Draft of Principles - the UN General Comment on Children in Street Situations

International Summit on the Legal Rights of Street Connected Children and Youth in Street Situations

Session 4. Child rights approach as opposed to child protection (November 29 2017 - 2:45pm to 2:15pm)

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Introduction

This document briefly highlights principles of the UN General Comment on Children in Street Situations (GC Nº21, 20 June 2017), focusing on concepts and practices related to children’s rights as opposed to child protection as a guideline for discussion during the International Summit. It will focus on the construction of a basis for the implementation of the UN General Comment recommendations. It highlights principles extracted from the GC and includes some recommendations that can be useful to guide us on strategies to disseminate and support implementation of the GC.

The first question to be discussed regarding the proposed session is: is there an opposition between the child rights approach and child protection? The framework of rights set out by the Convention on the Rights of the Child helps to address this complex issue, since it is not opposed to child protection measures. Quite the reverse, it complements child protection by revising old paradigms about childhood. What the rights approach did was to challenge theories and practices that understood childhood as a phase in preparation for adulthood. It highlighted the idea of agency connected to childhood, thereby understanding children as subjects of rights and active participants of society.

The main difference between the two approaches is the acknowledgement of children’s agency, which is especially important for street-connected children and adolescents. Therefore, a modified and more comprehensive approach to child protection should be pursued, considering children’s perspectives on their specific needs and limitations.

A tentative example of this approach can be found in Brazil, where a comprehensive ‘System for Guaranteeing the Rights of Children and Adolescents’ (Sistema de Garantia de Direitos) was established in the 1990s. Its job is to coordinate activity between government departments and civil Society to protect the rights of children at the federal, state and municipal levels. The system, aligned with the Guardianship Councils can only be implement through this collaboration. This is an effort to develop a holistic approach to child protection, taking into consideration the three fundamental principles of the defense of human rights, the promotion of human rights and the implementation of those rights.
Principles and recommendations:

→ Child rights approach

- The child is respected as a rights holder and decisions are often made with the child (GC, Key observations);
- In a child rights approach, the process of realizing children’s rights is as important as the end result;

(This approach emphasizes full respect for children’s autonomy, including supporting them to find alternatives to depending on the streets. It promotes their resilience and capabilities, increasing their agency in decision-making and empowering them as socioeconomic, political and cultural actors).

→ What strategies and mechanisms can be implemented locally and nationally to:

- Expand the realization of child rights;
- Use child rights standards and principles from the Convention and other international Human Rights instruments to guide behavior, actions, policies and programs;
- Build the capacity of children to claim their rights and the capacity of duty bearers to fulfill their obligations.

→ Importance of research and key data. The absence of data makes these children invisible, which leads to the lack of appropriate policies (GC, key observations); Street situations change rapidly, and research needs to be carried out periodically to ensure policy and programmes are up to date. [Question: How to overcome existing barriers to have young people in street situations involved in research agendas and processes?]

→ Revision of laws and policies. Review the body of laws and policies, as well as related practices aligned with the principles in the GC;

→ Participation. As experts on their own lives, children in street situations should participate in developing and implementing strategies that concern their lives. [Question: How to increase opportunities for meaningful participation?]

→ Training. States should invest in high quality initial and in-service basic training on child rights, child protection and the local context of children in street situations for all professionals who may come into direct or indirect contact with children in street situations, (p.4) They can also learn from ‘social educators’, and all those professionals who have gained experience working directly with young people in street situations);

→ Sensitization and dissemination. Importance of humanizing the image of street children. States should facilitate sensitization and training for other stakeholders, such as transport workers, media representatives, community and spiritual/religious leaders and private sector actors. [Questions: What strategies that can be used to tackle the predominance of negative and dehumanizing perspectives used by the media when referring to these young people? What strategies would be most effective to have the GC known by networks, organizations and individuals involved with the street connected young people?]. This topic is related to the issue of discrimination, recurrent in testimonies by street connected young people. Regarding “direct and indirect
discrimination” (GC), research including young people’s voices have systematically conveyed the fact that they find it very difficult to access existing services (for example in health and education...).

**Special Protection**

Based on CRC related articles: Art. 20, on the right to special protection and assistance for children deprived of a family environment. Art.9: States should not separate children from their families solely on the basis of the families’ street-working or street-living status). Articles 3 on standards for care and protection institutions, services and facilities, and 25 on periodic review of placements: States should provide quality, rights-respecting services and support civil society organizations to do the same (GC).

The state has the obligation to ensure alternative care to children and young people without caregivers, as well support for families to provide care for their children when needed, and provide special protection for those at risk. These are important provisions of the CRC are often crucial for young people in street situations.

Violation of children’s rights in this area have been systematically reported in Brazil and in other countries. Special protection and humane forms of responding to children’s special needs must be taken into consideration, such as children with disabilities, children addicted to drugs, etc. (CRC Articles 24 on health (15) and 33 on drugs and substance abuse). [Question: How can states be pressed to ensure that adequate care is given to children and youth that are in need of alternative care and special protection?].