Perspective of International Human Rights Narratives

Rapid growth in child influencers on social media for commercial purpose raises serious question about conformity of these activities with international human rights norms. These activities can result into violation of basic human rights of children in various forms. On one hand it provides opportunities to children to showcase their creativity, talent, earn monetary benefits and popularity, on the other hand it also brings to attention legal, psychological, ethical and social implications of influencing. Continuous contact with camera for photoshoot, recording content or live interaction with the followers, may have adverse impact on physical, emotional and mental well-being of the children. “Very often children do not recognize the commercial nature of advertisement, nor have the maturity or the intelligence to process information critically”¹⁶ At the age when they are yet to discover their own abilities and capabilities, how they can make balanced commercial decisions and ultimately it may have adverse impact on their right to development.¹⁷ In several cases, child influencers become primary source of income in their families, which leads to the serious threat of undue-pressure from family on them, to meet expectations of audience, sponsors, etc. “They face pressure from their parents to perform and do well for social media in order to continue bringing in income.”¹⁸ Number of times these children may face irregularity in attending school and they may be forced on content creation instead of focusing on education. When on social media, such children very often look forward for views from their

15 Mittal, *supra* note 7.

16 Verdoodt V., *Children’s Rights and Advertising Literacy in the Digital Era: Towards an Empowering Regulatory Framework for Commercial Communication* (2018)

17 Trivedi, D., Majumder, N., Pandya, M., Bhatt, A., & Chaudhari, S. P. (2022). Evaluating the global research productivity on domestic violence: a bibliometric visualisation analysis. *Collection and Curation*. <https://doi.org/10.1108/cc-12-2021-0040>

18 Amber Lynn, *Kidfluencing: The Mental Impacts of Posting on Social Media on Children and Parents*, *Rsch. Archive of Rising Scholars* (Oct. 2023)

subscribers and viewers. Continuous online presence results into negative exposure when they have to face negative comments and remarks, which can surely result in negative effect on psychological well-being and self-esteem of the child and studies have shown that “those children who have been influencers have faced social anxiety, excessive fear and depression.”¹⁹ This is not all, child influencers are and can be exploited in several other unexplored ways, more importantly they cannot enjoy their right to childhood.

The changing phenomenon of child labor with the growth of child influencers on social media sites brings forward a significant challenge to the well-established international human rights narratives promoting and protecting rights of children. Despite being often praised as new form of creativity and generation of income, influencing activities by children for monetary benefits calls attention for serious concerns under human rights law at international level. At the core of this issue there lies a question, when and how does online presence of children take shape of exploitative child labor and to what extent States are responsible under International human rights norms.

The first and foremost among all international instruments is, Universal Declaration of Human Rights²⁰ which promotes that all human beings are born free and equal in dignity and rights, which will include children as well. Commercialization of childhood and monetization of childhood experiences, is denial of their dignity in one way or other. Article 12 of the Declaration provides that “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honor and reputation”²¹, however, in case of child influencers it is not the case like adult, there’s no guarantee that a child with a social media account will not have violation of their privacy. “Along with child influencing comes an “extreme loss of privacy that social media influencers experience – a unique threat to the physical and mental well-being of the child.”²² When digital presence of children is controlled by elders who are primarily motivated by monetary incentives, privacy of children is at stake.

The United Nations Convention on the Rights of the Child²³, which is commonly known as CRC, is an international human rights convention which defines, promotes and protects civil, political, economic, social and health related rights of children. It as a legally binding agreement which has been widely signed and ratified by the nations. It covers all aspects of child’s life with universal application and entitles each and every child to claim the rights mentioned. Article 16 of the Convention provides that “No child shall be subjected to arbitrary or unlawful interference with his or her Privacy”, which as discussed in the context of UDHR, can be violated very easily. Article 19 further protects children from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment...”²⁴, an established right clearly in jeopardy when identity of child becomes face of the brand and prosperity is tied to parameters such as likes, comments, views, shares and subscribers. Article 27 and 28 of the Convention emphasizes on economic and educational rights of the children. Article 27 recognizes the responsibility of parents to provide necessary for child’s

¹⁹ Fatmawati Fahira & Lewoleba Kayus, Kidfluencers: Child Exploitation in Digital Space in Terms of Child Protection Law, J. L., Pol. & Human. (2024).

²⁰ G.A. Res. 217 A (III), Universal Declaration of Human Rights, Dec. 10, 1948.

²¹ United Nations, Universal Declaration of Human Rights (1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

²² Mittal, supra note 7.

²³ C Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

²⁴ Convention on the Rights of the Child art. 19, Nov. 20, 1989, 1577 U.N.T.S. 3.

development and Article 28 reiterates “right of the child to education with equal opportunity”. However, in the case of child influencers, these rights are very often violated, as the pressure for creating content is high, which can disrupt their access to education and will ultimately hamper their right to overall development, thereby thwarting the very purpose of UNCRC. Furthermore, Article 31 acknowledges “the right of the child to do rest and leisure, to engage in play and recreational activities appropriate to the age of the child..”²⁵, yet, this right is jeopardized when online content creation turns into commercialized labor. More specifically, Article 32 of the Convention imposes obligation on states “to protect children economic exploitation and from performing any work that is likely to be hazardous or to interfere with child’s education or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”²⁶. This very provision is directly challenging the present unregulated phenomenon of child influencers.

The International Labor Organization Convention No. 138²⁷, on the Minimum Age for Admission to Employment clearly mandated for abolition of child labor and that those below minimum age as may be decided by the signing states should not be involved in any employment which may jeopardize the health, safety or morals of young persons. When activities related to influencing are carried out without any time limits or at the cost of education, it could fall within the prohibited categories in the convention. Moreover, International Labor Organization Convention No. 182 on the Worst forms of Child Labor²⁸, which adopted with the objective to prohibit and eliminate the worst forms of child labor, including slavery and child prostitution. This Convention includes within its scope any work that is likely to hamper safety, health and morals of the children. This raises a critical question: While child influencing may not be prima facie appear to be a form of child labor, but when it leads to the violation of various human rights of children, can it not be considered just as dangerous and injurious as other worst forms of child labor?

Though all the aforementioned provisions have recognized and safeguarded the rights of children, the concern remains whether they are enough in light of changing times. In this emerging trend of children working as influencers, are their rights truly and adequately protected? It represents the emerging frontier of unregulated landscape of child labor, veiled in digital aesthetics but, fundamentally accompanied by the danger of violation, exploitation and erosion of rights and absence of legal accountability. As childhood itself is commercialized at the large scale, it becomes necessary to rethink and reinterpret obligations of states and enforce them under human rights treaties, to ensure protection of these basic human rights.

India and Child Influencers

India, having the world’s largest populations of internet users, has seen rapid growth in phenomenon of child influencers. Children in India with millions of followers and subscribers on social media sites like YouTube and Instagram, by featuring and promoting various brands on their handles and channels are emerging as public digital figures. But the legal framework has not yet sufficiently evolved to deal with this new form of child labor. Being signatory to Universal Declaration of Human Rights and United Nations Convention on the Rights of the Child, several municipal laws for protection and promotion of rights of

²⁵ Convention on the Rights of the Child art. 31, Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁶ Convention on the Rights of the Child art. 32, Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁷ Minimum Age Convention (No. 138), June 26, 1973, 1015 U.N.T.S. 297 (Int’l Labour Org.).

²⁸ Worst Forms of Child Labour Convention (No. 182), June 17, 1999, 2133 U.N.T.S. 161 (Int’l Labour Org.).

children have been enacted, however, they do not adequately address the complexities posed by social media content creation by children.

The Child Labour (Prohibition and Regulation) Act, 1986,²⁹ which was enacted with the objective of prohibiting the employment of children in hazardous occupation and process has been amended in the year 2016, whereby it has divided children into child below 14 years and adolescents, makes an exception thereby permitting children to work in entertainment or artistic performances, provided it does not affect their education, leaves a grey area when time comes to apply it to child influencers, where such child influencers may not fall under legal understanding of exploitative child labor.

To address this issue of child influencers, attempt has been made by the National Commission for Protection of Child Rights (NCPCR), by issuing guidelines titled, “Guidelines for Child Participation in the Entertainment Industry, including OTT Platforms, Televisions, Films and Social Media”³⁰. These Guidelines mandated that children employed for content creation should not be exploited, content should not harm dignity and privacy of children, registration with District Magistrate to ensure the earnings are used only for the benefits of the children. Though this marks as a very significant regulatory step, but again these are advisory in nature and there is lack of any mechanism to strictly enforce them, as a result of which child influencers continues to work outside any organized regulatory framework, putting them in a vulnerable position of exploitation despite the presence of guarantee of protection.

Suggestions for Human Rights-Oriented Framework for Child Influencers

To tackle the emerging challenges introduced by child influencing in the digital era, a holistic and rights-based strategy is essential. Keeping in mind core principles of child protection and dignity, there is an urgent need to recognize formally at national and international level, online content creation as a form of labor. This formal recognition will bring child influencers in purview of existing labor protections. Moreover, it is also necessary to clearly define duties of parents of child influencers for protection of children from undue pressure from parents or guardians. Then there is a need to expand meaning of worst form of child labor as mentioned under the ILO Convention No. 182 on worst forms of child labor. UNICEF AND UNHRC, can develop binding guidelines on legal standards for children working as influencers. These can include minimum age, consent, financial security, safeguards from coercion and overexposure.

Conclusion

The emergence of child influencers in digital space has marked the new frontier of child labor, which is often cloaked in the rhetoric of innovation, artistic expression, creativity and entertainment, however resembles with traditional forms of exploitation. As this phenomenon is growing speedily, it becomes necessary to question its alignment with the universal narratives of human rights. Though child influencers earn money and showcase their creativity, their participation in monetized content creation often leads to serious violation of their basic human rights, such as privacy, mental and physical health, education,

²⁹ The Child Labour (Prohibition and Regulation) Act, No. 61 of 1986, India Code (1986).

³⁰ National Commission for Prot. of Child Rights, Guidelines for Child and Adolescent Participation in the Media, https://ncpcr.gov.in/uploads/16844053596465fc6f115d1_guidelines-for-child-and-adolescent-participation.pdf

etc. Such participation deprives them of the very essential right, a protected and carefree childhood. Despite of existence of numerous international human rights instruments designed and adopted to safeguard rights of children and prevent child labor, the emergence of child influencing remains largely unaddressed within the international framework, which raises serious concern of effective protection of children's rights. International human rights instruments were drafted much before this new phenomenon of digital labor and thus their application to online and digital influencers culture remains insufficient. This research argues that there is a need of reevaluation of concept of child labor and reconceptualization of child labor aligned with growing digital economy, so that it can act as guiding light to the states at municipal level. This doctrinal analysis draws attention to both the possible harm and the absence of sufficient safeguards under existing legal frameworks.