The Education Rights of Street-Involved Children

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Abstract

This paper provides an overview of certain key aspects of the practical and legal situation of street-involved children globally. The inadequate protection of these children under both domestic and international law is addressed. The diversity of the population of street-involved children is considered as is the fact that this group is composed of both legally stateless and de facto stateless children. The relationship of street involvement to child labor, various health risks and victimization is discussed. The educational needs of older street-involved children are addressed including their right to participate in decision-making regarding aspects of educational service design and delivery. The overall objective of this paper is to encourage those who are involved in, or could impact upon educational policy to include street-involved children in their educational planning, implementation and advocacy efforts.

Incidence and Demographics of Street-Involved Children

UNICEF (2005) notes that though millions of children globally live on the street for all to see, they are at the same time among the most invisible given that their dire circumstance is in large part or completely ignored and their most basic needs neglected. This paper is intended to highlight certain key aspects of the practical and legal situation of street-involved children globally and to address their educational needs in particular. There is no single description of the so-called street child hence the term street-involved child. The latter term includes any child who spends a good portion of his or her time working and/or living on the street. Some street-involved children, though they are alone on the street, still maintain regular contact with family. They may even be working on the street to support or contribute to the support of the family. Indeed, globally a significant proportion of street-involved children, often more than half, are working on the street to support their families (Consortium for Street Children, 2001). Others have been trafficked by abductors or for financial gain by parents who have little or no other means of survival for the family. The latter cases

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have been documented in developed as well as in developing nations. Some have no
family having been orphaned as their parents succumbed to HIV/AIDS or the children
have run away or been displaced due to civil war or other factors such as familial
violence. Yet others are ex-child soldiers ostracized by their communities, for example,
for having fought for groups of which the community disapproves despite their having
been forced to serve by armed forces or circumstance.

A recent United Nations report on the state of the world’s children estimates
the number of street-involved children at tens of millions globally though precise
estimates vary as a result of controversy regarding definitions (UNICEF, 2005). One
hundred and fifty million street-involved children, as estimated in some international
reports, translates into one of every 60 people on the planet being a child living on the
street most or all of the time (Berezina, 2006). We know also from U.N. data that there
are an estimated 115-120 million children of primary school age out of school at present
and a significant proportion of these are street-involved children (International Council
on Social Welfare, 2006; UNESCO, 2007; UNESCO Consortium for Street Children and
Child Hope Asia, 2006; UNESCO Institute for Statistics, 2006; UNICEF). In many
countries (such as Canada) there is no national census of people—including children—who live or otherwise spend most of their time on the street. Hence, any available
estimates of the numbers of street-involved children are probably gross underestimates.
The general consensus of front-line workers, however, is that the numbers are growing.
This is the case also in Canada. Over the last five years, for example, twenty-four hour
snapshot surveys of the streets and shelters in major Canadian cities such as Vancouver
show dramatic and steady increases in the numbers of persons on the street including
children (Social Planning and Research Council of B.C., 2005). The failure to adequately
monitor the numbers of homeless and street-involved children in Canada indicates a lack
of sufficient governmental commitment to this highly vulnerable child group. Without
knowing the number of street-involved children; service and policy planning within any
particular jurisdiction is most difficult. Indeed, the United Nations Committee on the
Rights of the Child (UNCRC) has in its response to Canada’s country reports
repeatedly criticized Canada for its lack of accurate national monitoring of this
marginalized group. For instance, in 2003, the Committee stated:

The committee regrets the lack of information on street children in
the State’s party’s report, although a certain number of children are
living on the street. Its concern is accentuated by statistics from
major urban centers indicating that children represent a substantial
portion of Canada’s homeless population. (UNCRC, 2003, p. 12)

Studies globally indicate that children who have suffered violence and abuse in
the home are grossly over-represented among street-involved youth (Gaetz, 2004;
UNESCO, 2007). Once on the street, these children are again at especially high risk of
being the victims of violence of every description. In some States, this victimization of
street-involved children also includes violence from law enforcement authorities as the
U.N. study of violence against children reveals (Covell, 2005; Gaetz, 2004; Grover,
2005b; Schimmel, 2006). Among the many additional risks for the street-involved child
in Canada as elsewhere is drug abuse, sexual exploitation, and HIV/AIDS (UNESCO
Consortium for Street Children and Child Hope Asia, 2006). It should be noted that the higher the level of education, the lower the HIV/AIDS prevalence rate. For example, in 2001 in rural Uganda, 18 to 21 year olds with secondary school education had an HIV rate under 2%; those with primary school had a rate of just over 6% while those with no formal education had an HIV rate of just over 12% (World Bank Human Development Network, as cited in Lewis, 2005, pp. 93-94). However, the majority of youth who are street-involved in Canada and globally have not finished their basic education (Covell & Howe, 2001; Grover, 2002, 2007; UNESCO, 2007), and while on the street, the majority do not attend school at all (Schimmel). Despite these facts, interview studies in Canada, Africa and globally provide evidence that street-involved and marginalized poor children and youth aspire to an education, but often simply have no resources to pursue that dream (Anderson-Levitt, 2005; Pare, 2003; Tonkin, 2001; Weigel, 2001). Lewis reports also that U.N. experts such as Graça Machel who studied the impact of armed conflict on children and interviewed children in various war zones—many of whom had been displaced from their communities and were stateless refugees—found that the most highly prioritized wish of these marginalized children was to be in school. Street-involved children generally do not fit the stereotype of “alienated youth,” but rather are more often the victims of marginalization and circumstance (Grover, 2007; Schimmel). Further, as Schimmel explains, street life is rarely an autonomous, unconstrained life choice for the street-involved child where the child is aware of, and has access to viable alternatives.

**Legally versus De Facto Stateless Street-Involved Children**

A large segment of the population of street-involved children are treated by the State governments as if they were de facto stateless. That is, these children are largely abandoned by their domestic governments (the State) and the international community with neither acting to protect their fundamental human rights. This is the case despite their having legal status in the country in question. Aside from the de facto stateless, some children on the street, especially those in developing countries, are in fact stateless under the law (i.e. their birth may never have been registered, they may have escaped from a territory that no longer exists but have not been granted refugee status, and/or they may have no identity papers and may live in legal limbo for indefinite periods).

Intervention with street-involved children, where it does occur, is often limited to dealing with their immediate crises regarding medical issues, food, and shelter rather than dealing also with issues such as education that contemplate longer range goals. This is typical unfortunately of development work with populations in crisis (Walters & Leblanc, 2005).

**International Law and the Street-Involved Child**

Street-involved children are not specifically or explicitly mentioned in any international human rights convention as a distinct and especially vulnerable group. This is in contrast to other highly vulnerable groups such as indigenous children and children of other ethnic minority groups. While it is the case that there is some degree of overlap between the category of street-involved child and other vulnerable child
groups, street-involved children in addition have special distinct needs that need to be recognized (Pare, 2003). The lack of State support for street-involved children is contrary to Article 39 of the International Convention on the Rights of the Child (CRC) (1989) which requires that States which are parties to the Convention take all appropriate measures to assist and re-integrate children who have been exploited, abused and neglected. That lack of support also infringes Article 20 of the CRC which requires that the State offer the child special assistance and protection where the child is unable to live with family. In addition, there is a State violation of Article 28 of the CRC which requires the State to support and facilitate children’s regular attendance at school.

Despite State violations of their fundamental human rights, the street-involved children in most countries which are signatories to the Convention cannot turn to the State courts for enforcement of the protections guaranteed under the CRC. This is the case since the CRC is not part of domestic law in those States (i.e. Canada). Thus, States are not being adequately held accountable where there is State failure to meet the basic needs of street-involved children or even when there is systematic maltreatment and persecution of these children. Further, to date there have been only a handful of cases brought to an international tribunal such as the Inter-American Court concerning the systematic victimization of street children by State authorities. In addition, surprisingly under the CRC (1989) there is no mechanism for filing complaints against the State on behalf of specific individual or groups of street-involved children (or any other victimized child population).

Not only are street-involved children inadequately protected by international human rights law but also under international refugee law. Thus, despite street-involved children often being the victims of significant persecution by authorities in their home country, even many developed States frequently refuse street and/or trafficked children asylum and/or refugee status (Grover, 2006). This denial is frequently based on a refusal to recognize these children as belonging to a persecuted “social group” under international refugee law (Grover, 2005b).

Canadian Law and the Street-Involved Child

In Canada it is especially difficult for older adolescents who are street-involved to access social assistance. For example, to receive social assistance, the child 16 or over in Ontario must prove he or she has left home through no fault of his or her own. Further, to qualify he or she must be in a government-approved education or training program (Grover, 2005a). It may be difficult for a youth 16 and over to establish that he or she cannot live at home unless the government is willing to do a home assessment, and the child is able to negotiate the intricacies of the social services bureaucracy. The child may be suffering psychological, physical, and substance abuse problems that make it impossible for him or her to meet the education and/or training screening criteria for social assistance established in certain provinces. Without social assistance, such children frequently are doomed to continue life on the street interspersed only by brief stays at emergency shelters.

Children who have been in government care and left at the age of 16 are over-represented among street-involved youth (Grover, 2007). Yet, in New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario,
and Saskatchewan, the legislatively mandated age for leaving the government care system is normally 16 years. This is the situation despite evidence that children leaving care at age 16 are most often ill-prepared for a successful independent living situation. In British Columbia, government child protection services extend to 19 years, and in certain other jurisdictions the service is provided until children reach 18 years of age (Covell, 2006). However, even in jurisdictions where child protection service can be provided to over 16s, often such services are provided to older youth only at the discretion of the caseworker and/or if the child has been in government care prior to age 16. Provincial child protection legislation does not set out clear standards to ensure older street-involved children receive the longer term help they need; including the support needed to complete and further their education. Thus, children on the street aged 16 and over are most often not designated as children in need of protection and are thus not offered continued government care and/or support even though they may have no alternative to the street (Grover, 2007).

**Educators Advocating for the Street-Involved Child**

Street-involved youth require outreach service and flexible education programs if they are to realize their dream of returning to school and in due course escaping the streets. Schools and health clinics set up in facilities located close to where street-involved children congregate are essential if children without a minimal stable living situation (i.e. those not in a longer term shelter for instance) are to be reached. In developing countries, it is essential that public school fees at the basic education level be abolished wherever these exist. State financial incentives to families must be provided which make the abolition of child labor feasible. Yet, Stephen Lewis, former Deputy Executive Director to UNICEF and U.N. special envoy on HIV/AIDS in Africa reports that precious little progress has been made in abolishing school fees in most States with a history of such fees (Lewis, 2005).

Street-involved older youth must have the opportunity to complete educational programming in a reasonable period that will give them a base to earn at least a minimally decent living and, if they wish, to continue their education and/or training. One such model has been implemented by Street Kids International, a non-governmental organization which has developed strategies for teaching street-involved children basic business skills and helping them to acquire small loans and set up their own small businesses (Street Kids International, 2007; see also Grover, 2004). Literacy problems require creative solutions and must not be used as a bar to street-involved children accessing realistic, meaningful alternative educational programming (Grover, 2004). Currently, there is little if any participation of the street-involved child either directly or through advocates in the planning or delivery of educational or other service where such service exists. It is essential that older street-involved children especially be participants at some meaningful level in the design and delivery of service (i.e. through consultative processes, and through participation in decision-making about individualized curricula and strategies). Such an approach is consistent with Article 12 of the Convention on the Rights of the Child (1989). That CRC article stipulates that the child must be permitted to express his or her views on matters that will have an impact
on their lives and that these views must be assigned reasonable weight taking into consideration the child’s age and maturity level.

In both developed and developing countries street-involved children require stable, longer term and safe housing situations if they are to finish even a basic education. Their life situation (psychological and health issues including drug problems where they exist) must be addressed. At present, street-involved children are often unable to readily access social assistance, educational, or health services if they can access these at all. It is long past the time that Canada and other States meet their obligation in regards to the protection and education of street-involved children. These children’s effective lack of access to education (given the absence of appropriate supports and unrealistic education strategies for children who have spent extended periods on the street) leaves them powerless and marginalized. In considering the situation of the street-involved child in this regard the words of Walters and Leblanc (2005) on development work ring especially true “…as always education is a tool with which interested groups seek to exploit or extend power” (p. 145). Thus, we as educators must through our professional organizations demand of our domestic governments that they proactively extend educational and protection services to street-involved children up to age 18. We must also urge educational administrators to include street-involved children in their educational planning, implementation and advocacy efforts. Further, when such children are enrolled, we must seek to meet their unique educational and personal needs in accord with the highest educational and ethical standards.

References


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