

## Submission to the Committee on the Rights of the Child on the General Comment on children in street situations

by Child Rights International Network (CRIN)  
 ([www.crin.org](http://www.crin.org) | [info@crin.org](mailto:info@crin.org)) April 2016

CRIN's submission aims to contribute information on rights violations affecting children in street situations which have yet to be comprehensively addressed. We urge the Committee to specifically address these issues in its General Comment on children in street situations.

### Status offences

Status offence laws in many countries criminalise children living in the streets and children without a home in particular.<sup>1</sup> These laws prohibit begging, truancy, vagrancy, homelessness, collecting rubbish, running away, and may further target children involved in prostitution or gambling. In addition, youth curfews remove all children within a town or city's boundaries from the streets, banning them from public spaces regardless of their circumstances.<sup>2</sup> Street-connected children are undoubtedly one of the most vulnerable groups in society to status offence laws, as these criminalise their lifestyles and survival mechanisms, failing to provide these children with the special protection and assistance they need. Instead, street children are harassed and detained by police to face harsh conditions in jails and other poorly-suited institutions. These children are confined solely on the basis of factors beyond their control - their age and often extreme poverty - amounting to collective discrimination on the grounds of age and social origin (CRC art. 2). (See annex for further information on status offences.)

### We recommend the Committee urge States to:

- Abolish status offence laws relating to street children.

### Access to harm reduction

The use of drugs by children in street situations embodies a complex set of health, psycho-social and economic issues, often linked to inequality, social exclusion, poverty, family history of drug use, abuse, violence and/or mental health issues. It is often a symptom of a deeper cause, and may be instrumental as a coping mechanism for a child in street situations to deal with trauma and adversity. The resulting harms may include increased risk of injury, accidents and overdose as well as social ostracism, economic costs, family break up, conflict with the law and an increased risk of transmission of infections and diseases.<sup>3</sup>

Children in street situations are often excluded from accessing key physical and mental health services, including access to HIV testing, counselling and treatment, because of factors such as age restrictions, affordability and parental consent requirements.

<sup>1</sup> Special Rapporteur on extreme poverty and human rights, A/66/265, 4 August 2011, at para 42. Available at: <http://www.ohchr.org/Documents/Issues/EPoverty/A.66.265.pdf>

<sup>2</sup> CRIN, "Youth curfews and children's rights," September 2015. Available at: <https://www.crin.org/en/library/publications/discrimination-youth-curfews-and-childrens-rights>

<sup>3</sup> WHO, Guidance on Prevention of Viral Hepatitis B and C among People Who Inject Drugs, July 2012. Available at: <http://www.who.int/hiv/pub/guidelines/hepatitis/en/>; Harm Reduction International, Global State of Harm Reduction 2012. Available at: <http://www.ihra.net/global-state-of-harm-reduction-2012>

In order to develop rights-based, holistic, long-term strategies to prevent children developing strong street connections, States have an obligation to provide these children with essential harm reduction treatment services. This allows children to develop contact with health services, enabling them to receive treatment and manage their dependency away from street settings. As noted by the Special Rapporteur on the right to health, these services are a key element of a comprehensive health system.<sup>4</sup>

Interventions available to children in street situations should aim to decrease the prevalence of injecting drug use. As such, they should include needle and syringe programmes (NSPs), providing sterile injection equipment where appropriate; and opioid substitution treatment (OST), such as methadone or buprenorphine to treat opioid dependency. These measures also minimise the sharing of injecting equipment, reduce the risk of infection and act as a tool through which to manage the withdrawal from opioids and prevent relapse into drug use.<sup>5</sup> States that comprehensively and consistently adopt these approaches see the prevalence of blood borne diseases among people who use drugs significantly reduced compared to States that do not implement such interventions.<sup>6</sup>

Various UN experts have underscored the importance of adopting a rights-based approach to drug use and endorse harm reduction strategies as a means to minimise the negative health impacts of substance abuse.<sup>7</sup>

*We recommend the Committee urge States to:*

- Remove age restrictions which prevent children in street situations from accessing harm reduction services and ensure access is not dependent on parental consent requirements;
- Ensure that criminal laws do not impede access to such services, including by amending laws that criminalise children for possession or use of drugs;
- Develop affordable and accessible specialised and child-friendly drug dependence treatment and harm reduction services;
- Ensure that health and law enforcement personnel working with at-risk children are appropriately trained in HIV prevention and that abuses by law enforcement against at-risk children are investigated and punished;
- Ensure harm reduction services are designed in a child-friendly environment and flexible enough to meet the needs of young people who use drugs.

---

<sup>4</sup> Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, 07 December 2016. Available at: [http://www.unodc.org/documents/ungass2016/Contributions/UN/RapporteurMentalHealth/SR\\_health\\_letter\\_UNGASS\\_7\\_12.15.pdf](http://www.unodc.org/documents/ungass2016/Contributions/UN/RapporteurMentalHealth/SR_health_letter_UNGASS_7_12.15.pdf)

<sup>5</sup> Report submitted by Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/65/255, 06 August 2010, at para. 52. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N10/477/91/PDF/N1047791.pdf?OpenElement>

<sup>6</sup> Global Commission on HIV and the Law, “HIV and the Law: Risks, Rights and Health”, July 2012. Available at: <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf> and UNDP, “Addressing the Development Dimensions of Drug Policy”, June 2015, p.19. Available at: <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy.html>

<sup>7</sup> Committee on the Rights of the Child, General Comment No. 15 (2013), CRC/C/GC/15; See E/C.12/RUS/CO/5, E/C.12/ZAZ/CO/1, E/C.12/EST/CO/2; WHO, UNODC, UNAIDS Technical Guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users, p.10-26. Available at: [http://www.unaids.org/sites/default/files/sub\\_landing/files/idu\\_target\\_setting\\_guide\\_en.pdf](http://www.unaids.org/sites/default/files/sub_landing/files/idu_target_setting_guide_en.pdf); Human Rights Council, resolution 12/27. Available at: <http://www2.ohchr.org/english/issues/hiv/docs/A-HRC-RES-12-27.pdf>

## Right to work

Children have a right to work, as long as the labour activity is not exploitative, harmful to their physical and mental development, and poses no affront to their dignity.<sup>8</sup> In countries where poor economic conditions push children to work, the labour activity becomes one of survival (see CRC art. 6 on the right to survival and development and art. 27 on an adequate standard of living). In some circumstances being able to work can also act as an enabling right, contributing to a child's development and standard of living.

Working can also be a choice made by a child independent of financial obligation, invoking state responsibilities under children's right to be heard (CRC art. 12) and respect for their evolving capacities (CRC art. 15). Measures to prevent children working in public spaces like the street affect their freedom of movement (CRC art. 15).

However, children's work on the street continues to be seen with disapproval, largely due to the generalised belief that a child's place is in school. This is because the street is believed to expose children - especially those not under the guidance of an adult - to hazards, including violence, drugs, alcohol and sex.<sup>9</sup>

The hazards posed by working on the street must not be ignored; but policies based on generalised fears fail to take into account diverse children's abilities to manage street work - such diversity being shaped by various factors including differences in age, circumstances and experience. Such policies consequently overlook children's pride in their work and contributions to their family and community,<sup>10</sup> and fail to recognise them as social and economic agents.<sup>11</sup>

In addition, such a discourse prevents policy work aimed at improving conditions for children who work on the street.<sup>12</sup> For example, the perceived deviancy of street work can even aggravate any aggression and harassment children on the street may face, including at the hands of authorities,<sup>13</sup> calling into play children's right to protection from abuse and neglect.

### We recommend the Committee urge States to:

- Adopt a rights-based approach to child labour, including by supporting the livelihoods of children who work on the street, centered on child protection and labour rights;
- Design relevant child protection policies not on a generalised view of all street work, but on the benefits and potential harm of doing a particular type of labour activity.

## Access to justice

Access to justice is a fundamental right and an essential prerequisite for the protection and promotion of all other human rights.<sup>14</sup>

<sup>8</sup> UN Convention on the Rights of the Child, article 32 on the protection of children from exploitation and abuse in employment.

<sup>9</sup> UNICEF (2012), "Children Working in the Urban Informal Economy: Evidence from West and Central Africa," p.12. Available at:

[www.unicef.org/wcaro/english/Briefing\\_paper\\_No\\_3\\_-\\_children\\_working\\_in\\_the\\_urban\\_informal\\_economy.pdf](http://www.unicef.org/wcaro/english/Briefing_paper_No_3_-_children_working_in_the_urban_informal_economy.pdf)

<sup>10</sup> Ibid.

<sup>11</sup> openDemocracy, "Supporting working children as social, political, and economic agents," 24 March 2016. Available at: [www.opendemocracy.net/beyondslavery/jessica-taft/supporting-working-children-as-social-political-and-economic-agents](http://www.opendemocracy.net/beyondslavery/jessica-taft/supporting-working-children-as-social-political-and-economic-agents)

<sup>12</sup> CRIN, "Child labour and protecting working children," 11 June 2015. Available at:

[www.crin.org/en/library/publications/labour-rights-child-labour-and-protecting-working-children](http://www.crin.org/en/library/publications/labour-rights-child-labour-and-protecting-working-children)

<sup>13</sup> Ibid.

<sup>14</sup> 'Report of the United Nations High Commissioner for Human Rights,' A/HRC/25/35, 16 December 2013, para. 3.

This standard applies to all children's rights but some of the barriers children face in accessing justice for violations of their rights are more pronounced for children in street situations. In the vast majority of countries, for example, children lack the standing to approach courts by themselves and are required to do so through a representative.<sup>15</sup> In addition, restrictive parental consent rules are common and can stymie children's access to the courts.<sup>16</sup> These barriers have a greater impact on children in street situations because they are more likely to be deprived of their family environment, have a conflict of interests with their parents, or have had their rights violated by their parents.

Legal assistance and legal aid also play a key role in realising access to justice. However functioning state-funded legal aid systems are completely absent from 42 countries worldwide meaning that 220 million children have no access to free legal aid for any type of legal action. The remaining countries have some form of legal aid available, often in very limited circumstances. This is a particular barrier for children in street situations because they are even less likely than other children to be able to draw on the resources of relatives.

States have an obligation to realise the rights of all children under their jurisdiction<sup>17</sup> and securing these rights requires ensuring that they are enforceable for all.

Recommendations:

We urge the Committee to recognise that children's access to justice and other forms of redress should never be limited based on their status as children. This requires that:

- children's access to legal aid and assistance is guaranteed where their rights are at stake;
- children of any age have standing to initiate legal proceedings in their own name without a representative, and without parental consent, and have the option to appoint a representative of their choosing if they so wish;
- if a representative brings legal proceedings on behalf of a child, they act in the child's best interests and do not have any adverse interests to those of the child;
- any other limitations on children or their representatives bringing legal proceedings are removed.

---

<sup>15</sup> Child Rights International Network, *Rights, Remedies and Representation: Global report on access to justice for children*, p.17, available at: [https://www.crin.org/sites/default/files/crin\\_a2j\\_global\\_report\\_final\\_1.pdf](https://www.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf)

<sup>16</sup> Ibid.

<sup>17</sup> Committee on the Rights of the Child, General Comment No. 5 on general measures of implementation of the Convention on the Rights of the Child, para. 1.