DRAFT PRINCIPLES for: Access to information and Privacy

(A) GENERAL COMMENT + CRC LANGUAGE

UNGC No. 21 [http://po.st/RyfIHd](http://po.st/RyfIHd) includes this language, with CRC textual references immediately below:

(1) UNGC 21 on CRC Articles 13* on freedom of expression and 17** on access to information:

42. The right of children in street situations to have access to, seek and impart information about their rights is crucial if those rights are to be understood and realized in practice. Context-specific, accessible child rights education will help to overcome barriers to participation so their voices can be heard. Children in street situations need to have access through accessible and appropriate channels to accurate, high-quality and child-friendly information relating to: (a) the role and accountability of the State, and complaints mechanisms for redress in relation to human rights violations; (b) protection from violence; (c) sexual and reproductive health, including family planning and prevention of sexually transmitted infections; (d) healthy lifestyles, including diet and physical activity; (e) safe and respectful social and sexual behaviours; (f) prevention of accidents; and (g) the negative impacts of abuse of alcohol, tobacco, drugs and other harmful substances.

* TEXT of CRC Article 13 says: The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (ordre public), or of public health or morals.

** TEXT of CRC Article 17 says: States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall: (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29; (b) Encourage international cooperation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources; (c) Encourage the production and dissemination of children's books; (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous; (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

(2) UNGC 21 on CRC Article 16*** on privacy, honour and reputation:

43. Children in street situations may experience limited privacy given that they have to carry out activities in public spaces. Discrimination on the grounds of their or their parents’ or family’s street situation makes them particularly vulnerable to violations of article 16. The Committee recognizes forced eviction to be a violation of article 16 of the Convention, and the Human Rights Committee has in the past recognized it to be a violation of article 17 of the International Covenant on Civil and Political Rights. […].

*** TEXT of CRC Article 16 says: No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. The child has the right to the protection of the law against such interference or attacks.
(B) DRAFT STRATEGIES FOR IMPLEMENTATION: These first principles should be accepted in order for a country to start to implement UNGC 21 guidance on Access to Information and Privacy:

1. It is the State’s obligation to put in place legislation, policies, budgets, national plans, programmes and monitoring systems that ensure all children can enjoy all their legal rights under CRC.

2. UNGC 21 provides authoritative guidance to States on how to go about ensuring that all street-connected children can enjoy all their rights under CRC. While UNGC 21 is non-binding, States should apply this evidence-based guidance - unless they adequately demonstrate that alternative rights-based guidance is more effective in ensuring that all street-connected children can enjoy all their rights.

3. Since structural inequalities and discrimination are important causes element of multiple violations of street-connected children’s rights, partnerships with a range of stakeholders in civil society should play a vital role in developing, monitoring and testing interventions that ensure that each street-connected child is enabled to enjoy all his or her rights.

4. Each street-connected child is the expert on his or her lived experience. Each street-connected child has agency that must be respected and a voice that must be listened to as significant elements in the design, implementation and enforcement of strategies, whether these strategies are conducted directly by the State or in partnership with civil society. Interventions should be empowering, accountable to street-connected children and respectful of their rights.

Laws:

- States should ratify CRC and its 3 Optional Protocols, and assure these instruments are incorporated into national/federal legislation so that national/federal laws are fully compatible with the CRC and protocols.

- States should legislate to bring into law recommendations within UNGC 21 that are both pertinent to street-connected children’s access to information and privacy, and incongruously missing from the State’s body of legislation, from within the CRC’s associated instruments, including for example: UNGC 2 (Role of Independent National Human Rights Institutions); UNGC 5 (General measures of implementation); UNGC 14 (Best interests of the child); and UNGC 19 (Public Budgets). Legal definitions should reflect both CRC language (rights-based and child-centred approaches) and UNGC21 language (carefully using ‘children in street situations’ and ‘street-connected children’ where each term is applicable).

- States should abolish any legal provisions that either: prevent/obstruct street-connected children’s access to information they need to be able to protect their rights, including that specified in UNGC 21 Para. 42 (a) - (g); or allow for children to be forcibly removed or evicted from public spaces without evidence of public order offences.

Policies:

- States should review and replace any public policy that prevents or obstructs street-connected children’s access to information they need to be able to protect their rights, including that specified in UNGC 21 Para. 42 (a) - (g), or that discriminates – whether explicitly or implicitly – against street-connected children in the realization of their right to privacy in public space and their right not be forcibly evicted from public space, as stated in UNGC 21.

- States should commit to evidence-based, rights-based policy-making, strenuously avoiding policy-making based on personal beliefs, so that policies can respond to violations of rights to access to information and privacy as experienced by street-connected children, and not to other perceived ‘needs’ that would constitute a welfare-based or repressive approach, in contravention of UNGC 21 guidance.

- In any public policy States should ensure legal CRC obligations to children are not contravened and UNGC policy guidance are taken into account, so that tangential opportunities can be identified and obstacles can be removed, to help fulfill street-connected children’s rights to access to information and privacy.

- States should commit adequate resources, including through public budgets, to all policies that aim to fulfill street-connected children’s rights to access to information and privacy (UNGC 19 – see paras 20, 21 and 57).
Justice:  What should justice systems that interact with children and youth in street-situations look like on Access to Information and Respect for Privacy? How does a State ensure that children and youth have access to justice?

- States should ensure that street-connected children are identified and registered as such in national data collection from the point of first contact with the justice system. As well as creating visibility and facilitating monitoring of street-connected children in the justice system, such identification should be proactively designed to empower street-connected children within a system where they are more powerless than most children. Empowerment of street-connected children within the justice system should start with particular emphasis on their access to information - in language and formats of relevance to them - including on their rights to privacy, and delivered with the help of legal advisors trained to engage with and protect the least empowered.

- States should mandate NHRI (UNGC 2) to independently monitor and report on street-connected children within the justice system – with children given full access to information about this process and about their rights to protect themselves, including their privacy, through the process.

- States should implement the guidance in CRC UNGC 10 (juvenile justice) taking into account the particular circumstances and experiences of street-connected children (as described in UNGC 21) ensuring that children fully understand the information that is communicated to them and that it is communicated using empowering methods

Monitoring:  How should States monitor and keep track of their progress on street-connected children’s access to information and privacy:

- States should (appoint and) mandate a National Children’s Ombudsperson / Commissioner or specialized children’s rights unit within the National Human Rights Institution (see UNGC 2) to monitor and periodically report to Parliament on State actions that are designed to ensure street-connected children a) are accessing accurate, high-quality information that is relevant to them, and in language that they understand, and b) have their privacy respected, in line with the CRC and UNGC 21

- States should (appoint and) mandate a Child Advocate for each sub-national division to support the above monitoring and periodically report to provincial/local governments

- States should put in place a mechanism to monitor street-connected children’s access to information and privacy that is transparent, independent, adequately resourced and linked to national data collection about street-connected children (see Systems below).

- States should obligate appropriate, periodic monitoring of all interventions for street-connected children to assess their access to information and privacy, and to improve the interventions themselves, by listening to and engaging children in planning, monitoring and evaluation. SAMPLE: (2014) PASSPORT to Participatory Planning: A Resource Pack to bring street-connected children’s voices into NGO planning, monitoring and evaluation – here: http://bit.ly/2gCkC0B

---

1 PASSPORT (2014) was an international civil society partnership with private sector sponsorship. The Resource Pack cites a wealth of freely available www resources
Research: Might there be a benefit to research? YES! What would be helpful?

- States and academic institutions should encourage independent periodic study reviews to identify literature that brings together established ‘good practice’ in ensuring access to information and respect for privacy by similar vulnerable/excluded groups in comparable situations (eg adult homelessness, child labour)

- States and academic institutions should foster mixed-methods research, repeated periodically to assess change, in which street-connected children are co-researchers from design to dissemination stages, to establish street-connected children’s: (a) Knowledge and opinions of children’s rights to access to information and privacy, particularly what information they currently receive and through which channels - including but not restricted to the information specified in UNGC 21 Para. 42 (a) - (g) – as well as on forced evictions; (b) Perceptions of how/which of their rights are respected and what challenges remain to getting their rights to access to information and privacy fulfilled; (c) Ideas and recommendations on how to improve the information they receive – including access, accuracy, quality, appropriateness, child-friendliness, channels – and how their privacy – including protection from forced eviction – might be enforced

Services: What should services for street-connected children look like, with regard to access to information and privacy?

- States should commit to obliging all front-line gatekeepers of public services – including police, social workers, housing officials, school teachers, health providers, housing officers, social development/welfare workers – and gatekeepers of civil society interventions – including NGO staff and community leaders – to facilitate street-connected children’s access to information that concerns them - including all information specified in UNGC 21 Para. 42 (a) - (g) - and to protect their right to privacy in public, including the right not to be forcibly evicted.

- Access to Information: (a) Materials should be available in places where street-connected children spend time – and where children say they will find them useful (eg street posters, community centre billboards, public transport, in public-facing facilities, via mobile units). Materials should also be available where front-line gatekeepers should or do encounter street-connected children – including social welfare centres, housing offices, health centres and schools, police stations, NGOs, community centres and religious institutions.; (b) Materials should be in formats and language appropriate to local street-connected children (sensitive to gender, ethnicity, age etc), including videos, posters, performances, with street-connected children as co-producers; (c) Materials for gatekeepers and the wider public on children’s rights to access to information and privacy should be produced, in appropriate formats, language and places (eg for teacher training, health care, police training, NGO leaders) to help those responsible to facilitate street-connected children’s access to their rights to information and privacy

- Privacy: (a) States must ensure that street-connected children are not subjected to arbitrary or unlawful interference with their privacy, including forced eviction, while they are in public spaces; (b) Street-connected children have the right to protection of their privacy, by police and front-line gatekeepers, when it is under threat; (c) Services should be made available to protect children’s physical privacy in public spaces, eg facilitating access to hygiene, sanitation, shelter and similar services, while respecting their right to sleep and survive in places that do not contravene legal requirements for protection of public order, health or morals; (d) Children’s rights to privacy should be enshrined in document form in every organization or government entity that provides services to street-connected children, and every research institution that conducts research with street-connected children, through introduction and practice of a Child Protection Policy which carries specific and adequate descriptions of confidentiality, informed consent, photos, recordings, opt outs, anonymity, data secrecy, validation of information, accountability and complaints mechanisms of relevance to their situations.
**Systems:** What systems should be in place to ensure the rights of street-connected children to access to information and privacy are protected?

- States should commit to introducing an effective Comprehensive Child Protection System, which should include defining the roles, obligations and enforcement by the range of stakeholders - from sectorial policy-makers to community service providers - in securing full access to information and respect for privacy for all street-connected children.

- During the process of establishing a CCPS, States must ensure that a transparent, independent (NHRI?), resourced Complaints System is in place to identify breaches of CRC Articles 13, 16 and 17 of street-connected children’s rights, which will include alerting the responsible authorities so that they can respond to reports by street-connected children of rights violations – periodic reports on use of the complaints system should be made publicly available.

- A Monitoring, Evaluation and Learning System should be resourced at policy level and in planning, to be implemented in all interventions for street-connected children, with capacity to: assess children’s access to information and privacy; measure changes over time; and feed into planning. Street-connected children should be active participants at all stages. SAMPLE: (2014) PASSPORT to Participatory Planning: A Resource Pack to bring street-connected children’s voices into NGO planning, monitoring and evaluation – here: [http://bit.ly/2gCkC0B](http://bit.ly/2gCkC0B)

**Training:** Should training be implemented for stakeholders to ensure the protection of rights to access to information and privacy? YES. What should that training look like?

- States should ensure that training is resourced and provided as required for stakeholders engaged in law-making, policymaking and planning - on the prevailing paradigms of child-rights, welfare and repressive approaches, to enable shifts in thinking – and therefore in law, policy and planning – to the rights-based approach that is compatible with the CRC and UNGC 21.

- Training for front-line gatekeepers and their managers can therefore be designed in appropriate ways for national context, perhaps in the form of standardized modules to focus on the practical implications of implementing the rights-based approach to be able to guarantee street-connected children’s rights to access to information and privacy, as outlined in CRC and UNGC 21.

**Young voices:** How should street-connected children be collaborators in the drafting and implementation of any new laws or policies? What are examples of ways that they can and should be involved?

- States should ensure that mechanisms and resources are in place to equip street-connected children as advocates, witnesses, representatives and co-researchers, during the course of all interventions and contacts with front-line gatekeepers, so that they are empowered and enabled to collaborate at legal, policy, planning, research, monitoring and evaluation levels as and when required.

- To ensure that these processes are empowering, States should make all efforts to create trust between front-line gatekeepers and street-connected children, and should ensure that street-connected children are adequately compensated for their participation, whether through fee/salary payments for their expertise and/or through provision of quality study/training opportunities to become advocates, witnesses, representatives and co-researchers.

Dr. Sarah Thomas de Benitez

October 2017