

# Child-Right-ing: Going Beyond Innocence to Realize the Rights of Undocumented Migrant Children through Struggles for the Rights of All Children



**NJMR** NORDIC JOURNAL OF  
MIGRATION RESEARCH

**SPECIAL ISSUE  
ARTICLE**

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**HUP** HELSINKI  
UNIVERSITY  
PRESS

## ABSTRACT

Children's rights are a blessing and a curse for undocumented migrant children. They are one of few available resources in migrant struggles, but at the same time they are also extensively mobilized to govern children's mobility. In this article, I first analyze the limitations of children's rights as rooted in understandings of children as 'innocent' human 'becomings' and the colonial legacy and paradoxical character of rights. I then connect this discussion to a postcolonial analysis of who counts as 'human' enough for human rights. Building on these reflections, I construct a framework for how these limitations can be approached and utilized through perpetual and antagonistic struggles to give children's rights renewed political meaning, always focusing on the rights of all children—an approach I call 'child-right-ing'. I apply this concept to concrete examples from Sweden and the USA to identify strategies and tactics that have been utilized to both limit and extend the rights of undocumented migrant children. Through these discussions, I aim to contribute with a deepened understanding of the ambivalent role of children's rights. I sketch an outline for a framework that can ensure that children's rights are effectively utilized in contemporary struggles by and for undocumented migrant children—and potentially marginalized groups of children overall.

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## KEYWORDS:

Undocumented migrant  
children; Children's rights;  
Child-right-ing; Migrant  
struggles; Paradoxes

## TO CITE THIS ARTICLE:

Lind, J. 2024. Child-  
Right-ing: Going Beyond  
Innocence to Realize the  
Rights of Undocumented  
Migrant Children through  
Struggles for the Rights of  
All Children. *Nordic Journal  
of Migration Research*,  
14(4): 7, pp. 1–17. DOI:  
[https://doi.org/10.33134/  
njmr.731](https://doi.org/10.33134/njmr.731)

Struggles by and for undocumented migrant children take place in an ‘age of human rights’ (Moyn 2018). In these struggles, a state’s obligations to respect, protect, and fulfill children’s rights are one of few resources available for challenging the power of sovereign states to govern children’s mobility and access to welfare. In this article, I discuss how the reach of children’s rights can be extended as far as possible in anti-racist politics from below to protect undocumented migrants’ well-being and freedom to decide where to reside. Over the years studying this issue, I have become increasingly unsettled by prevalent uncritical and simplified understandings (as highlighted by Reynaert et al. 2012) of the role of children’s rights in this context (Lind 2019). Often, children’s rights become merely a question of interpreting and implementing international law top-down. Consequently, the potential of these rights for contesting the injustices created by restrictive migration regimes is not utilized to its fullest. Such a limited use of children’s rights runs the risk of not being able to criticize practices through which rights are mobilized for governing migrant children’s territorial presence and mobility. Rather, it risks reinforcing such governing practices. Furthermore, pursuits of human rights for limited groups of ‘deserving’ migrants can serve to exclude the many (perceived as ‘non-deserving’ migrants) through inclusion of the few (Nicholls 2013; Schwietz 2016). As such, children’s rights act as both a blessing and a curse for undocumented migrant children.

To identify the possibilities of mobilizing legally codified children’s rights for anti-racist politics from below one needs to also understand their limitations. In this article, I argue that any such potential limitations are strongly connected to the position of human rights in a postcolonial world (Fanon 2008; Mignolo 2011) and the question of who, in this world, is seen as ‘human’ enough to be a holder of human rights (Arendt 1951; Suárez-Krabbe 2014). Being positioned as a ‘migrant’ (Tazzioli 2020) has a detrimental effect on one’s potential to be considered human enough for human rights. As Martina Tazzioli (2020) has highlighted, the ‘migrant’ is not an identity or sociological category, but an outcome of ‘specific laws, racialised policies and administrative measures implemented by the states’ (Tazzioli 2020: 7). I focus here specifically on the legally constructed, yet ambiguous, category of ‘undocumented migrant’ children. Often, children in this position do not have any experience of transnational mobility themselves. They can be born in the country they reside in, but their legal status depends on that of their parents. Their ‘illegality’ is produced by law and expresses a relationship to the state where migrants are constantly in fear of being deported (De Genova 2002). My use of the notion of ‘undocumented migrants’ here relates to the importance of legal status for individuals around the world as it is a ‘master status’ (Gonzales 2016) impacting most parts of the lives of those lacking a legal right to reside where they are currently living. The category can thus include children differently positioned in relation to a country’s migration regime but who all experience an (over time) varyingly acute threat of being deported. Legal status is the main reason undocumented migrant children’s access to a full rights catalogue is limited and contested, even though the intention of the Convention on the Rights of the Child (CRC 1989) is that it should apply equally to every child in the world. These limitations imply that undocumented migrant children are neither fully ‘children’ enough for children’s rights, nor ‘human’ enough for human rights.

In this article, I relate a postcolonial approach to human rights to a critical reflection on two issues that I believe fundamentally affect the ability for children’s rights to be a productive tool in undocumented migrants’ struggles: first, presupposed

assumptions and ideas about children as ‘innocent’ human ‘becomings’ and, second, the colonial legacy and fundamentally paradoxical character of human rights. I then look for openings for the potential of children’s rights by understanding them as founded in the continuous struggles by and on behalf of undocumented migrant children. To help understand these struggles, I develop the concept of ‘child-right-ing’, which highlights the specific position of children in relation to the human rights paradigm (of which the CRC is a crucial part) and the way their marginalized and simplified positionalities can be opened up for constructive interventions into the same paradigm. To make this discussion less abstract, I begin and end the article with descriptions of a few cases from my own and others’ research as well as news reporting that exemplify the processes where child-right-ing becomes relevant.

## ATTEMPTS TO LIMIT—AND LIMITATIONS IN MOBILIZING—THE RIGHTS OF UNDOCUMENTED MIGRANT CHILDREN

In a Swedish state inquiry, the argument has been made that specifically Eastern European Roma children staying in Sweden beyond the 3 months they are entitled to should not be allowed to go to school (Lind & Persdotter 2017). Limiting this right, the state investigator suggested, would discourage more families from coming to Sweden to beg on the streets. It was also suggested that it was better for these children to attend school in their countries of origin. This suggestion, which was, arguably, based on a perceived children’s rights logic, would have made Sweden one of few countries in Europe that did not provide education to Roma migrant children. The importance of education is poignantly illustrated in a news article that features an interview with one of the Eastern European Roma children who were allowed to attend school by the municipality where they resided. The child told the reporter that she does not really know what she wants to become when she gets older, only that she does not want to sell newspapers on street corners as her dad does. When asked why one should go to school, she said: ‘To learn things, so that one knows things’ (Salander 2016, my translation). The quote points toward a general (although probably not yet articulated) awareness and experience of the class position she and her family are in. She is also mindful of how education could potentially enable her to evade the path of poverty that racialized Roma children are predestined to follow in the current postcolonial, racially stratified European order.

The argument to limit the right to education has resurfaced recently in relation to all undocumented migrant children. In the Tidö Agreement (2022) between the current right-wing government and the nationalist populist party the Sweden Democrats, it is proposed that all public officials should have a duty to report undocumented migrants to the police. Such a rule would effectively diminish undocumented migrant children’s right to education that has been codified into Swedish law since 2013. When asked about this, a politician from the Sweden Democrats said:

Children’s right to education is not threatened at all. [Undocumented migrant children] have the possibility to go to school in their home country. [...] Some children get stuck in the middle since their parents make very bad decisions [...] But it’s not Sweden that should be blamed for this, it’s the parents’ fault. (Eneroth 2023, my translation)

This case is just one example from Sweden of the ongoing shift where migrant children (primarily not with high-skilled migrant parents) are increasingly treated differently from other children (Save the Children 2022), and children's rights arguments are mobilized to justify limitations in access to these rights in a specific territory (Lind 2019).

In the USA, the 'DREAMers'<sup>1</sup> movement, led by undocumented migrant children, significantly influenced the introduction of an executive order, Deferred Action for Childhood Arrivals (DACA),<sup>2</sup> which was passed in 2012. DACA allowed certain people who had lived as undocumented migrants in the USA for at least 5 years, had arrived before their 16th birthday, and had not been convicted of any felony to receive a temporary residency permit. Walter Nicholls (2013) has highlighted additional aspects of the limitations of mobilizing children's rights in migrant struggles through studying the 'DREAMers' campaign and its influence on how the DACA policy was formulated. The policy is a clear example of how rights-claims for a specific group (young 'deserving' migrants) can have exclusionary effects for other groups (adult 'undeserving' migrants). Activists in the campaign argued for the right of undocumented youth—who arrived in the country at a young age and had performed well in school—to be granted temporary conditional residency (which later could be turned into permanent residency permits). This has led to debates about how activists risk reproducing understandings of some migrants being more 'deserving' of human rights than others as they act on 'niche openings' for specific categorizations of migrants (Nicholls 2013). One of the recipients discussed his experience applying for DACA in *Time* magazine:

I told my dad, 'I just feel really guilty.' And I remember crying to them, just crying and feeling how unfair it is that our parents don't qualify. [...] [My dad] was like, 'If I could apply for DACA and get a better job, I would. You're kind of wasting your opportunity to be able to do that.' It was a wake-up call to me and my idealistic self, and being like, you know what, I wish it wasn't like this, but this is what we have. (Rhodan & Talkoff 2017)

The DACA recipient quoted above felt guilty for being given an opportunity his parents were not given just because he came to the USA as a child—he thinks his parents also deserved to stay. This quote highlights that children's rights, and the perception of children as more deserving of rights than adults, are often one of the few resources available in migrant struggles. However, through this process where rights are accessed for the few, the governing of the many—those not deemed deserving enough of human rights—are made more possible. In the following sections I engage in theoretical discussions about the limitations and possibilities of human rights in the context of undocumented migrant childhoods. This enables me to analyze the examples above further throughout the article. In the next section I begin by showing how the deservingness of undocumented migrant children is rooted in understandings of migrant child innocence.

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1 The Development, Relief, and Education for Alien Minors Act, known as the DREAM Act, was first introduced in 2001. A movement then emerged of people calling themselves "DREAMers" who supported the act as it was withdrawn and reintroduced several times in the following decades.

2 In 2012, Barack Obama announced an executive order (DACA) that has many similarities to the DREAM Act (<https://www.uscis.gov/DACA>).

To understand the underlying processes that surface through attempts to curb undocumented migrant children's rights, one needs to understand how these children are positioned in society. Childhood is widely simplified as a period of innocence (Jenkins 1998), and undocumented migrant children are continuously positioned as innocent and vulnerable, not the least in well-meaning campaigns supporting them. Being positioned as innocent may seem favorable since it potentially draws the attention of actors able to ameliorate suffering. However, innocence also implies a need for protection, and this protection conceals practices of governing (Nakata 2015). Positioning children as innocent does not give them protection from the exclusionary logic of humanitarianism that often is a cover for 'removing rights from the many in the name of the few' (Ticktin 2016: 261). Rather, the pendulum can swing quickly between innocence and its necessary other: guilt (Ticktin 2016).

Here I will use a well-known case to exemplify this argument: The death of 2-year-old Syrian refugee Alan Kurdi stirred up an emotional response around the world in 2015. However, the perceived innocence of the figure of the refugee child embodied in Alan Kurdi was temporary, as many other young children who attempt to cross borders every day are not being treated as innocent (Ticktin 2016). While these young children can be perceived as being *at risk*, they can also be viewed as *a risk to society* (Aradau 2004). Those who cannot be established as innocent become guilty and 'when one is guilty, there is little available language to speak of injustice, hardship, or death. Moral judgment has already been passed—one has brought on one's own misfortune' (Ticktin 2016: 261). Similarly, when migrants are designated the position of being 'illegal', they are, at the same time, positioned as the cause of their own vulnerability and exploitability (Luibhéid 2013). The binary of innocence and guilt reflects the position of undocumented migrant children who are positioned simultaneously as (innocent) children with access to an extended rights catalogue (regardless of their 'irresponsible' parents) and as (guilty) migrants with little access to human rights (left in the hands of their 'irresponsible' parents). The pendulum of public opinion can swing quickly from emphasizing one position and then the other.

The problematic aspects of migrant child innocence become clear as societies attempt to respond to the plight of those positioned similarly to Alan Kurdi. The response to innocence is most often humanitarianism expressed in the form of compassion. However, 'compassion comes with repression', as humanitarianism and policing go hand in hand (Ticktin 2016). The case of the DREAMers is one of the clearest examples in recent times of how humanitarian efforts toward some go hand in hand with efforts to police other, similar but less 'innocent' or 'deserving' groups. The DACA legislation gives some rights to a small group of undocumented migrants but, as the DACA recipient quoted above says, 'this is what we have' (Rhodan & Talkoff 2017), meaning that this is as far as the policy-makers are ready to go. In this way, DACA cements those not eligible for the program (parents, those arriving after turning 16 years, those with criminal records, etc.) as not deserving regularization. It also serves to discipline those young people eligible for regularization since they will not protest or disobey the government and risk getting a criminal record if their future is at stake.

Compassion is also closely related to the notion of pity, which could not exist without the presence of misfortune. Pity, political theorist Hannah Arendt suggests, 'has just as much vested interest in the existence of the unhappy as thirst for power has a

vested interest in the existence of the weak' (Arendt 1963/2006: 89). Consequently, in the neoliberal global order, the focus is on suffering and compassion rather than rights or justice, and the humanitarian responses to suffering primarily function as legitimizations of the way those categorized as needing protection are being governed: 'Humanitarian government is indeed a politics of precarious lives', Fassin argues (2012: 4), as the suffering of others urges us to remedy them (see also Aradau 2004). Humans love to feel pity since the suffering of others instills both horror and pleasure and we cannot take our eyes off adversity even though it may make us feel sad (Fassin 2012).

Therefore, humanitarian governing has an important function of salutary power for humans, 'because by saving lives, it saves something of our idea of ourselves, and because by relieving suffering, it also relieves the burden of this unequal world order' (Fassin 2012: 252). This duality—our love of feeling pity and the need to relieve ourselves from the burden of inequality—provides perhaps part of an answer to the reactions to the photos of Alan Kurdi. When Western media chose to put Alan on the front page of every newspaper, one could not look away. The image evoked a myriad of feelings, and the response was strong. Western societies needed to save their idea of the humanitarian state of Europe. But once the tide of public opinion turned, Alan was forgotten (or ignored), and refugees were once again racialized and seen as a threat.

## ERASURE OF AGENCY THROUGH PITY

The introduction of the CRC has been immensely influential in highlighting the agentive capacity of children (Bhabha 2014). However, innocence not only is the binary of guilt but also diminishes human agency, which makes rights-claiming more difficult. Arendt proposes that innocence was the greatest misfortune of the stateless refugees in post-war Europe. 'Innocence in the sense of a complete lack of responsibility was the mark of their rightlessness as it was the seal of their loss of political status' (Arendt 1951: 295). One, not necessarily intentional, function of innocence is thus to hide the agency and voice of those regarded as such (Krause 2008). Humanitarianism tends to 'mobilise a moral economy of compassion, which can end up undermining the political agency of subjects who are represented as suffering victims' (Gündoğdu 2015: 57). Only a politics of human rights that includes a focus on the political agency of rightsholders themselves can withstand this pacification—erasure of agency—that so often is the result of humanitarianism. I believe that this perspective is crucial for understanding the underlying processes that (at least partly) surface in attempts to limit the rights of undocumented migrant children.

The position of children as innocent and the diminishing of their agency is also connected to perceptions of children as primarily human 'becomings' or 'future adults' rather than 'young human beings' in their own right (Uprichard 2008). These perceptions make it difficult to understand the everyday realities of childhood and reproduce understandings of children as incompetent compared with (competent) adults. However, children are not only human 'beings' since "looking forward" to what a child "becomes" is arguably an important part of "being" a child (Uprichard 2008). A more relevant approach to understand children's agency—and thus their ability to claim rights—acknowledges children as both human 'beings and becomings'. This approach, which highlights childhood as being both intensively present- and future-oriented at the same time, increases children's agency, as they act both in relation to their present and future experiences (Uprichard 2008). From a global perspective, it is

also central to remember that context conditions the way child agency is expressed, where, for example, children in the less privileged ‘Global South’ (although there are variations in privilege also in these regions; see [Mustonen 2023](#)) have less life opportunities ‘to look forward to’, as has been highlighted by research around the world ([Allerton 2017](#); [Invernizzi et al. 2017](#); [Veale & Dona 2014](#)). Consequently, ‘their freedom to make choices about their lives is a rather hollow “right”’ ([Lancy 2012](#)).

Childhood is ‘the most intensively governed sector of personal existence’ ([Rose 1999: 123](#)), and state responses to migrant childhoods are expressed primarily through paternalism as an expression of governing and controlling the ‘becoming’ child or future citizen ([Arce 2015: 13](#)). Furthermore, as migrants they are also subject to intense governing, as the idea that migration needs to be governed is one of the central taken-for-granted ideas in the contemporary nation-state system ([Tazzioli 2020](#)). This governing is then resisted by the children themselves as they, for example, claim that they should not be deported to their parents’ country of origin where they may never have lived themselves and to which they do not have any connection ([Seeberg & Goździak 2016](#)). Hence, both as children *and* as deportable, undocumented migrant children are subject to intense governing of their existence and find themselves caught in a pendular movement between binary positions of innocence and guilt, as well as pity and indifference through which their agency and influence over the choice of where to reside are diminished and consumed.

I will return to the importance of children’s agency for understanding the limitations of the rights-paradigm for undocumented migrant struggles below. But first I will add a postcolonial perspective to the discussion about the specific position of undocumented migrant children and the limitations of human rights that asks the question: Who is considered human enough for human rights?

## HUMAN ENOUGH FOR HUMAN RIGHTS?

The exclusionary characteristic of the human rights paradigm originates in its colonial heritage. The foundational problem with the human rights paradigm from a postcolonial perspective lies in its normative formulation of what it means to be ‘human’ ([Squire 2020](#); [Suárez-Krabbe 2014](#))—and ‘humanity’ is closely connected to the concept of innocence. Understandings of innocence ‘shapes why and how we should care, for whom we should care, and whose lives matter’ and thus circumscribes the limits of the category of humanity ([Ticktin 2020: 202](#)). In this way, understandings of innocence play a central role in the processes of racialization that deeply affect migrants’ position in relation to being deserving of, or ‘human’ enough for, human rights. Preconceived and normative ideas about race and gender that inform how ‘humanity’ is understood and applied are embedded into the very foundation of the concept of human rights. That is why coloniality is so often overlooked when rights are practiced and discussed ([Suárez-Krabbe 2014](#)). To understand the importance of race and gender for the human rights paradigm, it needs to be de-colonialized. In de-colonial thinking, [Mignolo \(2011\)](#) argues, there is not even any need for someone to talk about the human, ‘because human is what we are talking about.’ The need to define the ‘human’ stems from ‘five hundred years of epistemic and ontological racism constructed by imperial discourses’ ([Mignolo 2011: 173](#)). Such de-colonial thinking is also connected to practice. According to [Tendayi Achiume \(2019\)](#), when migrants in third-world countries respond to their neocolonial subordination by migrating to first-world countries, this should be understood as a de-colonial act.

Today, the concept of the ‘migrant’ itself can be understood as a remnant of this colonial legacy delimiting who to a lesser extent counts as ‘human’. ‘The migrant’ is not an essentialized ontological category, but a position that is constructed through constant processes of racialization rooted in a long history of the global colonial order (Tazzioli 2020). A postcolonial approach to human rights must then always be attentive to categories and identities, such as ‘migrant’, and the way they enable the exclusion of those positioned within them: It is the processes through which these categories are made up that enable the exclusion from the human rights paradigm of the people positioned within these categorizations. Even though these problems persist, I believe that a postcolonial approach to human rights is possible. However, desires for freedom must not be reduced to liberal legality, which reproduces hierarchies of who counts as ‘human’ enough for human rights (Kapur 2015). Prevailing ignorance of the colonial legacy of who counts as human in the human rights paradigm needs to be approached for meaningful migrant struggles based on human rights to emerge.

Migrant struggles that apply human rights as a tool for change must resist the risk of excluding other groups by including a few ‘deserving migrants’ into the realm of who counts as human. To do this, Vicky Squire stresses the importance of ‘engaging anti-racist, indigenous and postcolonial scholarship to emphasise the constitutive role that im/mobility has played—and continues to play—in the racialised formation of political relations over time’ (Squire 2020: 299). The activists calling themselves DREAMers have, for example, been framed by others through ‘dehumanizing discourses (“flees on a dog,” “illegal”)’ (Nicholls 2013: 169), and this language has justified the denial of their human rights. One tactic of the DREAMers to respond to this rhetoric has been to focus on the recognition of migrants as truly human beings. This can be seen as a cyclical, perpetual struggle: By insisting on one’s human rights, one also insist on counting as human. And by insisting on one’s humanity, one also insists on holding human rights. I will come back to the importance of the continuity of rights-claims when I discuss my proposed concept of child-right-ing. But first I will discuss the paradoxical characteristics of rights and rights-claiming.

## THE PARADOXICAL CHARACTER OF HUMAN RIGHTS

The question of who counts as human enough for human rights is connected to what can be called the paradoxical character of rights, famously identified by Arendt (1951) in her conceptualization of ‘the right to have rights’. When humans are stripped down to their bare humanity (through, for example, becoming positioned as undocumented migrants or being put in concentration camps), so-called universal human rights are no longer able to protect them. ‘No paradox of contemporary politics is filled with a more poignant irony’, Arendt suggests, ‘than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as “inalienable” those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves’ (1951: 279). Even though rights are paradigmatical in the current global order, they are paradoxical already at their foundation since they are upheld by the same subjects whom they are supposed to protect—namely ourselves. And while rights are constructed to *primarily protect* those who are worst off, they are the ones who end up *primarily excluded* from the scope of human rights (Arendt 1951).

Lacking the right to have rights means not living in a framework where one is judged by one's actions and opinions—human rights are not grounded in one's humanity but rather mainly depend on one's citizenship. Human rights are thus contingent on both citizenship and perceived rationality and autonomy. As Arendt puts it: 'The world found nothing sacred in the abstract nakedness of being human' (1951: 299). Rather, rights are grounded in our mutual ability to guarantee ourselves equal rights. As such, we are not born equal; we become equal members of a community through this process of granting each other rights. Arendt's paradox is a political call that 'directs our attention repeatedly to the need for a politics whereby to express and address the paradox as it is experienced by minorities, the stateless, the powerless, and the hapless' (Honig 2009: 117). One can go to Arendt to find inspiration for a struggle, where granting each other rights also becomes an acknowledgement of each other as human. Across my research (alone and together with colleagues) in the recent decade, I have encountered a recurrent wish among research participants for normality and to be seen as any other child. One young research participant in a recent project expressed this as a longing for the feeling of counting as a human being (Lind et al. 2023). The mutual struggles of those positioned as 'migrants' and those who are not to make human rights meaningful for everyone can be understood as a way of countering the separation between those who count as human and those who do not in specific contexts.

Although rights generally do not resolve issues, they can make these issues' negative impact less severe. Therefore, rights often appear for subordinated groups 'as that which we cannot *not* want' (Brown 2002: 421, my emphasis)—consider again the DACA recipient's proclamation above: 'I wish it wasn't like this, but this is what we have' (Rhodan & Talkoff 2017). This gives rise to a paradoxical situation in which the more specified the rights are for a specific group, the more likely they are to cement the definition of said group as subordinate and vulnerable. In this situation, rights become a 'double-bind' of rights-claims for undocumented migrants (Parla 2011, drawing on Brown 2002). Through the designation of rights, subordinated positionalities are re-inscribed, enhanced, and locked up. 'That which we cannot not want is also that which ensnares us in the terms of our domination', Brown argues (2002: 430, drawing on Spivak 1993). In this way, these rights produce and regulate 'the subjects to whom they are assigned' (Brown 2004: 459). If rights are problematic and paradoxical both through the way they are constituted and in the way they are claimed, the question then is what to do with these rights that we 'cannot *not* want'?

## RIGHTS HOLD POLITICAL POTENTIAL

So far, I have discussed the problematic and complex multi-positionalities of undocumented migrant children and how their perceived innocence leads to their governing, as well as the colonial legacy and paradoxical character of human rights. How then does one respond to this complex context in which undocumented migrant children find themselves so that their rights are realized and expanded in scope, and their well-being protected and increased without subjecting them and other migrant groups to governing and exclusionary processes? The key to understanding how rights can be realized is the understanding that rights always hold political potential and that they are invented and reinvented by rights-claimants; they are vehicles of politicization. Rights are more an *activity* than a *status*. By focusing on the actions of rights-claimants, one can see the root of human rights politics in the direct practical expression of the felt needs of the claimants and their autonomy (Ingram 2008). When

promoting human rights, one can understand them as ‘active, critical-democratic politics that rests first and foremost on the activity of rights bearers themselves, and human rights promotion as the practice of supporting and enabling such a politics’ (Ingram 2008: 414). Rights thus need to be *conquered* rather than *protected* (Robbins 2014). This approach to rights resonates with the concept of ‘acts of citizenship’ where ‘acts’ create a rupture in what is considered as ‘given’ (Isin & Nielsen 2008). My understanding of rights-claiming in the context of undocumented migrant childhoods can be compared with ‘acts of citizenship’ by undocumented migrants in that they challenge given orders and understandings through self-authorization. Rights-claiming by undocumented migrant children as ‘acts of citizenship’ performs ways of becoming political and enacting themselves as citizens even though they are not recognized as such by the law (Nyers 2008).

Illan Rua Wall (2012) has conceptualized these ideas in a particular way and suggests, drawing on Rancière (2004), that human rights are both dissensus and consensus. Human rights are two-sided; they are both demands or rights-claiming and decisions or a settling of claims. This is where the remaining trace of radical politics can be found in human rights, according to Wall: in the oscillation or trembling between demand and decision. Wall develops the concept ‘right-ing’, first coined by Douzinas (2000), which is understood as perpetual and antagonistic rights-claiming. Right-ing is not an alternative model but rather an experimental approach to rights; rights are understood as a practice or event rather than a property in need of protection. When oppressed voices challenge the given understanding of the consequences of human rights in specific situations, their demand for recognition, or the redirection of our attention, challenges the hegemonic, common-sensical understandings of human rights. Right-ing, then, is not so much about rediscovering a forgotten radical substance in human rights. Instead, Wall (2012) points to the constituent potential in rights and their political function of ‘unveiling the possibility of the political’ (2012: 7). Still, Wall cautions, one should not put too much hope into the exceeding of human rights through right-ing. It is mainly a tool to enable collective creative thinking within the given human rights framework, and to look for strategies of rupture at identified points of torsion where new rights may be generated, or old rights can be used to reframe questions. Similarly, for Douzinas (2007), the role of the critical scholar is to keep the rift of human rights open. However, human rights can do little against capitalist exploitation and political domination. In the end, Douzinas argues, utopia ‘is constructed here and now with friends, in acts of hospitality, in cities of resistance’ (2007: 298).

## CHILD-RIGHT-ING

I suggest, then, that a specific radical potential lies in the practicing of children’s rights, what could potentially be called ‘child-right-ing’, to play on the concept of Douzinas (2007) and Wall (2014). Every time one invokes children’s rights, one also takes part in a political act—rights-claims and political action are connected. The claims by and on behalf of undocumented migrant children are part of an on-going political struggle over what is being taken for granted, a perpetual and antagonistic struggle to give children’s rights renewed political meaning. Child-right-ing happens when rights are continuously claimed by and on behalf of undocumented migrant children. But it is also a struggle over the direction of our attention and who we perceive as being included into the categories of being enough of a ‘child’ for children’s rights and ‘human’ enough for human rights. I believe that, through unveiling taken-for-

granted understandings of undocumented migrant children's position as innocent, and therefore in need of protection, covert paternalizing practices and the logic of the state can be brought out in the open and thus be more effectively resisted. It is important to highlight that I do not understand child-right-ing to represent radically new practices or approaches. It is rather about identifying and amplifying the good work that is already being done. Through introducing this concept, I want to contribute to discussions about how undocumented migrant struggles can avoid becoming counterproductive and instead extend the reach of children's rights.

Rights-claims, in one sense, are performative practices of persuasion and, as such, 'permanent provocations' (Zivi 2011: 112). Viewing rights-claims in this way potentially enables groups and individuals to form a shared way of seeing the world and to reimagine and act out 'the political life of a community' (Zivi 2011: 115). Child-right-ing would highlight the specific position of children in relation to the human rights paradigm and the way their marginalized and simplified positionalities can be opened up for constructive and alternative interventions into the human rights paradigm. Children's positioning as innocent subjects gives their rights-claims potential for challenging and rupturing consensual understandings of the human rights paradigm as it is embedded in migration control regimes. Even though as children they may have access to an extended rights catalogue, their possibility of having their rights-claims taken seriously is still limited, as they are perceived as 'adults in the making', or human 'becomings'. In relation to undocumented migrant adults, undocumented migrant children are then both in a better position because they have access to a larger catalogue of rights and in a worse position because they are generally positioned as (innocent) apolitical beings. Child-right-ing in this context, I then suggest, involves constructive ways of challenging the prevailing order through continuously expanding the scope of the human rights paradigm regarding children by redirecting societies' attention to their claims and needs. Child-right-ing would then involve continuous demands to recognize undocumented migrant children as *human* 'beings and becomings' so that their present situation as well as their potential futures are considered when their human rights are realized.

One way child-right-ing could be expressed in advocacy work is through persisting in talking about undocumented migrant children's rights as part of the rights *all* children are entitled to. To the extent it is possible, 'child-right-ing' should involve rights-claiming on the basis of all children (irrespective of their status) as human 'beings and becomings'. Here, the non-discrimination principle of article 2 in the CRC is crucial, as it highlights that all children are entitled to the rights stated in the convention regardless of their or their parents' status. As such, child-right-ing could be an effective expression of the 'de-migrantization' (Dahinden 2016) of social problems where 'non-human' migrant 'others' are included through the refusal in migrant struggles to single out specific rights for children as undocumented migrants and persisting in claiming their rights on the basis of them being *children*.

In this article, I have primarily focused on children residing with their parents, but the overall argument of child-right-ing also applies to 'unaccompanied' migrant children, whose governing often is even more intense, as societies attempt to navigate contradictory understandings of them as both 'a risk' to society (potentially causing social problems) and 'at risk' (as vulnerable children; Aradau 2004; Horning, Jordenö, & Savoie 2020). Children, and not the least, 'unaccompanied' migrant children, transgress boundaries and borders in their everyday lives as well as in regulations, and these transgressions can expose the 'fragility' of adult power (Jenks 2005: 145). Jenks

(2005) reflects on how children's challenges can be understood as critiques of the current order. He does not suggest that one should romanticize children's innocence, but their disruptions could be 'a source of critical examination of our dominant means of control' (Jenks 2005: 150). As such, children can be an inspiration for our reflective criticism of the dominant order and the need for transgression to understand how, for example, hegemonic systems of morality and ethics, including the human rights paradigm, can limit the imaginable political possibilities. Through all this, child-right-ing is an approach that understands children's rights as both a blessing and a curse and that counters the potential negative effects of the human rights paradigm by tirelessly insisting on children's rights as being all-encompassing. Through this, child-right-ing focuses on how the plight of undocumented migrant children, or any other group or categorization of children, is part of an overall continuous struggle for the rights of all children. In this way, undocumented migrant children can be given specific attention without leading to the exclusion of other children.

## ATTEMPTS TO PROTECT AND EXPAND THE RIGHTS OF UNDOCUMENTED MIGRANT CHILDREN

Returning to the cases introduced in the beginning of this article, in what follows I present examples of practices and arguments that could be considered expressions of child-right-ing. The Teachers' Council on Professional Ethics in Sweden has responded to the proposition of a duty to report undocumented migrant children to the police. They say that 'also the children of these parents have a right to education, a right that is not conditioned in the CRC as a right to education in one's country of origin. Children have the right to education. Full stop' (Lärarnas yrkesetiska råd 2023, my translation). This is an example of rights-claiming on behalf of undocumented migrant children that insists on not separating them from other children. It echoes the state investigation that preceded the right to education for undocumented migrant children being inscribed into Swedish law. The investigation was aptly titled 'Education for all children' (SOU 2010:5 2010).

Within the DREAMers movement, many activists have moved away from focusing on the lack of citizenship that led to divisions between more or less 'deserving' migrants, and instead organize locally in communities where all undocumented migrants (independent of their educational success or criminal record) can have rights as residents of a community. 'In this they were not necessarily aiming for greater integration within the national fabric, but for greater inclusion within a collective struggle, which points to the "universal right to politics"' (Schwartz 2016: 622, citing Balibar 2014). The contradictions the DREAMers experienced as their deservingness was used to motivate the exclusion of other groups points toward social justice as a 'dynamic process rather than a static end state' and their experience 'encourages outsiders to continually mobilize to have equality extended to them' (Nicholls 2013: 173).

I believe a key here lies in the continuity and perpetuity of the struggle. Postcolonial criticism points toward the issue of who counts as 'human' enough for human rights and claiming rights thus becomes an act of insisting on the humanity of oneself or others. Rights-claiming can be understood as political acts redirecting attention toward subordinated groups and emphasizing their belonging to the category of 'all children'. In this way, rights are less a *status* than it is an *activity*—rights need to be *conquered* rather than *protected*. Child-right-ing involves perpetual and antagonistic

rights-claiming by and on behalf of all children, which then extends the reach of these rights also for specific categorizations of children.

Ideally, the practice of child-right-ing should resist low ambitions of only seeking what is sufficient but rather mobilize rights in a broader struggle for increased equality (Moyn 2018). In recent years, continuations of the struggles for the rights of DREAMers have become more inclusive through fights for ‘the most affected’, which focuses on non-privileged positionalities rather than deserving migrants. As a participant in Schwartz’s (2016) study suggested: ‘when you are fighting for a person that you know is going to be excluded [...] everybody else is gonna benefit’ (2016: 622). It is not always easy to say what groups this would entail to. In Sweden today, undocumented migrant children could arguably be considered a group that is ‘most affected’ by the current radical acceleration of exclusionary views on migrants’ rights in the Tidö Agreement (2022). Protecting the rights of undocumented migrant children could potentially be seen as a strategy that also protects other groups whose rights would be next in line to be limited by exclusionary migration policies or nationalist-populist politics overall.

## CONCLUSION

In this article, I have argued that child-right-ing holds potential in responding to the limiting positioning of undocumented migrant children as innocent and the colonial legacy and paradoxical character of children’s rights. Humanity needs to save itself from its low ambitions, which have been embedded into the human rights paradigm (Moyn 2018). Child-right-ing is ambitious, as it aims to expand the reach of children’s rights, which is one of few resources available in migrant struggles. As an approach, child-right-ing focuses on the continuity of rights-claims by and on behalf of those excluded from the ‘human’ in human rights. It redirects our attention by constantly reminding the world of the plight of those ‘most affected’ by the crushing power of the nation-state order. It utilizes the productivity embedded in the paradoxes of rights by challenging taken-for-granted understandings of children’s agentic capacities, insisting that they also, as human ‘beings and becomings’, are already part of our local communities and already impact our shared future. I do not claim that child-right-ing as a concept is a radically new invention. The purpose of this neologism is rather to address the limitations of human rights in migrants struggles by highlighting different openings that are made possible through the perpetual and antagonistic struggle to give children’s rights renewed political meaning.

However, we need to remember that children’s rights or rights for every person can never completely fix the fundamental problem of deportability. The currently paradigmatic approach to rights as a matter of implementation will never do more than, to a greater or lesser extent, alleviate the suffering produced by state-induced vulnerability caused by the structural limitations and deprivations inherent to the state of deportability (Lind 2020). Only by disrupting the continuous production of deportability and engaging in universal and perpetual programs of regularization of undocumented migrants, or the complete termination of borders themselves, can we create a world in which the neo-colonial hierarchies of racialization concealed as migration policies are a memory of the past.

## FUNDING INFORMATION

This research was funded by Forte, project number 2021-00025.

## COMPETING INTERESTS

The author has no competing interests to declare.

Lind  
Nordic Journal of  
Migration Research  
DOI: 10.33134/njmr.731

14

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Lind  
*Nordic Journal of  
 Migration Research*  
 DOI: 10.33134/njmr.731

#### TO CITE THIS ARTICLE:

Lind, J. 2024. Child-Right-ing: Going Beyond Innocence to Realize the Rights of Undocumented Migrant Children through Struggles for the Rights of All Children. *Nordic Journal of Migration Research*, 14(4): 7, pp. 1–17. DOI: <https://doi.org/10.33134/njmr.731>

**Submitted:** 02 June 2023

**Accepted:** 16 September 2024

**Published:** 03 December 2024

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