



Response to the Consortium for Street Children's call for input into the
UN Global Study on Children Deprived of Liberty
September 2018

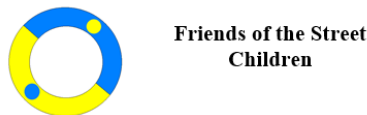


"If you are not willing to help us, then leave us alone." [Glad's House, Mombasa]

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This report has been prepared by StreetInvest with contributions from StreetInvest's partners and the Growing up on the Streets (GUOTS) research project. We would like to acknowledge the contributions of young street participants who are quoted here.

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Summary

“We, the people who live on the street, our rights are not respected. We claim our rights to the authorities; they neglect, drive us away and call us ‘animals’, they say we deserve to be imprisoned because we are the people who sleep on streets. We wish we were given freedom to move and run our business in the future, we want to behave so that people will respect us, like the other people who do have dignity. Living on the street does not mean that we cannot have rights.”

[GUOTS Bukavu, Rights Focus Group 3, 24 February 2016]

In submitting this collation of responses from StreetInvest’s partner network, it is our intention to highlight the overarching message that street-connected children are deprived of their liberty when they are deemed to come into conflict with the law; but the reality is that the law, and law enforcement, is in conflict with the rights of street-connected children.

It is clear from the responses received from StreetInvest’s partners in Kenya, Zimbabwe, Ghana and Democratic Republic of Congo, Zambia and Sierra Leone that street-connected children are particularly vulnerable to abuses in juvenile justice systems: they are highly likely to come into contact with the criminal justice system in the first place, and they are less able to defend themselves from abuse once within the system. We have also drawn here on data from the research project Growing up on the Streets (GUOTS), a qualitative and quantitative data set involving street-connected children in three African cities.

Discrimination on the grounds of their street status is the primary reason cited by street-connected children for coming into contact with the police and the authorities. Extra-judicial punishment, arrest and detention for status offences and survival behaviours are common. Street-connected children are associated, at all times, with criminality such that interventions are based on assumptions of guilt, not

innocence. Outdated legislation means that these children face harsh treatment at the point of entry into the juvenile justice system, while State failure to uphold their obligations to children in the context of juvenile justice means that violence, abuse and neglect is experienced at all stages of arrest, pre-trial, trial, detention and release.

The cycle of violence and rights violations which both causes street-connected children to come into conflict with the law, and which they experience when deprived of their liberty has significant long-term effects on the development of these children. This is best conveyed by the words of one street-connected child in Harare: “the problems add to our experiences as a street kid, every time the police attack us we become better street kids” [GUOTS, Harare Resilience Focus Group 5, 24 April 2014].

*“Children in street situations are more like to be **targeted, criminalised** and end up in the juvenile or adult justice system and less likely to benefit from diversion, alternatives to detention or restorative practices as they are unable to afford bail and may have **no responsible adult to vouch for them. Police misconduct**, such as harassment (including stealing children’s money and possessions, rounding them up, or arbitrarily moving children on, often on the orders of their superiors and/or politicians), corruption, extortion (for money or sex), and **physical, psychological or sexual violence are common rights violations** that States should criminalise as a matter of urgency. The Committee is concerned about the application of ‘zero tolerance’ policies **criminalising children in street situations** and resulting in forced institutionalisation.”*

[United Nations General Comment No. 21 (2017) on Children in Street Situations]

Interactions with Authorities: Coding in GUOTS data	Accra	Bukavu	Harare
Arrest and Detention	264	873	279
Corruption or Ineffectiveness	106	287	130
Councils, Community Security Forces	373	284	146
Harassment and Violence	55	658	275
Justice, Injustice and Judicial System	81	82	68
Politics and Government	188	105	197
Positive or Collaborative Experiences of Authorities*	60	181	71
Redevelopment of City or Area (and children moved on)	188	10	22
Soldiers and Marines	11	356	47
Total	1326	2836	1235

Table 1: Source: Growing up on the Streets data coded at 27 August 2018. NB: ‘Positive or collaborative experiences of authorities’ includes colluding with them in crimes (see references to bribery and corruption in section 2 on non-judicial interventions).

Introduction

In December 2014 the UN General Assembly requested the Secretary-General to commission an in-depth global study on children deprived of liberty. An Independent Expert was appointed in 2016 to carry out the study in close cooperation with Governments, civil society organisations and various UN agencies. The Global Study has four overall objectives:

- To assess the magnitude of the phenomena, including the number of children deprived of their liberty, as well as the reasons invoked, the root-causes, type and length of deprivation of liberty, and places of detention;
- To document good practices and experiences, and to capture the views and experiences of children to inform recommendations;
- To raise awareness and promote a change in stigmatising attitudes and behaviour towards children at risk of arrest or detention, as well as children who are deprived of liberty; and
- To provide recommendations for law, policy and practice to safeguard the rights of children concerned, and prevent the detention of children, and significantly reduce the number of children deprived of liberty through effective non-custodial alternatives guided by the best interests of the child.

While street-connected children are not specifically included in the key focus areas of the study, the Consortium for Street Children (CSC) put out a call to its members in recognition that these children are often deprived of liberty, including through round-ups and institutionalisation. CSC is collecting and collating this data to feed into the study.

StreetInvest has coordinated a response to this call for data amongst the members of its global network: this document collates and summarises the key points raised by its network in response to the following questions:

1. What are the reasons for which street-connected children come into conflict with the law? [Entry points]
2. What are their experiences of non-judicial interventions?
3. What are their experiences in the context of judicial intervention?
4. What are the long term implications for street-connected children who have been detained and later released?
5. What examples are there of good practices which prevent street-connected children from being deprived of their liberty, and to improve their experiences within the juvenile justice system?

The Framework

The issue of 'deprivation of liberty' is inextricably linked to the concept and principles of juvenile justice. Few of the responses from StreetInvest's partners referred to deprivation of liberty in the context of social welfare responses, whereby children are considered to be in need of care and protection: in almost every experience reported by street-connected children, the process begins with a situation in which a child is presumed to be in conflict with the law, and therefore afforded treatment consistent with a repressive approach and punitive justice.

UNCRC

The United Nations Convention on the Rights of the Child (UNCRC) contains specific provisions for juvenile justice within Articles 37 and 40 (see Appendix 1). For the purpose of this submission, we draw attention in particular to the provisions that:

- No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
- No child shall be deprived of his or her liberty unlawfully or arbitrarily.
- Arrest, detention or imprisonment of a child shall only be used as a measure of last resort and for the shortest appropriate period of time.
- Children should be presumed innocent until proven guilty in conformity with the law.

Children deprived of their liberty shall:

- Be treated with humanity and respect for the inherent dignity of the human person.
- Be separated from adults unless it is considered in the child's best interests not to do so.
- Have prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.
- Not be compelled to give testimony or confess guilt
- Be treated with rehabilitation and restorative justice in mind.

Deprivation of liberty

The UNCRC does not contain a definition of the term 'deprivation of liberty'. In its General Comment No. 8¹, the Human Rights Committee concluded that the term covers all deprivation of liberty, whether in criminal or other cases, for example mental illness, vagrancy, drug addiction, educational purposes and immigration control. It should be noted that the Committee does not recognise vagrancy as a criminal case.

The 'Havana Rules' (United Nations, 1990) provide that deprivation of liberty means any form of detention or imprisonment, or the placement of a person in a public or private custodial setting which the person is not permitted to leave at will, by order of any judicial, administrative or other authority. This definition is almost identical to that used in the Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment. In all cases, deprivation of liberty should be limited to exceptional circumstances and used as a measure of last resort, for the shortest appropriate period of time.

Scope of this submission

In light of the responses received from our partners, StreetInvest understands 'deprivation of liberty' within the context of juvenile justice and therefore seeks to provide information, to the extent that we are able, relating to the core elements of juvenile justice. We have distilled these elements into the following categories:

1. Point of entry to the juvenile justice system
2. Experiences of non-judicial interventions
3. Experiences in the context of judicial interventions
4. Prevention and solutions

In Chapter 5, Prevention & Solutions, we have also included data on the long-term impact of the cycle of arrest, detention and release on street-connected children, coping strategies they employ, and the role of resilience.

¹ UNGC 8 on the right to liberty and security of persons

1. Point of Entry to the Juvenile Justice System

Key Points:

- Street-connected children are stigmatised, stereotyped and feared by the communities in which they live; seen as ‘out of place’ and with low social status.
- De-humanising language and labelling reinforce negative perceptions held towards them. As a result, mistreatment of street-connected children is often the norm.
- Street-connected children are seen as a threat to public order. Frequently lacking ID, engaging in unlicensed work and sleeping in public spaces creates conflict with the authorities.
- Discrimination on the grounds of their street status is a primary reason cited by street-connected children as the reason for their arrest, round-ups and detention.

Overview

The UNCRC sets out fundamental principles for the treatment to be afforded to children in conflict, or perceived to be in conflict, with the law. Of paramount importance, treatment must respect the dignity and worth of the child which must be reflected throughout the entire process of dealing with the child, **from the first contact with law enforcement agencies** and all the way to the implementation of all measures for dealing with the child.²

Street-connected children’s experience of first contact with law enforcement officials highlights the stigmatisation they face as a result of their street status. While some acknowledge behaviours which break the law (for example, drug taking, sex work and petty theft), these are used as a last resort in order to survive and as a consequence of the negative impact of life on the streets. In most cases, street-connected children report contact with the police and authorities as resulting from discrimination against them on the grounds of their street status, or for status offences such as vagrancy. They highlight that they are persistently treated as criminals, where their guilt rather than innocence is presumed.

Labelling and stereotypes

COUNTRY	LABEL	MEANING
Tanzania	<i>Kapurwa</i> <i>Nyokaa</i>	Dirt-poor, good for nothing Snake
Ghana	<i>Kobolor</i> <i>Gbevu</i> <i>Akwadaa bonie</i> <i>Mugu yaro</i>	Leads a bad life Bush or wild dog Bad child Wicked child
Sierra Leone	<i>Rarray Boy</i> <i>Tritna</i>	Good for nothing Street boy

	<i>Anyampi</i>	Notorious thief
Kenya	<i>Chokora</i>	Scavenger

Street work practitioners who form the Growing up on the Streets Peer Network were asked what names were used to describe street children in their country – some of the responses can be seen in the table above. As this demonstrates, street-connected children are the target of stereotyping and generalisation. Children themselves have highlighted the discrimination and negative attitudes by the public they face as a specific concern³ and such labelling emphasises the ‘street’ and ‘street situation’ over the recognition of the ‘child’. This is reflected in the behaviour of the police and the authorities, who respond to the implications of such negative stereotyping above recognition of the child as a human being, and as a rights-holder.

“They said we are the one putting dirty in town.” [GUOTS, Harare interview with Pesanai’, 4 February 2015]

“They don’t see street-connected children as human beings. Whenever they do their round-ups, they usually boast that they are cleaning the city by removing rubbish out of town” [Glad’s House, Mombasa]

“One of the challenges is when walking around people begin to speak, pointing at you, saying you are chokora, mad, are thieves. You tend to lose peace and feeling bad.” (Pearson, 2017a) [, interview with young person, Tanzania, 9 March 2015]

“Those who live permanently on the streets are totally deprived of their basic rights of food and shelter. They are stigmatised and branded as hooligans. They are scared of moving about.” [CodWela, Sierra Leone]

² UNGC No. 10 Children’s Rights in Juvenile Justice, paragraph 13.

³ UNGC No. 21, Rights of Children in Street Situations, paragraph 26.

Association with criminality

Street-connected children are both targeted by police and authorities who associate them with criminality, and are disproportionately affected by laws and policies which criminalise offences such as begging and vagrancy as well as running away from home. While this is a contravention of their rights and the UN Committee on the Rights of the Child has made clear such provisions must be abolished, making explicit that behaviour such as 'roaming the streets' should be dealt with through the implementation of child protective measures⁴, this is yet to be realised in practice.



Picture by a young boy in Monrovia, Liberia. The text reads: "police running after me"

"You can't even stand with your friends on the streets. The police will collect you all. If you are on the streets, you and your friends are always suspects." [Glad's House, Mombasa]

"The police stop us and start beating us for no reason. We did not even steal anything but the police beat us too much as if we were snakes or criminals, and they can even kill us that way." [GUOTS Bukavu, Rights Focus Group 2, 23 February 2016]

"It is not easy for street-connected children to be with their friends in town: you are always suspects and can be arrested any time." [Glad's House, Mombasa]

"If there is a robbery and they do not find the thief, they will come and beat us all." [GUOTS Harare Safe Movement Focus Group 4, 25 June 2013]

"According to the police, being in the streets after 12am is loitering and loitering is a crime. They associate loiterers with robbers." [CodWela, Sierra Leone]

"Most of the time they are accused of doing something wrong. They are treated differently such as being put in cuffs, publicly reducing their self-esteem. If they resist they will face some punches publicly before further investigation. This is not the same situation for other children." [SCoSL, Sierra Leone]

Survival strategies and use of public space

The realities in which street-connected children live do not fit traditional definitions of conceptualisations of childhood. They have a unique relationship to public spaces compared with other children.⁵ In the absence of adequate provision and protection, which in themselves represent rights violations, street-connected children use public space to satisfy their survival and development rights, for rest, play and leisure, to create networks and organise their social life, and as a key feature of their lives in general.⁶

This use of public space for finding shelter, food and work, and for play and recreation exposes street-connected children to significant risk from the police and authorities who regard such activities as both illegitimate and a threat to the community at large.

"The help I need on the street is to have liberty or freedom to move around without any worries or troubles on the street." [GUOTS Bukavu, Rights Focus Group 2, 23 February 2016]

Sleep and shelter

Shelter is fundamental to all aspects of the wellbeing of street-connected children. With no tenure or security, children are displaced, their possessions destroyed or stolen. Sleep is disrupted through police disturbance.

"These days, even when you sleep, the [Council] task force will be chasing you." [GUOTS Accra Rights Focus Group 4, 4 March 2016]

"They came at 4am as we were sleeping. We heard them talking. We all jumped out running. I jumped into the sea and the coral cut my legs very badly but I kept swimming and running at the same time. I was bleeding so much but I still keep on going. All the rest are still in jail now." [Glad's House, Kenya]

"We may have arranged the sleeping place and ready to sleep, the soldiers themselves spray water on us shouting at us 'maibobo!'" [GUOTS Bukavu, Shelter Focus Group 4, 23 September 2013]

"At Waterloo, street children experience deprivations of their liberty when the police discover their hide out, their place of congregation and relaxation, and start to chase them out of

⁴ UNGC No. 10, Children's Rights in Juvenile Justice (2007) paragraphs 6-9

⁵ UNGC 21, paragraph 36

⁶ UNGC 21, paragraph 38

those places for loitering. They succeed in arresting a few and keep them in detention. Hence their freedom of movement and freedom of association may be hindered."

[CodWela, Sierra Leone]

Play and recreation

Play is a key coping strategy for street-connected children, essential for their wellbeing and building social relations, but finding space to play is a key challenge in the face of aggressive policing which discourages the visible presence of these children.

"When I gather with my friends playing cards, police can come and arrest us, so when I have those thoughts, I sometimes go away because if a policeman should arrest me, it will be bad luck for me." [GUOTS Accra, Play Focus Group 5, 22 January 2014]

"If they come to the place we are playing, we must flee their sight. We climb up on the roofs, some cross the roads, because if you remain there you will be caught, jailed and beaten seriously." [GUOTS Bukavu, Play Focus Group 3, 9 December 2014]

"We used to play soccer at the shops at night after the shops closed; but now we do not do that anymore because if we start to play the police will come and beat us up." [GUOTS Harare, Play Focus Group 1, 30 January 2014]

Food

"Someone was jailed for five days after stealing a loaf of bread." [GUOTS Harare, Food Focus Group 1, 27 October 2012]

"You don't have work to do, a day may pass without you eating. That is how it is." (Pearson, 2017a) [interview with young person, Tanzania, 2 June 2015]

"Sometimes we do not cook our food because of some police officers. When they find us cooking they take our pots and food... They eat and arrest us and go to put us in a dungeon where we pass the whole night and release us in the morning." [GUOTS Bukavu, Rights Focus Group 1, 23 February 2016]



Street children playing table football at a drop in centre run by PEDER in Bukavu, DRC. [GUOTS]

Work

Barriers to business creation, including official obstacles including the need for ID documents and licenses, actively prevent street-connected children from finding legal employment. Working on the fringes of the formal and informal economy, street-connected children undertake work in order to survive, much of which makes them vulnerable to exploitation and harm, and brings them into conflict with the police and city authorities.

"The Abaayee⁷ even came this morning to destroy things. They sack everyone there – they said they will not allow anyone to sell there." [GUOTS Accra, Earnings Focus Group 5, 16 October 2013]

"I cannot get to eat because they (the police) are in all the areas where I manage to earn money to get to eat. That is why some of us suffer from hunger because they do not have anywhere to earn money because of the police." [GUOTS Bukavu, Rights Focus Group 2, 23 February 2016]

"After arriving on the street, street-connected children face significant stigmatisation which can manifest in an exclusion from the formal economy or exploitation of their labour. These barriers lead some children and young people to turn to crime to survive." (Pearson, 2017b)



Cart Pusher, Accra [GUOTS]

⁷ In Accra, Ghana, the 'Abaayee' are city authority market wardens. The word, in the Ga language, means 'they are coming'

2. Experiences of Non-Judicial Interventions

Key Points:

- Contrary to the UNCRC, street-connected children report consistent denial of their rights including: violence and mistreatment by the authorities which includes assault, rape, theft and destruction of property; bribery and corruption whereby the police and authorities demand money, goods and sex under threat of violence and imprisonment.
- The authorities which have power to harass, detain and enact violence towards street-connected children include the police, soldiers, council task forces and community vigilante groups.
- The ways in which street-connected children satisfy their basic rights to food, shelter and the need to work expose them to risk of arrest and detention as a result of laws, policies, perceptions and behaviours.
- A key concern raised by street-connected children is that, at the point of arrest, informal punitive action is taken, rather than them entering the formal juvenile justice system.

Overview

Article 40(3) of the UNCRC requires States to promote measures for dealing with children alleged or accused of, or recognised as, having infringed the penal law without resorting to judicial proceedings, whenever appropriate. Such measures may include referral to alternative social services, including those provided by NGOs, and largely reflect child protection responses. It may also include government facilitates and diversion, for which children must freely and voluntarily give consent in writing.

Examples of diversion and non-judicial intervention include deprivation of liberty in rehabilitation centres and government and non-government homes. Of concern is that the provision that non-judicial interventions may be used, exposing street-connected children to significant risk of extra-judicial treatment including: arbitrary round-ups and street sweeps; punishment meted out by police and the authorities prior to arrest, detention or trial.

Violence (physical, sexual and psychological) is a common experience for street-connected children when they first come into contact with the police and authorities. In many cases, this contact does not go on to result in detention or progression through the juvenile justice system: rather, punishment is deemed to have been appropriately served or, in some cases, detention is avoided as a result of sexual exploitation whereby sexual activity is used to 'buy' their liberty.

"He was caught by the 'Force Vives' [community vigilante group] the day before yesterday, they dived him into the very dirty water to such an extent that blood came out of his nose." [GUOTS Bukavu, Rights Focus Group 2, 23 February 2016]



"One day I was just sleeping; the police woke me up and started beating me. I did not know anything." [Kolkata]

Extra-judicial punishment

Street-connected children's reports of violence at the hands of the police and authorities are common across the reports of all our partners. It is of significant concern that the prevailing attitudes of law enforcement is to de-humanise street-connected children and implement extrajudicial actions under the guise of law enforcement or punitive justice.

Overwhelmingly, street-connected children describe how the authorities adopt a repressive approach in their actions whereby they are constantly perceived as delinquents and criminals. Assumed, rather than proven, criminality is a primary reason given for coming into conflict with the law. Street-connected children frequently report incidents of punishment by the police and the authorities prior to or at the point of arrest.

"When one street kid steals a cell phone, all street children will be rounded up and beaten up." [GUOTS Harare, Rights Focus Group 2, 9 March 2016]

Gender-related risk

Reports of abuse by the police and authorities are of particular concern in relation to street-connected girls. Sex may be demanded in order to avoid arrest, or to secure release from police custody.

"The police are the people who are supposed to protect you. But when you meet him on the street at night, he is the first to ask for [sex]... if you refuse they threaten to rape you. Thus you are obliged to 'let them have what they need' so as not to be arrested." [GUOTS Bukavu, Rights Focus Group 6, 24 February 2016]

"One night I met the police and they arrested me and put me in prison. In the morning they asked for the money before they can let me free. But I had sex with some of the policemen and they let me escape." [GUOTS Bukavu, Shelter Focus Group 6, 23 September 2013]

The fear of arrest and detention also exposes street-connected children to the risk of sexual violence whereby their fear is used as an opportunity to abuse them.

"The five of us had gone to swim in the river running across City Park in Nairobi. They suddenly turned up: two of the five of us managed to escape but I remained behind with two ladies. They forced me to have unprotected sex with the girls: if not they would take us all to the police station. They laughed as they watched us do it. Then they told us to disappear before they changed their minds." [Glad's House, Mombasa]

Bribery and corruption

There are numerous reports of the police and authorities demanding bribes in order for street-connected children to avoid arrest. Incidents of theft by the police are also common.

"When you don't give them the bribe, then they will start the scatter. You can be lying down and they will come and cut your net. Know that if you don't pay your one Cedi they will destroy your net and go and burn it." [GUOTS Accra, Shelter Focus Group 4, February 2013]

"The police catch you, beat you, take away the valuables you have got... but they also 'eat' them by selling those stolen items and benefit from the money earned from that sale." [GUOTS, Bukavu Rights Focus Group 5, 25 February 2016]

"I was beaten with a gun butt in the head. All my airtime money was taken." [GUOTS Harare, Shelter Focus Group 5, January 2013]

"During many role plays, the child acting as the police would run after the street child, calling him 'thief' and imprisoning the child if a fine was not paid." [SCoSL, Sierra Leone]

Round-ups and street sweeps

A recurrent reason given for police round-ups or street sweeps by street-connected children is that they are perceived to be rubbish and therefore disposable:

"They told us that we should leave town or they would come and raid us this time with dogs." [GUOTS Harare, Interview with Pesenai, 4 February 2015]

"They don't see street-connected children as human beings. Whenever they do their round-ups, they usually boast that they are cleaning the city by removing rubbish out of town" [Mombasa]

"We were many children that were caught and put into a lorry. In the lorry we are told to lay down and not see where we are going. Along the way they would drop us off the lorry in groups of fives... the police does that to us." [GUOTS, Harare Rights Focus Group 2, 9 March 2016]

"On average, the police do round-ups twice a week on different days." [CodWela, Sierra Leone]

Experiences of round-ups and street sweeps are closely related to political and public events: temporal spikes of activity are reported during elections, visiting dignitaries and international conventions.

"While the election period was relatively peaceful compared with the violence in 2008, young people experienced restrictions to their mobility and displacement from usual places of safety. There was an increased presence of police on the streets during the night, with arrests and imprisonment of young female sex workers. The authorities sought to prevent gatherings of people on the streets to minimise the opportunity for political protest. This affected young people during the evenings as they were prevented from occupying their normal bases. They were aware of the potential for an escalation of the usual violence by police and military personnel during the election period." [GUOTS, *Street Youth and National Elections in Zimbabwe*, Wayne Shand, 25 August 2013]

"Police raids are circumstantial activities organised by the security force (police, army etc). Its frequency is not

determined: it is spontaneous because it is organised according to the circumstances for political and security reasons.” [PEDER, DRC]

Demolition and destruction of shelters and belongings

With no tenure or security, street-connected children are displaced, their possessions destroyed and stolen. This is often a primary point of contact between children and the police or authorities.

“They came to demolish the whole place; they didn’t relocate us or give us any place to go. He (the Mayor of Accra) said the kiosk area is made of street people so he came to demolish the entire place. He said he didn’t want to see us there.”
[GUOTS Accra, Rights Focus Group 2, 6 March 2016]

Incarceration in children’s homes

The responses received from our partners did not highlight many examples of non-judicial interventions which would qualify as legitimate under the Convention. In the cases where children were sent to children’s homes or other institutions, the children did not report voluntary consent, and the circumstances of such interventions indicate a repressive rather than protective agenda. Further, involuntary incarceration in children’s homes and rehabilitation centres often involves children being placed far away from where they are found, unable to access the support networks which are vital to their lives and identities.

“At the Home you will not be allowed to go out because there will be security at the entrance. We can’t stay there: you know that we have lived and grown on the streets, so life in the Home will be different.” [GUOTS Accra, Rights Focus Group 6 March 2016]

“I refused to live like cattle, so I ran away from the children’s home.” [GUOTS Harare, Rights Focus Group 1, 11 March 2016]

Despite the obligations under UNCRC Articles 37 & 40, children are often not informed of the charges against them, or the reason for their placement within a children’s home or centre.

“At the Children’s Homes, if they get any opportunity to run away, they will run away. From my understanding, it is because they do not know the reason of being in a Children’s Home.” [GUOTS Harare, Interview with Brighton, 18 February 2015]

3. Experiences of Judicial Intervention

Key Points:

- Conditions in detention are inadequate; often involving violence, torture, lack of food and lack of space to sleep.
- Contrary to the UNCRC, street-connected children are often falsely imprisoned, and detained in adult prison populations.
- Girls are at particular risk of abuse and exploitation by the police who demand sex in order to avoid arrest or for release.
- Periods of detention are not defined and includes removal to Children's Homes against their will.

Overview

Once street-connected children progress further into the juvenile justice system, violence continues to occur during pre-trial detention, trial and post-trial measures. This includes violence at the hands of the authorities, but also as a consequence of the conditions of detention which include (in contravention of UNCRC Article 37) detention of children *with adults*, inadequate detention facilities, and as a result of conflict with other detainees.

Despite the legal and moral imperative to ensure no child is subjected to torture, reports of such action are frequent. The United Nations definition of torture includes *any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on such a person*⁸. While acts of physical torture are shocking, the psychological suffering resulting from detention is of particular concern.

Inadequate age assessments, lack of identification documents, and ineffective procedures result in street-connected children being detained in adult facilities. Further, children are often not informed about the reason for their incarceration, not are determinate sentences established: detention rarely reflects the States' obligation to ensure that it is used either as a last resort, or for the shortest appropriate time.

Incarceration with adults

Despite clear obligations in States to ensure that children are not incarcerated with adults, lack of adequate facilities and ineffective age assessments result in this.

"I was standing in town together with Sam & Lewis. We were arrested and taken to the police station. At the station the officer just looked at the three of us. He then concluded that Sam was a small boy and was taken to the children court and then to the juvenile remand home. Lewis and I were taken to the adult court then to adult prison. I can't understand why

since Sam was the oldest and tallest among the three of us."
[Glad's House, Mombasa]

"Arrested on 29 July 2014 for wearing a T-shirt and carrying objects stolen by his friends, he is still in prison (3 months later). He is in the area for adults pending the outcome of his transfer to the minors' area where he could benefit from the assistance of counsel." [GUOTS, Update from PEDER, NGO partner in Bukavu, 27 October 2014]

Incarceration with adults, and other young people, can result in violence between prisoners as well as at the hands of the police and guards.

"When I went inside, I wanted to make myself guy, and without paying the cell leaders... because I was only having four Cedis, about seven of them came to me. Beatings." [GUOTS Accra, Interview with Jonathan 23 June 2014]

Prison

"You may be wrongly charged of theft and be put in custody then brought to prison. I can be told to swell the cheek and receive the dazu (slaps), or be asked to sweep up excreta, to change clothes with someone whose clothes are full of fleas... you cannot be in good health in such conditions."
[GUOTS Bukavu, Health & Wellbeing Focus Group 5, 18 January 2014]

"He is in Bukavu Central Prison, specifically in the adult area since July 2014. Today it totals 5 months' of detention."
[GUOTS, Update from PEDER, NGO partner in Bukavu, 23 December 2014]

"We were first rounded up by the Department of Social Welfare. Later we were taken to the police cells; those under 18 were separated from us, and we, the older boys, were locked up in a cell for some days. I do not know where the little youngsters went. I heard they still want more people to raid and dump away." [GUOTS, Harare, Interview with Pesenai, 4 February 2015]

⁸ UN Convention Against Torture, Article 7

Rehabilitation Centres

Experiences of incarceration in rehabilitation centres highlight the failure of the authorities either to define the length of detention, or to ensure that it is used as a last resort or for the minimum appropriate time. Further, the best interests of the child are not prioritised and conditions of their detention include transfer far away from their homes and support networks.

“After court I was told that I would be taken to Gitathuro Rehabilitation School in Nairobi. I stayed there for one month. I was then told I would be taken to Likoni Rehabilitation School in Mombasa and knew nobody there. In Kisumu we only speak English and Luo, while in Mombasa people speak Kiswahili. I did not know how I was going to communicate.” [Male, 17, Mombasa]

“They then told me that I would be taken to Wamomo in Embu. I had never heard that name before. I was only 13 at the time. We drove out of the city into the countryside, it was as if the drive would never end. I stayed there for three years and none of my relatives ever visited me. After three years I was given fare back to Mombasa. I went there knowing nothing but left knowing lots of bad words and habits. They say that it is a rehabilitation school, but it is not. There, one can walk in a good person but walk out a very bad person.” [Glad’s House, Mombasa]



Bukavu Central prison, where street-connected children are frequently detained [GUOTS].

Inadequate Conditions

Despite the clear obligation in the UNCRC for children who are deprived of their liberty to be treated with dignity and respect, and that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, street-connected children and our partners report appalling conditions under detention.

“[Two boys] have been released from prison. In fact their detention conditions are unbearable. For example, one has to pay money in order to have access to the prison first, and then to the cell in the prison. They don’t have food, and the detainee must totally rely on the visitors’ supply to eat. When you are not visited, it means you don’t eat unless the co-detainees pity you, ask you to empty excreta from the cell and/or wash clothes only to pay you with an unsatisfactory food quantity.” [GUOTS, Update from PEDER, NGO partner in Bukavu, 15 January 2014]

When in detention, children are no longer able to obtain food for themselves and frequently report lack of access to food as an issue. There is a reliance on friends and community members as a source for help.

“If you were in good terms with your friends, they are the ones who can bring you an avocado with a slice of bread, or bring you a cigarette if you do smoke.” [GUOTS Bukavu, Resilience Focus Group 1, 10 February 2015]

“We slept on the veranda at the police station. We did not get any food. On Thursday that is when we got dry bread only.” [GUOTS Harare, Interview with Pesenai, 4 February 2015]

Lack of adequate sanitation and healthcare also pose a risk to children’s wellbeing when in detention.

“Once one falls sick, he must be treated in the clinic for prisoners, but they can’t give him food. One man died there after taking medicines because he was not given food.” [GUOTS Bukavu, Interview with Nicaise, 23 January 2014]

4. Long-term Impact of Deprivation of Liberty and Release

Key Points:

- Experiences of violence at all stages of the juvenile justice system have a long-term impact on the physical and psychological wellbeing of street-connected children
- Stigmatisation within their communities is exacerbated when children have been deprived of their liberty and are later released
- Street-connected children develop a deep suspicion of the police and authorities as abusers of power.
- Street-connected children employ strategies and negative forms of coping for survival. Their complex responses to the cycle of detention and release could be described as resilience.

Overview

Street-connected children's experiences of violence, abuse and neglect which contribute to them developing street connections in the first instance, and which subsequently result in further violations as a result of stigma and discrimination, including risk of coming into conflict with the law, perpetuates a cycles of violence and deprivation which has a devastating impact on the long-term wellbeing of these young people.

With regards to children who are deprived of their liberty and then later released, issues raised include: greater stigmatisation associated with their detention; coping strategies which are necessary for survival but which may be ultimately harmful; increased likelihood of re-arrest as a result of experiences in detention.

Of critical concern is that, while street-connected children demonstrate incredible resilience in the face of discrimination and abuse, violence becomes 'normalised' and accepted as a general condition of their everyday lives.

Resilience means *"to take courage and harden the heart to endure whatever will happen to you."* [GUOTS Bukavu, Resilience Focus Group 4, February 2015]

Adapting behaviour

Being resilient on the streets relies on the ability of individuals to read mutable situations and to form appropriate responses which minimise risk and maximise opportunity.

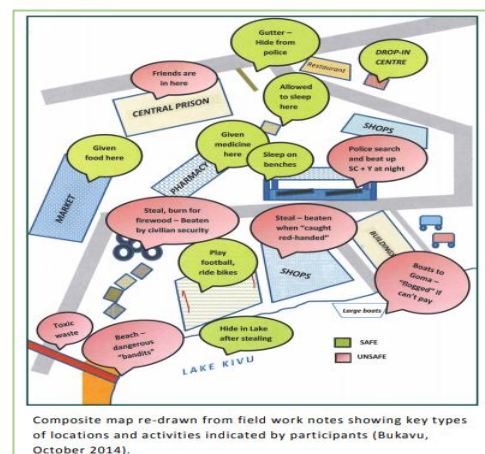
Street-connected children adopt 'performances' that enable them to cope in complex situations of risk, and avoid either arrest or violence at the hand of police and authorities.

"If you do not want to be regularly beaten up by older people, you will just dress like a mad person and they will be afraid of you as you walk by." [GUOTS Harare, Resilience Focus Group 4, April 2014]

"Some of them say they would just stay clean and smartly dressed so that they will not be caught. Some youngsters encourage each other that if they are raided by the police and dumped away, they will just have to come back from where they are dumped." [GUOTS Harare, Interview with Pesenai, 18 February 2015]

"Many street children limit their movements to protect themselves from violence, while changing their behaviour to adapt to certain places and times that they judge to be safer than others. Their relationship with those who should help to guarantee their safety is at best ambiguous, and involves moments when they are victims of extreme violence by the representatives of authority." [PEDER, DRC]

As can be seen in the map, Street-connected children develop awareness of where and when they can move safely at different times of day and night, adjusting their movement and routines to protect themselves from violence, arrest and humiliation. (Source: GUOTS Briefing Paper 7).



Tolerating harm

The resilience which street-connected children demonstrate includes attitudes and behaviours which show the powerlessness and narrow range of options available to them. In the context of the police and authorities, street-connected children tolerate abuse and exploitation as a necessary condition of survival. The regularity of these conditions induce a sense of 'normality' of what would otherwise be unbearable situations.

"Sacking [authorities destroying nets and shelters] will increase street life. I will be tempted to join girls in sex work. When I should sleep in front of shops, I may be raped, so the best option for me would be to join my friends in sex work." [GUOTS, Accra Rights Focus Group 7, 4 March 2016].

The perpetual cycle of abuse, both within the juvenile justice system and as an everyday consequences of life on the streets can also result in a sense of hopelessness.

"I can no longer be ashamed to do any kind of work. I don't care anymore." [GUOTS Bukavu, Health & Wellbeing Focus Group 5, 18 January 2014]

"No one cares about a street child. Many times people just let them die on the streets, Even when one is killing himself with glue or drugs. No one cares." [Glad's House, Mombasa]

"'Giving up on life' is a phenomenon that children and young people spoke about [...]. Those who have given up on life are more likely to be convinced to engage in risky work or criminal activities due to a desire to earn more money for drugs and a lower regard for the value of their life." (Pearson, 2017a)

"They see themselves as if they are in prison therefore lost hope for the future, irrespective of their string coping mechanism." [SCoSL, Sierra Leone]

Harmful coping strategies

In addition to the survival strategies which street-connected children employ, the sense of normalised violence, and the hopelessness it can create, can result in children resorting to harmful coping behaviour to deal with the long-term psychological impact this has. This includes use of drugs and alcohol to 'numb the pain' and to help children forget about the painful experiences they have endured.

"Children when thinking about what they have been through feel devastated with life. Some engage in drinking alcohol or smoke excessively which is also dangerous to their health." [SCoSL, Sierra Leone]

"For me, when I don't have solutions to my problems, I resort to smoking drugs, and when I smoke I will forget all my thinking." [GUOTS Accra, Resilience Focus Group 4, 30 April 2014]



Young women examine the damage after their market and sleeping place were destroyed by fire, Accra [GUOTS]

Increased marginalisation

The increased stigma attached to street-connected children who have been in conflict with the law can also perpetuate and exacerbate their exclusion once they are released.

Following time in a rehabilitation home, when trying to get back into education: *"At one school the headmaster said that I was too big and she could not admit a child to her school with such bad records. I felt very bad and rejected."* [Glad's House, Kenya]

"Children or minors detained in adult cells or prison would likely pick up unhealthy behaviours and lifestyles that could make his adjustment later very challenging. Such children are likely to be stigmatised or labelled as criminals after their release." [Selassy Glegbo, Ghana]

"Most feel ashamed to go to the areas where they were arrested in fear of being provoked or looked low upon by people." [SCoSL, Sierra Leone]

Lack of trust

Street-connected children develop a deep suspicion of police and the authorities in the face of the abuses of power they demonstrate. This extends to a lack of trust in adults in general, who they perceive to condone such violence and abuse.

"It is difficult to be on the streets with my friends because we are not trusted, and you cannot trust anybody. Some people are kind and others are very cruel to us. They say bad things to us." [Friends of the Street Children, Zambia]

5. Prevention and Solutions

Key points:

- Street-connected children are the experts in their own lives: we must invest in them to find ways to overcome the rights violations they experience
- Street youth are active agents involved in shaping their own lives, despite significant constraints; this has been demonstrated through their involvement in research participation and knowledge exchange for Growing up on the Streets.
- Police and authorities lack even basic training in children's rights: evidence shows that training, in particular attitudinal and behavioural training has a positive impact on the way in which street-connected children are viewed, and reportedly a positive impact on the treatment they are afforded by the police and authorities.
- Trust is a major obstacle in ensuring that the rights of street-connected children are protected: more street workers should be trained and accessible to support these young people, and to challenge the stigma and discrimination that they face

Overview

In relation to the prevention of juvenile delinquency, it should be borne in mind that the majority of street-connected children have already experienced multiple rights violations of their rights before spending time on the streets, including in institutions such as detention centres, rehabilitation centres and juvenile justice institutions.⁹ Once on the street, the violations perpetrated against them are vast, numerous and often brutal. While we recognise that the 'preservation of public safety is a legitimate aim of the justice system'¹⁰, the labelling of street-connected children as *delinquent* on the grounds of their street status is the primary cause for their entry into the juvenile justice system and is, wrongly, used as a legitimate reason for such action. Prevention of juvenile delinquency in this context must therefore seek to address the structural and other causes which result in children developing street connections.

Until such time that States uphold their obligations to all children, including street-connected children, it will not be possible to prevent these children from being deprived of their liberty: they will continue to come into conflict with the law and the cycle will continue to repeat. A concerted effort to see the authoritative guidance set out by the UN Committee on the Rights of the Child in its General Comment No. 21 (2017) on Children in Street Situations implemented by States is required if the reasons for which street-connected children are deprived of their liberty are to be addressed.

"Local authorities should recognise the reality that street-connected children need to work to survive and should

provide protection from exploitation and the worst forms of labour rather than restrict their ability to work on the streets." [GUOTS/CSC, *Africa Consultation Report for the UN Committee on the Rights of the Child's General Comment on Children in Street Situations*]

Within StreetInvest's partner network, there are compelling examples of initiatives which can have a tangible impact on the treatment which street-connected children are afforded by police and other authorities. These include:

- Recognising participation as a process not as a project, and creating opportunities for those in authority to understand the situations of these children; and
- Training those who come into contact with street-connected children on child rights.

It is unsurprising that, in light of their experiences, street-connected children do not trust adults.

Participation

"The authorities should listen and consider our opinions. We have a problem and they are at that position in order to defend and protect all the people without discrimination. We should not be mistreated simply because we are street children." [GUOTS Bukavu, Interview with Baba, 18 September 2015]

⁹ OHCHR Study on the Protection and promotion of the rights of children working and/or living on the streets.

¹⁰ UNGC No. 10 paragraph 14

“When you involve children and listen to their views and stories, we begin to realise that our definition of a safe place is different from how they define it. For them a safe place is safe when they feel free to interact with loving, caring adults who help them, listen to them and provide for their physical and psychological needs.” [CodWela, Sierra Leone]

One of the most complex challenges faced by street-connected children, and one of the root causes for which they are deprived of their liberty, is dealing with the perceptions of those around them and the treatment they are subsequently afforded. Raising awareness and promoting a change in stigmatising attitudes and behaviours towards these children is critical if such rights violations are to be stopped.

It is equally important to address the other rights violations which expose these children to risk of deprivation of their liberty by:

- Creating safer environments
- Increasing access to basic vital services and support
- Providing access to trustworthy adults who can support them
- Developing inclusive and supportive communities

Participation is not a short-term project, nor and end in itself: it is the means by which a child rights approach can be applied in programme and policy design for street-connected children. The process of participation must be facilitated for all children, and at all times. Our partners share numerous examples of the ways in which street-connected children can be empowered to understand their rights, and to challenge stigmatisation which results in the deprivation of their liberty for themselves.

Knowledge exchange

“Children who live in the streets are the best architects of their lives as they have hopes and aspirations for the future like all other children. For them liberty largely implies that they be given the opportunity to choose what they want to do and how they should live their lives. To prevent deprivation of liberty they must be involved and to lead all decisions affecting their lives.” [CodWela, Sierra Leone]

Street-connected children are the experts on their own lives. Creating space in which they can engage with stakeholders not only builds confidence, respect and self-worth, but it

plays a critical role in helping governments to improve the targeting and effectiveness of their services.

“The government should consult us before they make decisions that concern us, and stop rounding us up.” [Friends of the Street Children, Zambia]

“Arbitrary decisions by state agencies ought to stop. The children must be respected as a person with rights. And they should be adequately consulted on matters that affect them. At times, the government officers and agents of the local authority have little idea about the life of a street-connected child.” [Selassy Gbeglo, Ghana]

Growing up on the Streets participants took part in further training, (see [Knowledge Exchange Training Pack](#)), and following knowledge exchange events in Bukavu, Accra and Harare, street-connected children spoke of improved attitudes and behaviours towards them from police and authorities:

“That conference with the authorities produced good results. We walk around when and where we want, and the police and soldiers will not arrest you.” [GUOTS Bukavu, Interview with Abdou, 21 September 2015]

“We are free to move around these days. Our mates went to plead our case before the mayor of the town and I really saw that job is being done.” [GUOTS Bukavu, Interview with Ntamu, 14 September 2015]

“They came to understand that being on the street doesn’t mean that we are armed robbers, or that we just fight anyhow. We explained to them, and they understood us better.” [GUOTS Accra, Interview with Constance, 24 June 2015]

Police and the authorities also report a change in their attitudes and behaviours towards street-connected children:

“The leader of the government department; he got up and said they are sorry because they didn’t know. He said personally he wasn’t aware of (our situation); so he admitted his mistakes.” [GUOTS Accra, Interview with Sarah, June 2015]

“I notice that an authority, at first she was against us, but towards the end of the workshop, she was agreeing with us.” [GUOTS Harare, Interview with Goodwill, 5 August 2015]

Rebuild trust

The street is the site of incessant violence: street-connected children report huge levels of violence, primarily from the police and authorities, but also accepted and at times encouraged by society at large. Street-connected children are violently removed from the street and beaten up. They are chased away from their sleeping places. Their business are destroyed with police taking away their stock and earnings. The excessive violence that they experience, particularly at the hands of the State, deepens their distrust of authorities, and of adults in general.

"One is always on the lookout. You never know what might happen. If it is not the police then it's the general public, or even one of your friends. You are never at peace." [Glad's House, Mombasa]

Too often consultations *about* street-connected children concentrate on adults, and on their views. Throughout this submission, negative perceptions about street-connected children are cited as the reason, or the excuse, for which street-connected children are treated as they are. It is critical to understand the situation from the perspective of these young people: in light of the levels of violence they experience, it is understandable that they are distrustful of adult intervention in their lives, whether such intervention is in the context of juvenile justice or any intervention which is intended to uphold their rights. Improvements in the way we respond to street-connected children will only be possible if we commit to understanding who these children are, what they need, and how best to support them.



"A street worker who used to talk to me and encourage me a lot. After running back to the street he gave me morale, and without him I would not be here" [Glad's House, Mombasa]

"The places where they meet with 'Bras' and 'Sisies' and street workers are their safest places." [CodWela, Sierra Leone]

Trust is a major issue for street-connected children. Without setting in place a process whereby these children are able to access the support of a trustworthy adult, their exclusion and marginalisation continues to deepen.

Street work is the first, critical step in understanding who these children are, what they need, and how best to support them. More resource is needed to recruit, train, and support street workers as trustworthy adults in the lives of street-connected children.

"In order to have our rights respected on the streets, we need people that we can trust around us. We feel better when we see someone we can talk to, someone who understands our situation and does not judge us. Many people judge us without listening to us or understanding why we took the decision to come to the streets." [Friends of the Street Children, Zambia]

"We are thankful for your (street workers) presence: this is one way of sharing ideas." (Pearson, 2017c) [interview with young person, Tanzania, 14 May 2015]

Capacity building

Police and other authorities often lack any training about children's rights. StreetInvest and its partners fully endorse the UNGC 21 guidance that States should invest in good quality initial and in-service basic training on child rights, child protection and the local context of street-connected children for those in contact with children in the areas of, amongst others, law enforcement and justice. Further, we would emphasise that such training should include attitudinal and behavioural change, as well as skills development. The need to raise awareness about their rights with the police and authorities has been highlighted by street-connected children across the network:

"If we must trust adults, they must change their attitudes towards us first." [ScOSL, Sierra Leone]

"The government should ensure that police officers do not harass us on the streets by beating us, arresting us without any reason, just because you are a street child." [Friends of the Street Children, Zambia]

"They are not even trained officers. We know some of them: they have Joho's (Governor of Mombasa) boys. Some of them are even drug users." [Glad's House, Mombasa]

The impact can be clearly seen in the outcomes of numerous police training and sensitisation programmes delivered by StreetInvest and its partners.

Police Training Programme, DRC, 2015

As part of a DfID funded project in DRC in 2015, 78 police officers were trained in appropriate values and attitudes towards street-connected children, a child rights approach and child-centred practice. Key evidence of impact from the evaluation:

"I have changed my mind towards the street children, and consider them as normal children who need protection and care. I will no longer consider them as sorcerers, criminals and thieves but that they have rights and must be protected."

Police officer, post-training in Kindu, DRC, 2015

- 80% of police officers stated that the training "positively changed my attitude towards street children"
- 98% of police officers stated the training "will allow me to improve the quality of my conversation with street children"
- 35.8% of street-connected children surveyed in Goma, Uvira, Kindu and Bukavu reported improved treatment by the police post-training.

Police Training, Sierra Leone, 2016

As part of a programme to deliver street-based child protection and a support network for street children in Sierra Leone, through training and capacity building, 200 police officers participate in a 'values and attitudes towards street children' workshop. Evidence of the impact this had upon them can be seen from the comments on evaluation:

"All police officers should be given this training." Senior Police Officer

"It gives me a new look on street children."

"The right to life covers every set of people, including street children."

"I learned more new things about how to take care of street children. How to come closer to them and that they are not our enemies."

"Train trainers on all StreetInvest modules within the police academy in order to enable the police services to have knowledge and skills to deal with children in contact with the

street" Focus Group Discussion with police officers during external evaluation.

"At the police academy, there is not any module pertaining to how to deal with children at all. Therefore, when we come out of the academy and must start work, we do not know how to deal with these children so we end up violating their rights when we think we are enforcing the laws. As for the street children, we have always perceived them as outlaws who need to be taken off the streets, and they see us as their enemies. We never try to understand their situation. The training has enabled us to see that there is something missing in our training and it has contributed to fill the gap." Focus Group with Police during external evaluation.

"Before the training, every time I go on patrol and see a street child, I would watch him to see what would be his next move so that I can arrest him and the children would run away as soon as they see me coming. But now, it is different, I talk to them with respect and I learn a lot from them. Most of them are on the street for negligence. I even feel bad about the way I used to treat them." Police Officer, Waterloo, post-training

"The street children who participated in the focus group discussion in Waterloo stated they have noticed some changes in the attitudes of the police towards them in the last two years. According to them, some of the police officers who patrol the streets are now more open to talking to them instead of chasing them every time they see them, but for many they still treat them how they have always done. However, when they get arrested, they are no longer kept in the same cells as adults: they are kept in separate cells and they are more likely to spend less time in jail than they used to." External Evaluator

Early intervention

The length of time a child spends on the street affects the depth and breadth of his/her street connections. Street-connected children have identified the need to intervene early in order to support children who are new to the street to find other alternatives, recognising the dire consequences street life can have on their own wellbeing.

"I think at every street base there should be a person who monitors the place and wherever a new kid arrives there, he should be reported and taken out of the streets, because once a person 'tastes' life on the streets, that person would be rebellious... Life on the streets is painful to the person

who has not lived on the streets before, but people that live on the streets are able to manage." [GUOTS Harare, Interview with Brighton, 18 February 2015]

Remove obstacles to survival

"We all need laws that protect us but because we live on the street... we just find our own way to protect ourselves because we don't have any protection." [GUOTS Accra, Rights Focus Group 8, 5 March 2016]

"The government should let me do my business, walk freely without the police to stop me." [GUOTS, Bukavu Rights Focus Group 1, 23 February 2016]

Official obstacles, both in law and policy, including the need for ID documents and licenses to work, prevent street-connected children from finding safe and legitimate employment. Local laws which criminalise status offences, including simply being on the street, prevent street-connected children from implementing the strategies which are key both to their survival and the development of their identities.

"We don't earn much from what we sell... We the street children should be exempted from the licence because we are suffering to build our lives." [GUOTS, Accra Rights Focus Group 3, 4 March 2016]

"The government should employ us and not abandon us in the street. We cannot live without working... and so that we become useful for ourselves and for the society." [GUOTS, Bukavu Rights Focus Group 2, 23 February 2016]

"The city council must give us vending licenses so that they do not raid us." [GUOTS, Harare Rights Focus Group 1, 11 March 2016]

"The government should give us capital to start small businesses on the street that will warrant our income." [Friends of the Street Children, Zambia]

Unless a concerted effort is made to understand the realities in which street-connected children live, such obstacles will continue not only to further violate their rights, but, by necessity, these children will continue to come into conflict with the law. The recommendations from street-connected children and their partners include:

- States should provide identity documents so that they are recognised as citizens and can access government services

- Police violence must stop so street-connected children can live in the city without constant harassment
- Street-connected children should have freedom to move in the city and to work there without constant removal or prevention
- The Government should create jobs for street-connected children
- Police and security forces should not discriminate against street-connected children which leads to their arbitrary arrest and removal from the streets
- Local authorities should recognise the reality that street-connected children need to work to survive and should provide protection from exploitation and the worst forms of child labour, rather than restrict their ability to work on the streets.
- States should provide training to police and security forces to ensure better understanding of the complexity of street-connected children's lives, to stop the violence and enable their survival.
- Children's homes do not provide adequate care for street-connected children and moreover, many do not want to go there – they should not be removed from the street and placed in children's homes as a matter of course.
- Police should not prevent street-connected children from eating, sleeping and working on the streets as the street is their primary means of survival.
- The government should provide cheaper rental properties for street-connected children.
- Governments should avoid transporting children far distances away from their networks in the name of 'rehabilitation'. These schools should be handed over to NGOs for effective and efficient administration, to avoid abuse, mismanagement and neglect.
- All police, county inspectorate officers and prison officers must undergo special training to understand how to work with street-connected children.
- Proper age assessments must be conducted to ensure children are not mixed with adult offenders when imprisoned.
- All street-connected children should be informed, supported by advocates, and asked of their opinion during the Court process.

Appendix 1: UNCRC Articles 37 & 40

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that: (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality; (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law; (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used; (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular: (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law; (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

References and further reading

1. Growing up on the Streets

- [Africa Consultation Report for the UN Committee on the Rights of the Child's General Comment on Children in Street Situations February \[March 2016\]](#) in collaboration with the Consortium for Street Children
- Growing up on the Streets Submission for the UN General Comment on Children in Street Situations [April 2016]
- Growing up on the Streets Briefing Papers are online and freely available in English and French:
 - Briefing Paper 1 · Research Principles
 - Briefing Paper 2 · Methodology
 - Briefing Paper 3 · Shelter and Young People on the Streets
 - Briefing Paper 4 · Accessing Food on the Street
 - Briefing Paper 5 · Work and Earnings of Street Children and Youth
 - Briefing Paper 6 · The Voices of Street Children and Youth
 - Briefing Paper 7 · Safe Movement in the City
 - Briefing Paper 8 · Health and Wellbeing of Street Children and Youth
 - Briefing Paper 9 · Spirituality on the Streets
 - Briefing Paper 10 · Play on the Streets
 - Briefing Paper 11 · Resilience on the Streets:
 - Street Children and Youth in Three African Cities
 - Briefing Paper 12 · Rights of Street Children and Youth
 - Briefing Paper 13 · Friendship on the Streets
- Growing up on the Streets / StreetInvest. 2015. [Growing up on the Streets Knowledge Exchange Training Pack](#).

2. Partner contributions

- Response to call for input from:
 - CodWela (referenced as 'CodWela, Sierra Leone)
 - PEDER (referenced as 'PEDER, DRC)
 - SET (referenced as 'SET, Zimbabwe)
 - Street Child of Sierra Leone (referenced as 'SCoSL, Sierra Leone)

3. Partner materials:

- Glad's House consultation for UNGC 21 (referenced as 'Glad's House, Mombasa)
- Big Sofa & StreetInvest ethnographic research project collaboration (referenced as 'Glad's House, Mombasa)
- Friends of the Street Children consultation for UNGC 21 (referenced as 'Friends of the Street Children, Zambia)
- Street Child of Sierra Leone consultation for the UNGC 21 (referenced as 'SCoSL, Sierra Leone')
- Gemma Pearson, Royal Holloway, University of London (research based in Tanzania)

References:

- Child Rights International Network – CRIN. See their list of [International Standards](#).
- Pearson, G. 2017a. [Briefing Paper 4: Giving up on life](#).
- Pearson, G. 2017b. [Briefing Paper 1: Taking responsibility for themselves](#).
- Pearson, G. 2017c. Briefing Paper 3: [Change Points](#).
- United Nations. 2017. [Rights of Children in Street Situations General Comment No.21 on Children in Street Situations](#).
- United Nations. 2012. [OHCHR Study: children working and/or living on the street](#). Human Rights Council resolution 16/12.
- United Nations. 2007. General Comment No. 10. Children's rights in juvenile justice.
- United Nations. 1990. UN Rules for the Protection of Juveniles Deprived of their Liberty.
- United Nations. 1984. [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)