



## Promoting and Protecting the Rights of Street-Connected Children in Rwanda

### The purpose of this document

This briefing document is intended to inform discussions on the steps that can be taken by government and development partners to ensure that street-connected children in Rwanda are able to claim and exercise their human rights as guaranteed by international law ratified by the Government of Rwanda and domestic legislation. The 2015 Rwanda Human Rights Commission Report, unanimously accepted by the Rwanda Parliament on the 26th October, advocated that steps be taken to protect the human rights of vulnerable street children.

#### Street Children and their Rights

*---before reaching the street children have experienced multiple deprivations and violations of their rights---*

*Children living and/or working in the streets cannot be considered as a social problem but, instead, as human beings with full potential to contribute to society and as positive agents for change. They must be able to participate in matters affecting them and be empowered to speak up for the fulfilment of their right.*

*A rights-based approach starts from the premise that all children are 'rights holders'. In reality, children in street situations are deprived of many of their rights - both before and during their time on the streets - and while on the street, they are more likely to be seen as victims or delinquents than as rights holders*

(Office of the High Commissioner for Human Rights et al 2011)

### Research Findings

Street children are children with problems but often they are treated if they are a social problem and as passive objects of welfare or as delinquents in need of 'correctional treatment' rather than as rights holders. However, the UN Convention on the Rights of the Child makes all children, without exception, 'rights holders' and requires that decisions are made in the best interest of the child and that due weight is given to the views of the child on all matters affecting him/her. It confers on all children a range of civil, political, economic, social and cultural rights. Governments are duty bearers and have a responsibility to ensure that all children are able to claim and exercise their rights. This requires: putting in place a legal and policy framework; implementing the policy and enforcing the law; ensuring that children and secondary duty bearers such as those caring for them, teachers and law enforcement officers are aware of the children's rights; empowering children so that they can claim and exercise their rights; and ensuring that duty bearers are held accountable.

Street-connected children are found across the world, in developed as well as developing countries, and governments find it challenging to ensure that the children are able to claim and exercise their rights. The complex and multiple deep-rooted economic and social causes driving children onto the streets make it difficult to identify and tackle them, and measures that address only symptoms tend to have little impact in reducing numbers. There are no quick-fix easy solutions: it is a truly 'wicked problem'.

Street-connected children face challenges and risks in their daily lives and are at especial risk of violence and being criminalised (Consortium for Street Children 2013). The most common areas which present challenges to street-connected children are access to health care and an adequate standard of health, an adequate standard of living, education, child labour, drug abuse, sexual and other forms of exploitation, opportunity for play and recreation and access to juvenile justice (KidsRights 2012).

**The UN Human Rights Council, in 2011, condemned:**

*the violations and abuses of the rights of children living and/or working on the street, including discrimination and stigmatisation and lack of access to basic services, including education and basic health care, and all forms of violence, abuse, maltreatment, neglect, or negligent treatment experienced by them, such as exploitation, gender-based violence, trafficking, forced begging and hazardous work*

## Sources of information

This policy brief draws on research carried out into issues relating to street-connected workers in the City of Kigali in May and June 2015. As part of the research we talked to a sample of street-connected children with the aim of understanding how children experience living on the streets and the extent to which they are able to claim and exercise their rights. In total we interviewed 156 street-connected children/young people, facilitated six focus-group discussions and interviewed nine key informants. Seventy-nine per cent of the children/young people had migrated to Kigali, 93 per cent were male and 72 per cent were under 18 years at the time of the interview. Virtually all the children lived on the street; only three went home on a regular basis. However, a quarter were in contact with their parents and a fifth visited them regularly.

In the FGDs participants told us that children move onto the streets when they are as young as five but others are in their teens. Children were driven onto the streets by multiple causes; some had been abandoned and others abused by parents but the main driver was poverty. The main pull factor was expectation of a better life but the reality was generally very different and life was very hard; life is experienced as a constant struggle for survival.

## Achievements so far

- Rwanda has put in place a progressive legal and policy framework for promoting and protecting the rights of all children.
- The UN Convention of the Rights of the Child (CRC) has been ratified and domesticated (Presidential Order No 11/01 of May 30th 2001) and is superior to all other law in Rwanda save the 2003 constitution as amended to date (O.G.N Special of 4th June 2003).
- The 2011 Children's Law is in effect a bill of rights for children, and in the main it implements the CRC and other

conventions that promote and protect the rights of children (Abbott and Sapsford 2012; Binagwaho 2014).

- The law entitles all children to free and compulsory primary education, requires that all children have medical insurance with the state making provision for vulnerable children, and provides protection from physical abuse and neglect.
- The NICRP (Ministry of Gender and Family Promotion 2011) explicitly recognises the rights of street-connected children, including their rights to food, clean water, sanitation, education and health and social services and not to be treated as offenders simply because of their status. It indicates that a comprehensive strategy will be developed addressing the root causes and that care and child-friendly support services will be provided. However, survival behaviours such as begging, loitering, vagrancy and running away have not been decriminalised for street children.

### Legal & Policy Framework Protecting the Rights of Street –Connected Children

- International Laws
  - UN Convention on the Rights of the Child
  - African Charter on Rights and Welfare of the Child
    - National Laws
      - 2003 Rwanda Constitution
  - Law Relating to the Rights and Protection of the Child (Law No 54 of 14/12/2011)
    - The Penal Code (Law No 01/2012/OL)
      - Policies
        - National Internal Security Policy
    - 2011 Integrated Child Rights Policy (NICRP)
      - 2014 Justice for Children Policy

- The Internal Security Policy requires that the police educate parents on their responsibilities and duties.
- The 2014 Justice for Children Policy states that all children are entitled to justice, that decisions must be made in the best interests of the child and that all children have the right to be heard. It advocates a restorative justice approach. However, it notes that there is a poor knowledge and understanding of child rights by professional and lay people, that the dominant ethic is care rather than rights and that local government has a low capacity to provide social welfare services.
- The age of criminal responsibility is 14 years, there is a programme in place to provide alternatives to prison

during the pre-trial period for juveniles and some progress has been made in ensuring that all children have legal representation.

- Rwanda has committed to prohibiting all corporal punishment of children. However, while the NICRP does prohibit corporal punishment, Law No 54/2011 does not clearly prohibit all forms of it (Owen 2015). It is unlawful in the penal system as a sentence but remains lawful or at least is not explicitly prohibited as a disciplinary measure for children in the home, alternative care settings or penal institutions.

*We have no food, no cloths or medical insurance. Here everything you earn is through fighting and other risky ways. You have to do this to survive. (FGD, Male, Kimironko).*

*Today the government makes it hard for us to survive on the street, wherever you go to get shelter, food or even when you are just standing or walking around they take you to jail. We no longer fit into society; they have no mercy on us. (Male FGD Kicukiro)*

## Matters of Concern

*We are not safe on the streets because of thieves, security guys and older guys that live on the streets. They harass us, take whatever money we have worked for and beat us up (Male FGD Nyarugenge)*

*The police are not bad like the inyeragutabara who torture and beat you and take your money. The police only arrest you when you do something wrong but the security guys threaten our lives. We pay endless bribes to these guys so when we get caught they let us go and we don't get jailed (Male FGD Kicukiro Market)*

It is clear from our research that street-connected children are not able to claim and exercise their human rights; their rights are not being protected and promoted.

- **Life on the street** is experienced as a constant fight for survival, finding a way to earn money on which to live, finding food and shelter, avoiding violence and bullying from other street people and the authorities and avoiding

being exploited. The children we interviewed thought life was getting harder and more dangerous. They feel unwanted, excluded and rejected.

- **Education** – none of the children/young people were attending school, 11 per cent had never attended school and only 27 per cent had completed primary education.
- **Shelter** – finding shelter from the elements is problematic, as is finding a place to sleep that is thought to be safe.
- **Food** – the diet of the children is poor and they frequently have to go hungry. Three-quarters of the children with whom we spoke to had gone hungry at least some of the time in the week prior to the interview. Few eat more than once a day and they often resort to picking up leftover food from dustbins.
- **Health** – the children do not have access to health care when they are sick and they are not members of the community health insurance scheme. Just over 50 per cent said they had been sick in the six months prior to the interview but only 13 per cent have had any health care.
- **Sanitation** – most of the children use improved water from community taps but over half practice open defecation because they have no access to a toilet. Others use pay-per-use public toilets.
- **Work** – virtually all the children engage in income-generating work, mainly rag picking, fetching and carrying and cleaning working - on average for seven hours a day, seven days a week. A fifth said that it had been necessary for them to beg in order to survive and about a tenth said that they had stolen things to sell.
- **Drugs and alcohol** – about two thirds of the children/young people use recreational drugs and alcohol, mainly as a way of coping with the conditions under which they are living.
- **Violence** – the children live in constant fear of being beaten up. Ninety-six per cent of children had experienced violence since moving onto the street. They experience harassment and violence from older street-connected people, passers-by, the police and especially the local authority security personnel, the inyeragutabara. The girls also experience gender-based violence and are sexually abused. Ninety per cent see the main risk they face as harassment from local authority security personnel/police and sixty per cent theft by other street-connected people.

## Areas for Urgent Action

- Ensure that there is a clear understanding of who is responsible for ensuring that street-connected children's rights are respected and fulfilled.
- Review the legal and policy framework and ensure that the law fully protects the rights of all children. In particular the law should be reviewed to ensure that the physical punishment of children is clearly illegal in all situations and circumstances.
- Hold those who commit violations of street-connected children's rights accountable and ensure that children have access to legal redress when their rights are violated.
- Ensure that secondary duty bearers responsible for protecting children's rights have the capacity to carry out their specific obligations by providing training for law enforcement officers, judges, social workers, teachers, doctors and other duty bearers.
- Ensure that there is an adequate budget and carry out research into the costs and benefits of investing in safeguarding the rights of street-connected children.
- Develops a comprehensive strategy that focuses on interventions to prevent children moving onto the streets and provides specialised interventions for street-connected children which enable them to claim and exercise their rights.
- Develop a partnership with civil society, local communities and the private sector to provide out-reach and drop-in centre services for street-connected children, enabling them to access education and training, health and counselling services.
- A national campaign on fighting child abuse should be put in place and dedicated hotlines staffed by trained counsellors set up so that children and young people can report abuse. Teachers and health workers should be trained to recognise the signs of child abuse and how to give children space to disclose that they are being abused;
- Local leaders should be sensitised to the importance of fighting child abuse.
- Community health workers, and workers in early child development centres and primary schools should be trained to identify children who are at risk, and districts should be supported in putting programmes of intervention in place to work with these children and young people.

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