GENERAL COMMENT LANGUAGE ON DISABILITY

Key Observations extracted from the UN General Comment pertaining to disability include:

5. The Child Rights approach, that the child is respected as a rights holder and decisions should be made with the child.

6. Children in street situations are not a homogenous group. Characteristics are diverse in terms of age, sex, ethnicity, indigenous identity, nationality, disability, sexual orientation and gender identity/expression, among others. This diversity implies different experiences, risks and needs.

7. Often, data are not systematically collected or disaggregated, so it is not known how many children are in street situations. Estimates fluctuate according to definitions used that reflect socioeconomic, political, cultural and other conditions. The absence of data makes these children invisible, which leads to policies not being developed or measures that are ad hoc, temporary or short-term. This results in the persistence of multiple rights violations that force children onto the streets and that continue when children are on the streets. This issue concerns every State.

10. In a child rights approach, the process of realizing children’s rights is as important as the end result. A child rights approach ensures respect for the dignity, life, survival, well-being, health, development, participation and non-discrimination of the child as a rights holder.

15. Strategies for children in street situations should acknowledge State and non-State actors. The role of the State, as primary duty bearer, is outlined in section V below. States have an obligation to help parents or caregivers to secure, within their abilities and financial capacities and with respect for the evolving capacities of the child, the living conditions necessary for the child’s optimal development (arts. 5, 18 and 27). States should also support civil society, as complementary actors, in providing personalized, specialist services for children in street situations the basis of a child rights approach, through funding, accreditation and regulation.

20. Successful initiatives rely on a detailed understanding of local contexts and individualized support to children. Care must be taken when scaling up initiatives not to lose children in the process. States should encourage and support local-level, partnership-based, specialized interventions on the basis of a child rights approach, small and flexible, with adequate budgets, often led by civil society organizations with local expertise. These interventions should be coordinated by local governments and supported by the State, through the national child protection system.

DRAFT STRATEGIES FOR IMPLEMENTATION

Reviewing the General Comment through the lens of disability, and factors which impact on children with disabilities with street connections, the following recommendations are made:

“States should assure that data is systematically collected and disaggregated, so better information can be obtained as to the number of children in street situations with disabilities. There is a complete absence of data on this doubly vulnerable group, which accounts for the very few policies or interventions which directly tackle this issue.
Furthermore, most actions taken to include children with disability remain tokenistic and generally focus on the most visible group, children with physical disabilities, whilst children with communication disabilities for example, remain excluded from both policy and services.

States should ensure that education policy and practice take into account the specific needs of street connected children with disabilities, addressing issues such as a teacher’s perceived inability to support the learning of street connected children with disability. Support is needed for the acceptance of alternative education systems and the need for an individual approach, such as the requirement for Individual Education Plans. 

https://disabilityglobalsouth.files.wordpress.com/2012/06/dgs-02-02-03.pdf

States should assure that national Justice for Children Policies uphold the rights of all children to fair treatment and restorative justice, taking into account the specific and individualized needs of street connected children with disabilities. Special attention should be paid to ensuring appropriate screening and training to guarantee personalized specialist services for children in street situations, particularly considering the heightened risk of children with disabilities to violence. States should ensure adequate training, monitoring and safeguarding mechanisms to prevent the occurrence of violence, and other degrading treatments and violations of children with disabilities, such as sextortion by government officials or abuse whilst in detention. A special focus should also be made to safe guarding, taking into account that children with disability (particularly those with communication disabilities) require specialist channels to both protect them and ensure the development of inclusive services throughout the continuum of care.

SAMPLE STATUTORY AND POLICY LANGUAGE

Examples of potential laws and policies to assist in implementing the UN Comment. Topics that will be considered during the breakout session include (but are not limited to):

• Justice:

Despite Article 11 of the UN Convention on the Rights of Persons with Disabilities, evidence by UNICEF demonstrates that children with disabilities are one of the most marginalized and excluded groups within society and children with disabilities are 3-4 times more likely to be victims of violence (UNICEF, 2013). Article 13 of the convention guarantees equal and effective access to justice, and Article 14 prohibits deprivation of liberty based on disability. But in reality, the most marginalized people with disabilities—those with intellectual and psychosocial disabilities—rarely get equal access to justice.

Children with street connections and disabilities are ‘doubly disabled’ as they face stigma and discrimination in relation both to their disability and their street situation. Barriers to accessing justice for this particular group need to be researched and acted upon. For example, the Rwanda National Union of the Deaf has reported that law enforcement agencies and courts do not provide interpretation services to the deaf when working with them. There is no recognition of the Rwanda sign language within Rwanda’s national constitution and consequently 90% of deaf persons that come into contact with the criminal justice system are denied their rights to legal support in the communication mode of choice. In addition to this, case studies undertaken by Deafkidz International in Jamaica, South African and Zimbabwe demonstrate the complexity of reaching deaf children. Due to a lack of screening programmes, few deaf children are formally diagnosed and often become labelled as ‘stupid’ and
‘retarded’. Invariably denied access to education and unable to acquire a language, they are unable to self-advocate and self-represent. As such, many end up abandoned on the streets and into forced labour and sex work to survive (Behind the Green Door; The Abuse & Exploitation of D/deaf Children and Young People in South Africa; Harrison, DKI, 2014). Progress must be made to address these critical issues. A consortium of nongovernmental organizations, led by the Lusaka-based Paralegal Alliance Network, has been collaborating with the Zambian government in an innovative partnership that includes the Ministry of Home Affairs, the Mental Health Users Network Zambia, the Prisons Care and Counselling Association, the Zambia Federation of Disability Organisations, the Legal Resources Foundation, and the UK-based Prison Reform Trust. Their research, report, and recommendations, supported by the Open Society Human Rights Initiative and the Open Society Initiative for Southern Africa, are pushing the country to fundamentally alter the disability rights landscape in Zambia for the better, improving policy and practice not only for people with psychosocial and intellectual disabilities, but for all people coming into contact with the justice system.

• Services: What services should street-connected children and youth have access to within this particular substantive area? What should these services look like?

Chance for Childhood LEAP programme was developed to pioneer new teaching approaches which adapted to the specific needs of street connected children with disabilities. 75% of the street connected children within our programme have special education needs and up to 5% of which have a communication disability. Typically many programmes aiming to address factors affecting children with disabilities do not have the specific professional expertise required to enable them to development specific IEPs. Efforts should be made by children rights organizations to link with relevant professionals such as teachers of the deaf, speech and language professionals, physiotherapists amongst others. It should also be recognised that children with disabilities are not a homogenous group and different approaches and professionals are required depending on the impairment of the child, as well as critical socio-environmental factors such as stigma.

• Youth voice: How should street-connected children and youth 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?

Youth voice: To increase the agency of street connected children with disabilities in decision making, it is important to ensure that they have access to comprehensive support and assistance such as sign language specialists. It should be added that in specific cases, an example being a deaf street child, they may have no knowledge of formal sign language and as such professional support is required to develop individualized methods to obtain their buy in. Without such support, these children will continue to be left behind from both policy and practice. An example of a progressive approach to tackling this issue is the Voice-funded project between the Indonesian Deaf Youth’s Welfare Movement and Sedap Films. This collaboration aims to strengthen the storytelling capacity of deaf youth to articulate their stories as youth with heterogenous identities and diverse problems, as to raise issues of inclusivity from deaf youth’s perspectives and daily narratives. The storytelling capacity is chosen as an entry point for this collaboration due to communication difficulties and lack of capacity to create media contents as major barriers perceives
by deaf youth activists to be visible in public, and to meaningfully engage in campaign and advocacy activities. By collaborative learning processes through video blogging (vblog) workshop, website development and film production, and road show, Pamflet wishes to strengthen deaf youth capabilities to plan, organize and conduct their activities as youth groups adeptly, as well as to increase their ability to campaign and advocate their needs to the local government and stakeholders. Such innovative and tailored interventions support youth groups with alternative communication methods to ensure their full participation.

Finally, it should be noted that there is a need for greater inclusion of street children within disability mainstreaming efforts globally. 15% of the global population has disabilities and 80% of them are within the Global South. Existing organizations working with street children have a responsibility to identify points of exclusion within their own services and ensure inclusivity. This way you can build on existing platforms (whether CHETNA’s newspapers or others). Such platforms and an overall global commitment would ensure participation of street connected children with disabilities and start to address some of the huge gaps in both policy and practice.