



# KIDS UNDER LIMELIGHT: A FLAWED DELIGHT?

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Everyone<sup>[1]</sup> remembers Sunidhi Chauhan when she participated in Meri Awaj Suno and enthralled everyone with her voice. Similarly, Parzaan Dastoor in Kuch Kuch Hota Hai, Darsheel Safary in Taare Zameen Par, Shweta Basu Prasad in Makadee are some of the child actors who have entertained and gripped us with their performances.

The common thread with all the above examples is that the performers in the reality show or the movies were children. The presence of children in the Indian entertainment industry has grown significantly, especially with the rise of reality TV shows, social media, and streaming platforms.

Like most things, working in entertainment industry has its own pros and cons. While some child artists may witness great fame and popularity, they may also be subject to jealousy from fellow children, cut-throat competition, public envy or public ridicule, trolling etc. To ensure that children are not exploited or manipulated in any manner, there are various legislations and laws in place. However, adherence to the same remains an issue.

According to a report by Child Rights and You (CRY) Child Artist in India- an exploratory study in Mumbai India<sup>[2]</sup> , the working hours of child artists may run almost 12 hours, inspite of there being regulations prohibiting the same.

Awareness is the first step towards understanding these legislations and the rights of our child artists. Let us understand some important aspects regarding children working in the entertainment industry.

[1]The article reflects the general work of the author and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2]<https://www.cry.org/downloads/safety-and-protection/Child-Artists-in-India-An-Exploratory-Study.pdf>



## 1. What are the basic laws governing children in entertainment industry?

Child Labour Act 1986 provides that any child who works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, shall do so subject to such conditions and safety measures, as may be prescribed[3]. It is clarified that such assignments should not affect the school education of the Child [4]. Apart from this, there are multiple other legislations like Juvenile Justice (Care and Protection of Children) Act, 2015; Child Labour Amendment Act, 2016; Protection of Children from Sexual Offences (POCSO) Act, 2012; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 which might come into picture while examining issues about children in entertainment industry.

National Commission for Protection of Child Rights (NCPCR) has recently issued and amended its guidelines “Guidelines to Regulate Child Participation in the Entertainment Industry[5]” on 22nd July 2022[6] .

## 2. What is the statutory procedure for obtaining permissions from authorities before registering a child artist?

The producers have to obtain the permission from the District Magistrate before the start of any activities involving the child artist in Form C undertaking as provided under the Child Labour (Prohibition and Regulation) Amendment Rules, 2017 and provide to them a list of child artists, consent of the parents, name of the person who shall be responsible for the safety of the child.

[3] Section 3(2) (b) of this Act.

[4][https://www.indiacode.nic.in/bitstream/123456789/19582/1/the\\_child\\_and\\_adolescent\\_labour\\_\(prohibition\\_and\\_regulation\)\\_act,\\_1986\\_no.\\_61\\_of\\_1986\\_date\\_23.12.1986.pdf](https://www.indiacode.nic.in/bitstream/123456789/19582/1/the_child_and_adolescent_labour_(prohibition_and_regulation)_act,_1986_no._61_of_1986_date_23.12.1986.pdf)

[5] <https://mib.gov.in/sites/default/files/Guidelines%20NCPCR.pdf>

[6] <https://pib.gov.in/PressReleasePage.aspx?PRID=1843802>

This permit shall be valid for only 6 months and clearly state the provisions for education, safety and report of child abuse and ensure that the facilities are there for the physical and mental health of the child including a nutritional diet.

These provisions are from the point of view of the producers and other institutionalized entities. With the recent changes in the mode of entertainment where social media, reels and video content has formed a major chunk of the entertainment where children are actively involved, there have to be some kind of regulatory permissions and safeguards for children.

### 3. Which guidelines govern the content related to child artists?

According to the Juvenile Justice (Care and Protection) Act, 2015, no child/adolescent should be casted in a role or situation which exposes the child to a situation which is likely to cause ***unnecessary mental or physical suffering[7]***. Children also should not be given any alcohol, cigarettes, beedi, substances even for the sake of portraying the scene, where the child is shown under the influence of drugs.

A notable example is the successful intervention by Kerala State Commission for Protection of Child Rights in its judgement passed in CRMP NO. 2560/10/LA2/2015/KeSCPCR. 'Surya TV', the Malayalam regional channel of SUN TV Network, came up with a talk-show 'Kutti Pattalam' which had young kids as participants.

In this case, Hashim Collemban (Petitioner) had filed a complaint against the show stating that the children were subjected to double meaning jokes, distasteful remarks, suggestive and inquisitive questions regarding the family dynamics, extra martial affairs, fights and alcoholism. The production house justified that the show was modelled on lot of successful shows. The Commission viewed some of the episodes of the show and as per the expert opinions of child psychologists it was noted that the content was not appropriate. Channel then agreed to modify the content of the show and take down the objectionable episodes and stop repeat telecasts.

[7]Section 75: Juvenile Justice (Care and Protection) Act, 2015



For complaints related to violation of children right register online on- <https://ncpcr.gov.in/ebaalnidan/> (to be put in bubble)

#### 4. Is consent of the child important?

Yes. It is provided that no child should be made to participate in any audio visual and sports activity including informal entertainment activity against his will and consent.

#### 5. At what age the child can start working in the entertainment industry?

The general age of 14 years does not apply to child artist provided that education is not affected due to their work. We see even infants and babies working as child artists in feature films and advertisements. However, such work should be safe and with proper working hours, facilities for children, parental supervision, nourishment, changing room facilities etc.

#### 6. Working Hours:

	Child	Adolescent (Above 14 and below 18)
Working Hours	5 hours	6 Hours
Breaks	As needed by the child, but definitely after every 3 hours	As needed by the adolescent but definitely after every 3 hours
Restricted Hour	Between 7 PM and 8 AM	Between 7 PM and 8 AM
Weekly Off	One Day	One Day

## 7. Wages-

At least twenty percent of the income earned by the child shall be directly deposited into a fixed deposit account in a nationalized bank to be handed over to the child when he attains majority[8]. The production house or event management entity may process the payment to the child through his parents or guardians.

There should be more stringent laws relating to the earnings of the child. There have been cases where children artists have filed for emancipation from parents due to misappropriation of funds.

## 8. Is there any Contract with child artist?

A contract with a minor is void in India, as per section 11 of the Indian Contract Act, 1872. However, production houses enter into detailed agreements with the parents and guardians of the child. One must note that such contract is always dependent on the individualistic qualities of a particular child and can be classified into personal contracts. Personal contracts fall under exceptions in the Specific Relief Act, 1963[9] and in any case specific relief cannot be claimed in such cases[10].

## 9. What are some of the other factors to be taken care of?

**Presence of Parent/ Guardian-** A parent or a guardian shall be present at all times when a child is working. In case of an infant, if he/she is participating more than one hour per day, then, a registered nurse shall be present along with parent or guardian. Travel arrangements should be made for the child as well as the parent or guardian.

**Physical condition and safety-** The environment for the working of children should be safe. Children shall not be exposed to any harmful lighting or equipment or contaminated chemicals. Police verification should be done of all the persons working with children, and such staff shall submit medical certificates.

**Education:** The schedule of the child with regards to his education, schooling, exams, should be given priority and parents should ensure that education of the child should not get hampered.

[8]Rule 2C(f) of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017

[9] More information about exceptions to Specific relief can be found at <https://www.ynzgroup.co.in/articles/Corporate%20law/Specific%20Performance%20of%20Contract.pdf>

[10] Section 14(c) of the Specific Relief Act, 1963). More information on personal contract can be found here. .

## 10. Children in media, news and advertisements:

In case of children who are involved in sensitive issues, the media shall :

- maintain anonymity for life.
- not sensationalize issues or stories, especially those relating to children, and
- be conscious of the harmful consequences of disclosing/highlighting information in a sensational form and the harm it may cause to children.

Children should not be made to condone and behave in a way that is inappropriate for the children. They should not exaggerate the goods and its qualities in an unreasonable manner.



## 11. Social Media Content created by family

The Guidelines lay down that Children should not be exposed to any ridicule, distress or embarrassing situations. Consideration must be given to child's age, maturity, emotional or psychological development and sensitivity. Children should not participate in any manner without consent.

In case of content created by social media by family of child, it shall be treated as children working in a family enterprise as stated in Section 3(2)(a) of the Child Labour and Adolescent Labour Act, 1986.

There are detailed duties prescribed on social media intermediaries for content which is uploaded on their platform.



## Our Two Cents

The best interest of the child should always be the guiding factor when it comes to issues affecting children. Recently, in a judgement, the Supreme Court had distinguished the will/desire of the child from the best interest of the child. The adults helping and guiding the child must approach and take the role with responsibility and ensure that children are taken care of holistically, to equip them to successfully navigate the roads of fame and glamour that come with entertainment industry.

The terms of every assignment should be carefully determined to address critical aspects like:

- The rights and obligations of child performer;
- Project term/ duration. Extension of the term without impacting academic growth of the child;
- Payment Terms and deposit of the defined amount in FD as per regulations;
- Representation and warranty;
- Working Hours as per the applicable laws;
- Working Conditions and facilities available. In case children need any special facilities, the same needs to be covered.
- Consent of the child, after properly explaining the terms of the engagement to the child;
- Intellectual Property Rights in relation the works as per the arrangement;
- Recognition and proper credit to the child

While the enforceability of the recent guidelines is a common concern, it is necessary that the parents and production houses should proactively take all possible steps to ensure that our future generation is taken care of.







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