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BEYOND LEGISLATION: THE ROLE OF COMMUNITY INSTITUTIONS IN SAFEGUARDING UNDOCUMENTED AND MARGINALIZED CHILDREN IN INDIA

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Abstract

The protection of undocumented and marginalized children in India depends on how community institutions interact with legal systems. The Right to Education Act serves as a legal basis for child rights protection but bureaucratic challenges prevent its effective execution for children without official documentation. The vulnerable populations receive immediate support through community institutions which include NGOs and grassroots organizations that operate as essential partners in this environment. The support systems developed by grassroots organizations based on local understanding and cultural awareness provide better access to vulnerable populations than the inflexible legal system. The community organizations deliver direct assistance through their programs which include education services and healthcare support and psychosocial care for undocumented children. The initiatives fill the void in legal protection by enabling communities to fight for child rights while giving marginalized families the power to defend their children's rights. The community-based initiatives work to advance social justice by teaching people about these children's situation while encouraging them to join advocacy work. Grassroots organizations use their workshops and awareness campaigns and legal assistance to show the world the struggles of undocumented children while working to change policies and make the state responsible. The combination of community institutions with legal frameworks creates a protective system for vulnerable children while working to eliminate a social inequality which leads to greater social inclusion.

Keywords: Marginalized Children, Community, Social Justice, Legal Frameworks, Rights, Cultural Awareness etc.

Introduction

The situation of undocumented and marginalized children in India creates multiple social and economic problems because of unclear laws and insufficient state backing. The situation of illegal migrants and marginalized citizens extends past legal boundaries according to Mehta

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(2021)² because they face constant threats to their basic needs and rights. The diverse nation of India struggles with deep social inequalities which create a situation where these children become one of the most vulnerable groups who face both political disregard and legal neglect.

The lack of access to basic resources including education and healthcare and social services affects undocumented children. The absence of formal identification systems results in their complete disappearance from child protection frameworks. The legal status of undocumented children according to Mehta (2021)³ prevents them from receiving vital services while making them more susceptible to exploitation and abuse and social exclusion. The wide economic differences across India create additional difficulties for undocumented children who must survive in dangerous unregulated work environments and hidden economic systems while facing discrimination from society.

Community institutions function as essential organizations which fulfil multiple requirements of these children. Community institutions operate with better flexibility and cultural understanding than official government agencies to deliver immediate assistance to undocumented and marginalized populations. The work of non-governmental organizations (NGOs) and grassroots organizations and local community groups provide essential resources while creating protected areas which safeguard children from exploitation and abuse. These institutions deliver complete support by delivering educational services and medical care and mental health assistance which addresses the distinct challenges of these vulnerable groups. Community institutions work to strengthen the power of undocumented children together with their families through their efforts to create inclusive social environments and their support for rights-based advocacy and community unity. The organizations work to teach people about their rights and available benefits which helps create a society where marginalized groups actively claim their rights instead of accepting their situation. The grassroots movement creates an essential alternative to the current social and political dynamics which discriminate against these groups by establishing community institutions as organizations that fight for systemic transformation. Community institutions create lasting effects through their work which helps vulnerable populations develop stronger resilience and self-advocacy skills to handle their social and political circumstances. The organizations

² Rimple Mehta, "Justice for those without rights: illegal migrants and marginalized citizens in India" in Leanne Weber and Claudia Tazreite (eds.) *Handbook of Migration and Global Justice* 173-186 (Edward Elgar Publishing, 2021).

³ Ibid.

connect undocumented people to existing support systems which helps them develop a sense of community and personal identity while fighting against the exclusionary systems that have always oppressed them.

Community institutions play an essential role in supporting undocumented children in India because they fill the legal and institutional gaps that exist in the country. These organizations function as symbols of strength and defence for marginalized communities while working to transform the existing social and legal systems that discriminate against them. The institutions need academic study because they show methods to improve the lives of marginalized children who live outside mainstream society. The main issue stems from India's lack of dedicated laws which handle the distinct problems that undocumented children encounter. The Juvenile Justice (Care and Protection of Children) Act (2015)⁴ and Right to Education Act (2009)⁵ face enforcement challenges because of bureaucratic inefficiencies and insufficient local authority understanding about undocumented children's requirements. The policies fail to serve undocumented children because they base their access on citizenship and legal residency status. Paul and others (2023)⁶ show how documented legal rights fail to match the actual experiences of child refugees who cannot access state welfare programs designed to protect child rights.

Basically, the authors want to highlight the following objectives through this article. The objectives are as follows:

- i. To address the challenges faced by undocumented and marginalised children in India regarding lack of legal recognition, inadequate access to education, healthcare and social protection.
- ii. To analyse the role of Community institutions and grassroot organisations in addressing these gaps by providing support services, advocacy and comprehensive environments for the overall well-being of these children.
- iii. To evaluate the effectiveness of existing legal framework and policies and explore the need for more inclusive child centred approaches to protect the rights of undocumented children.

⁴ The Juvenile Justice (Care and Protection of Children) Act, 2015 is a law in India that consolidates and amends the law relating to children in conflict with the law and those in need of care and protection.

⁵ The Right to Education Act 2009 (RTE) is a landmark Indian law that makes elementary education a fundamental right for all children between the ages of 6 and 14. It came into effect on April 1, 2010, and provides for free and compulsory elementary education.

⁶ Amrita Paul, "Beyond Access: Legal Aid for Child Refugees in India" in Asha Bajpai, David W. Tushaus, *et.al.* (eds.) *Human Rights and Legal Services for Children and Youth: Global Perspectives* 211-239 (Springer Nature Singapore, 2023).

Legal Frameworks, Constitutional Guarantees and Governmental Policies concerning Undocumented and Marginalised Children

The restricted access to legal assistance for child refugees makes their situation even more difficult. The United Nations Convention on the Rights of the Child (CRC)⁷ which India has signed requires all children to receive protection but India lacks consistent implementation of these rights. The absence of specialized legal assistance creates more risks for children who become vulnerable to exploitation and abuse and experience neglect. The legal assistance system in India focuses on cases with established documentation and citizenship status which results in undocumented children receiving no legal protection.

The National Child Labour Project along with government-backed educational programs fail to reach all segments of society because they lack proper outreach and inclusive outreach methods. The nomadic and transient nature of undocumented children's communities prevents them from accessing standard educational and welfare programs. The bureaucratic system makes these children invisible to service providers which blocks their path to essential support services.

India's constitutional framework (Articles 14, 21, and 21A) guarantees equality, a dignified life, and free education for all children, regardless of citizenship. In principle, these rights are enforceable through the courts; however, undocumented children face structural barriers, such as the lack of identity documents, which undermine their practical applicability. Judicial interpretation has sometimes expanded protections (such as the broad protection of dignity and education under Article 21), but courts often fail to explicitly affirm the rights of non-citizen children, which creates ambiguity.

The present government approaches to child welfare have received criticism because they focus on punishment instead of protection. The practice of enforcing immigration laws against suspected undocumented families results in deportation or detention which creates fear that deters people from seeking help or legal assistance for their children. The child protection policies which aim to safeguard children's rights actually make undocumented children more exposed to danger.

The legal system of India provides children with basic rights through its established framework yet these rights remain unfulfilled for undocumented and disadvantaged children.

⁷ The United Nations Convention on the Rights of the Child (commonly abbreviated as the CRC or UNCRC) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children.

The special requirements of these children require new community-based solutions which will protect their rights beyond current legal boundaries.

Community Institutions and Grassroot Organisations' Role to Support Undocumented and Marginalised Children

Community institutions in India have taken over the responsibility of supporting vulnerable populations because official institutions fail to deliver effectively. Community institutions in India function as essential support systems for vulnerable populations through their work with non-governmental organizations (NGOs) and grassroots organizations. These organizations work within challenging social and political environments because the government fails to provide sufficient support and because of strict legal restrictions. According to Agnes (2025)⁸ numerous NGOs function between official legal systems to deliver immediate assistance to vulnerable children while fighting for their future rights. These institutions deliver protective services which include educational support and healthcare access and psychosocial counselling that addresses the distinct needs of undocumented and marginalized young people.

The organizations Bachpan Bachao Andolan and Child Rights and You help marginalized children to express their requirements effectively which leads to advocacy work that fights against institutional discrimination. Through community-based initiatives and local network development these organizations help children gain power by letting them take part in decision-making processes. The empowerment process creates positive changes in community standards and beliefs about child protection and well-being. The support of community institutions helps bridge the gaps which government programs fail to address because they do not fully understand the complexities of undocumented status. The legal aid services provided by NGOs according to Agnes (2025)⁹ help undocumented children by providing security while handling their dangerous immigration status. The organizations provide multiple layers of protection which extend past basic legal compliance. The organizations establish protected areas which enable children to grow up without official documentation while building essential foundations for their social growth and individual development.

⁸ P.S Pungringa Agnes, "The Role of Non-Governmental Organizations: Protection of Vulnerable Children in India" 03 *International Journal of Interdisciplinary Approaches in Psychology* 164 (2025).

⁹ Ibid.

The community institutions operate through distinct methods which Agnes (2025)¹⁰ explains to build strong networks that overcome bureaucratic obstacles. The direct work of community organizations within local areas enables them to deliver immediate support while working to eliminate the core factors that lead to social exclusion. The organizations run extensive outreach initiatives which work to eliminate negative stereotypes about undocumented youth while building acceptance throughout the entire community.

These organizations use their services to support individual needs while using their influence to advance policy changes which benefit undocumented children at the national level. The organizations use documented cases of rights violations to present evidence-based recommendations which help policymakers understand children's rights in India. The advocacy work of Agnes (2025)¹¹ shows how recognizing undocumented children's rights leads to concrete advantages which should motivate government institutions to modify their policies that create more danger for these children.

Community Initiatives Addressed Undocumented and Marginalised Children

The analysis of community institutions reveals a strong system which delivers vital assistance to undocumented and marginalized children. The work of NGOs and grassroots organizations serves two purposes because they meet the current needs of children while creating lasting changes in how society views these children and what the government must do to protect them. These institutions work together with their communities to fight against current systems while establishing child welfare protections that extend beyond legal boundaries. The Gurujyoti Education Foundation demonstrates how community-based organizations handle unexpected obstacles through their operations. The organization Gurujyoti dedicated itself to supporting undocumented children in Maharashtra through community-based learning programs which used trained local youth as facilitators. The foundation demonstrated its dedication to educational continuity by creating home-based learning materials when the pandemic outbreak occurred. The initiatives demonstrated how local actors used creative solutions to handle both children's educational requirements and their social needs during lockdowns.

¹⁰ P.S Pungringa Agnes, "The Role of Non-Governmental Organizations: Protection of Vulnerable Children in India" 03 *International Journal of Interdisciplinary Approaches in Psychology* 164 (2025).

¹¹ Ibid.

The pandemic created new dangers for undocumented children because it made them more vulnerable to exploitation and abuse according to Chakrabarty & Chakraborty (2024)¹². The pandemic has led community organizations to boost their advocacy work through partnerships with local authorities and NGOs to protect children from exploitation. The organizations work to protect children from harm while using their advocacy to present children's needs to policymakers which enhance public understanding of undocumented children in India.

The case studies demonstrate how community institutions in India use their resources to support undocumented and marginalized children through their diverse range of activities. The organizations developed creative methods which used available local resources to activate community participation for establishing extensive support networks that surpass legal boundaries and government reach especially during emergencies like the COVID-19 pandemic.

Community interventions act as a crucial bridge between constitutional guarantees and their actual realization for undocumented children in India. While Articles 14, 21, and 21A mandate equality, dignity, and education, weak enforcement and documentation barriers limit their reach. Community institutions translate these abstract rights into lived entitlements by facilitating access to schooling, healthcare, and legal aid, thereby operationalizing rights-based enforcement at the grassroots level. These interventions also strengthen accountability by documenting rights violations and engaging in strategic advocacy, compelling the state to respond. Through legal awareness campaigns, partnerships with lawyers, and public interest litigation, community actors push for the expansion of judicial interpretation to explicitly include undocumented children within the ambit of fundamental rights.

Significantly, their work informs policy reform by exposing gaps in existing frameworks like the Right to Education Act and Juvenile Justice Act. By generating evidence and mobilizing public opinion, community institutions drive a shift toward inclusive, child-centric policies that detach basic rights from citizenship status and embed enforceability within administrative practice.

Impact of Community Institutions on Overall Wellbeing of Undocumented Children

¹² Anindita Chakrabarty and Ananya Chakraborty, "How has the COVID-19 pandemic impacted undocumented migrants' children?" in Abhimanyu Datta and Bipin Jojo (eds.), *Children and Scars of COVID-19 Pandemic in India* 8-24 (Routledge India, 2024).

Community institutions in India serve as essential organizations which deliver complete care to undocumented and marginalized children through their services for education and health and psychological support. These institutions serve more than legal purposes because they deliver complete child welfare solutions through multiple aspects of child development. The research by Makwana & Elizabeth (2022)¹³ shows that undocumented children face multiple obstacles when trying to access vital services because of their illegal status and their low economic position and social discrimination and public discrimination. Community institutions develop specific strategies to handle these obstacles by creating learning environments and health services and psychosocial support systems. Community institutions function as essential educational resources because they provide learning opportunities to undocumented children who cannot access traditional schools. The programs run by community organizations deliver education that matches the requirements of these children while respecting their cultural background. The educational programs at mobile schools and additional learning sessions teach students essential skills for life and vocational training in addition to basic reading and math abilities. The educational approach helps undocumented children learn essential skills which will benefit their future economic independence. The educational approach at community institutions uses methods that respect local cultures to create learning spaces which welcome all children according to Makwana & Elizabeth (2022)¹⁴. Community institutions deliver healthcare services that eliminate legal status obstacles to achieve better health results for undocumented children. Community-based organizations deliver healthcare services that focus on making medical care both affordable and accessible to create health equity for all. The local health clinics deliver free or reduced-cost medical services and vaccination programs and nutrition support to serve underserved communities. The programs deliver both short-term medical care and long-term health maintenance through preventive services and educational programs. The grassroots health initiatives described by Makwana & Elizabeth (2022)¹⁵ demonstrate how community-based care becomes essential when undocumented children cannot access traditional healthcare facilities because of fear or restricted access. The programs establish safe environments which combine peer support with counselling services to help children manage their mental health needs while addressing their traumatic experiences. The programs enable children to

¹³ Gautam Makwana & H Elizabeth, "Challenges for children from marginalised Indian communities" 01 *Vidya-a Journal of Gujarat University* 62 (2022).

¹⁴ Ibid.

¹⁵ Gautam Makwana & H Elizabeth, "Challenges for children from marginalised Indian communities" 01 *Vidya-a Journal of Gujarat University* 62 (2022).

share their feelings about loss and fear and anxiety which many undocumented children experience.

The community-based programs described by Makwana & Elizabeth (2022)¹⁶ help children develop resilience and learn coping strategies which enable them to construct positive self-identities despite facing social discrimination. The community institutions use their holistic approach to fulfil present needs of undocumented children while building their future growth potential. Community organizations unite educational services with health care and psychological assistance to create environments where undocumented children can develop their sense of self and achieve autonomy. The organizations function as essential child rights defenders who fight against institutional barriers that block service access while demonstrating the necessity for universal child rights protection in India. The success of these community-based initiatives demonstrates how local solutions work best to handle social problems affecting disadvantaged groups while expanding the discussion past conventional legal systems and government assistance. The study of transnational family structures demonstrates how these systems affect undocumented children in India through their impact on family care and their conflicting interests between migrant parents. The movement of family members between countries according to Heidbrink (2014)¹⁷ produces dual care systems which affect children who stay home and those who move abroad. The Indian population experiences high levels of undocumented status because families migrate for economic reasons which force members to work abroad without proper documentation.

Children without proper documentation face dangerous living situations because these environments fail to provide essential support for their growth and emotional well-being. Children who lack a dependable adult figure experience feelings of abandonment and insecurity which makes their already difficult situation worse because of their marginalized status. The dual care system forces families to depend on their extended relatives and community organizations which provide essential support because parents are absent. Community organizations serve as essential survival resources for numerous undocumented children according to Heidbrink¹⁸. The organizations deliver essential resources to children

¹⁶ Ibid.

¹⁷ Lauren Heidbrink, (2014). *Migrant Youth, Transnational Families, and the State: Care and Contested Interests* 32 (University of Pennsylvania Press, USA, 2014).

¹⁸ Lauren Heidbrink, (2014). *Migrant Youth, Transnational Families, and the State: Care and Contested Interests* 32 (University of Pennsylvania Press, USA, 2014).

while creating opportunities for them to develop their sense of self and connection to their community despite being separated from their family and local environment.

Role of Transitional Family Structure and its impact on Undocumented Children

The effects of transnational family relationships create additional social and political obstacles which affect children beyond their basic care requirements and emotional needs. The legal status of undocumented children remains challenging because they lack proper guidance and resources to handle their situation. The organizations need to provide essential support but their ability to handle the complex needs of transnational care remains uncertain. The organizations function as advocates who connect between children's needs and their family requirements and societal and legal requirements according to Heidbrink.

The different interests which exist between family members create major conflicts that affect transnational families. The economic benefits of migration drive parents to leave their children behind but this decision causes harm to the children's emotional and social growth. Children face social pressure to meet family and community standards which creates internal conflicts between their cultural heritage and their sense of self. The organizations face challenges because they need to handle different family perspectives while supporting children who experience identity conflicts because of conflicting family expectations.

The combination of gender factors with class elements and ethnic background elements creates additional challenges for undocumented children who live in India. The experiences of female children differ substantially from male children according to Heidbrink (2014)¹⁹ because girls face additional risks because of their gender status. Community institutions need to develop specific care programs which understand that every undocumented child requires different support because of their unique background and individual needs. The relationship between transnational family systems and their associated care challenges and Indian undocumented children's social and political difficulties require researchers to study how community institutions function in this situation. The institutions create new legal pathways which demonstrate their ability to handle vulnerable population needs through active community participation. Community institutions in India use diverse advocacy methods to defend the rights of undocumented children and marginalized youth who face ongoing social and political discrimination. The advocacy work of community institutions in

¹⁹ Ibid.

India targets both urgent requirements and enduring social inequalities which affect marginalized children. The research by Bhattacharjee, Mukherjee, and Karmakar (2024)²⁰ demonstrates that advocacy requires ongoing support and unified efforts because government supervision remains insufficient or non-existent in this environment.

Community institutions use grassroots organizing as their main advocacy method to unite parents and educators and young people who support children's rights and service access. The grassroots movement conducts different types of activities which include public education programs and community discussions and workshops to teach parents about their children's rights and available resources. The institutions create community awareness which builds social connections that enable marginalized families to express their needs and concerns to others.

Strategies of Community institutions to Uplift the Rights of Marginalised Children and state's Accountability

Community organizations work with local NGOs to create strategic alliances to boost their advocacy work. The partnerships enable organizations to distribute resources more effectively while sharing expertise and providing support for handling legal matters affecting undocumented children. The research by Bhattacharjee *et.al.* (2024)²¹ demonstrates that these partnerships create a supportive environment which enables institutions to deliver emergency services while working with policymakers to develop child rights legislation. Community initiatives that include legal professionals develop improved advocacy methods to transform local laws which restrict undocumented children's rights.

The advocacy work of community institutions depends heavily on storytelling because they use personal accounts to present the struggles and life stories of marginalized children. The organizations use documented personal stories to reach both local and national viewers while seeking media participation for advocacy efforts that seek government intervention. The research by Bhattacharjee, Mukherjee, and Karmakar (2024)²² demonstrates that personal

²⁰ Moumala Bhattacharjee, Somdatta Mukherjee, *et.al.*, "Upholding Indian Refugee Child Rights in the Contemporary World: Challenges, Progress, and Strategies for Advocacy" 07 *International Journal of Law Management & Humanities* 903 (2024).

²¹ Ibid.

²² Moumala Bhattacharjee, Somdatta Mukherjee, *et.al.*, "Upholding Indian Refugee Child Rights in the Contemporary World: Challenges, Progress, and Strategies for Advocacy" 07 *International Journal of Law Management & Humanities* 903 (2024).

stories used in advocacy work effectively connect with public emotions which results in increased support and resource allocation for marginalized groups.

Community institutions use peer-led programs as their main strategy for effective advocacy work. The mentoring programs which teach young people to defend their rights develop their self-advocacy abilities so they can fight for themselves and their fellow students. The program creates a lasting impact on advocacy work while developing youth who become resilient advocates for themselves and their peers. The community needs to understand that young people should actively participate in shaping their future because they will become the leaders of tomorrow.

Community institutions expand their advocacy work into healthcare and educational services by delivering vital resources which standard government programs cannot reach. The educational programs for marginalized children establish learning spaces which welcome all students regardless of their immigration status. The educational programs according to Bhattacharjee and others (2024)²³ serve two purposes by delivering immediate access to education and by working to transform public perceptions about undocumented children in society. The achievements demonstrate how advocacy work through service delivery leads to transformative changes that go beyond official legal systems and public funding. Community institutions in India use innovative methods to protect the rights and needs of undocumented children and marginalized youth. The institutions work together to share stories while empowering young people and delivering vital services which establishes their essential role in creating enduring social transformations and removing obstacles that block vulnerable groups from accessing their rights. The research demonstrates how community institutions actively work to fulfil the requirements and protect the rights of undocumented and marginalized children who exist in India. The institutions function as vital support systems which enable children to obtain educational resources and medical care and emotional support while using their platforms to defend children who lack protection under official legal systems. Community organizations demonstrate better flexibility than government institutions because they can immediately address the specific requirements of their vulnerable service populations.

Community institutions face ongoing difficulties which continue to exist without any solution from legal systems. The lack of official status for undocumented children makes it impossible

²³ Ibid.

for them to receive essential rights and services. The institutions face obstacles to their work because children face discrimination and lack proper documentation and experience social discrimination. Community organizations face resource constraints which prevent them from expanding their services or maintaining ongoing support programs. The combination of these obstacles proves that migration policies need a complete system which focuses on children's needs to move past emergency assistance.

Asis & Feranil (2020)²⁴ demonstrate the necessity for child-focused migration policies in Asia which understand the complete migration experiences of undocumented children. The method provides two essential benefits because it establishes legal protection for children's rights and creates social acceptance of their life experiences and future goals. The lack of flexibility in legal frameworks requires community institutions to maintain ongoing support because they need to adapt to migration patterns that change over time. The delivery of services requires organizations to develop empowerment programs which teach children essential life skills for surviving their unpredictable situations.

Though, welfare schemes and laws such as the Right to Education Act and the Juvenile Justice Act remain in practice conditional, which excludes undocumented children through bureaucratic complexities. As a result, social institutions become the de facto guardians of rights to make up for the shortcomings of weak enforcement mechanisms. Their intervention highlights the gap between constitutional promises and reality and simultaneously puts pressure on the judiciary and the state to adopt more inclusive and child-centred interpretations that detach fundamental rights from their documentary status.

Conclusion

The analysis demonstrates that the protection of undocumented and marginalized children in India cannot rely solely on formal legal frameworks, despite constitutional guarantees under Articles 14, 21, and 21A. A significant gap persists between legal recognition and actual access, largely due to bureaucratic rigidity, documentation requirements, and limited state accountability. In this context, community institutions emerge not merely as supplementary actors but as essential agents of rights realization, translating abstract legal entitlements into tangible support systems. Their role extends beyond service delivery to rights-based enforcement, as they actively document violations, facilitate legal access, and influence

²⁴ Maruja M. B. Asis and Alan Feranil, "Not for adults only: Toward a child lens in migration policies in Asia" 08 *Journal on Migration and Human Security* 72 (2020).

judicial and policy discourse. By bridging the divide between marginalized communities and formal institutions, these organizations expose structural exclusions embedded within welfare schemes and legal mechanisms. However, their increasing centrality also highlights a systemic concern: the state's abdication of its primary responsibility to guarantee universal child rights.

Therefore, sustainable reform requires institutionalizing the insights generated by community interventions into state policy. And, the resourceful nature of community institutions shows a future direction which extends past basic legal requirements. The organizations demonstrate how local activism can defend children's rights while transforming public perceptions about immigration. The success of lasting change depends on strengthening advocacy work which values these organizations' work while working to establish new systems that fight against institutional inequalities. The development of an inclusive framework for undocumented and marginalized children in India requires sustained teamwork between community organizations and policymakers and advocacy groups. The discussion about human rights and migration requires sustained focus from all participants because it depends on creating spaces where these children can succeed.