



STAHILI FOUNDATION



SUBMISSION FOR GENERAL COMMENT ON CHILDREN IN STREET SITUATIONS

1. INTRODUCTION

This submission to the Committee on the Rights of the Child (“CRC”) has been prepared jointly by The Stahili Foundation (“Stahili”) and the Lori E. Talsky Center for Human Rights of Women and Children at Michigan State University College of Law (“Talsky Center”).

Stahili

Stahili is a child rights NGO which works directly with vulnerable children in rural Kenya, and advocates globally for the protection of the internationally guaranteed rights of all children. The word Stahili means 'to deserve' in Swahili, and at the core of Stahili’s vision is the strong belief that every child deserves access to education and the opportunity to grow up in a safe and supportive family unit and community. Stahili began as a response to exploitation, abuse, corruption, and the unnecessary institutionalization of vulnerable children in Kenya who have families. Stahili remains firmly committed to solutions which foster sustainable development and which offer solutions to break perpetual cycles of poverty, exploitation and dependence.

Talsky Center

The Talsky Center at Michigan State University’s College of Law works to educate law students, as well as the broader community, about international human rights law and international humanitarian law. The Talsky Center aims to promote an understanding of the important civilizing role that these bodies of law so often play in a world fraught with transgressions against human dignity and well-being. The Center promotes human rights for all people, with a focus on women and children.

II. KEY RECOMMENDATIONS

Stahili and the Talsky Center submit the following two recommendations on children in street situations:

1. Whilst governments must make every effort to ensure that street children have access to care and shelter, institutionalized care should never be seen as a long-term alternative. Instead, governments should promote and facilitate the reunification of children with immediate and extended family, where possible, and provide alternative, family-based care such as foster care.

2. In order to ensure long-term, rights-based, sustainable solutions which address the root causes of the conditions which force children to live and/or work on the street, governments should consistently invest in access to education, social services, and community development.

III. THE RIGHT TO SPECIAL PROTECTION AND ASSISTANCE FOR CHILDREN DEPRIVED OF A FAMILY ENVIRONMENT

It is of great concern that children live on the streets in both the developing and developed world.¹ These children are among the world's most vulnerable and are often denied many of their fundamental rights.² Every child should be granted the right to develop in a healthy and nurturing family environment.³ No child should be deprived of family and community because of poverty. However, those children who are left without any option but to depend on the street for their survival are often denied their rights to development,⁴ education⁵ and to an adequate standard of living.⁶

Framework for Alternative Care and Family Strengthening

States must make every effort to respect children's internationally guaranteed right to family life.⁷ At the heart of any state response to the problem of street children deprived of a family environment should be a focus on reuniting street children with their families, where applicable, or the provision of alternative care, in a family setting, such as foster care. In establishing alternative care mechanisms, states should be strongly encouraged to ensure that institutionalization remains an absolute last resort option. To use orphanages as a form of long-term institutional care is to act in violation of the rights enshrined in the CRC.

Research overwhelmingly demonstrates that orphanages, when used as long-term solutions, are bad for children, by negatively impacting their health, development and well-being.⁸ Additionally, orphanages often isolate children from their local communities, which hinders their development of identity both in family relationships and with the wider community.⁹ Further, children in orphanages

¹ UN Human Rights Council, "Summary of the full-day meeting on the rights of the child. Report of the United Nations High Commissioner for Human Rights." UN Doc A/HRC/17/46 (12 May 2011) para. 6.

² *Ibid.*, para. 7.

³ United Nations General Assembly ("UNGA"), Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 ("UNCRC") arts. 8-10, 18, 20.

⁴ UNCRC, art. 6.

⁵ UNCRC, art. 28. Human Rights Watch, "Where do you want us to go? Abuses against street children in Uganda" (Human Rights Watch, 2014) ("Where do you want us to go?") p. 5.

⁶ UNCRC, art. 27.

⁷ UNCRC, art. 18.

⁸ See for e.g. "Institutional Care – The Last Resort – Policy Brief" (Save the Children, 2009); Kevin Browne, "The Risk of Harm to Young Children in Institutional Care" (Better Care, Save the Children UK, 2007); "Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions" (UNICEF Social Policy and Protection Cluster, September 2008); "Children, Orphanages and Families: A summary of research to help guide faith based action" (Faith to Action Initiative, 2014) p. 13.

⁹ National Council for Curriculum and Assessment, "Aistear Toolkit: Identity and Belonging," *National Council for Curriculum and Assessment Ireland*,

are often vulnerable to abuses such as trafficking and forced labour.¹⁰ That is, the unnecessary institutionalization of street children other than as a last resort, can serve to remove them from one form of exploitation only to expose them to another.

Family-Based Solutions: Safety and Belonging

Dynamics including ‘poverty and family breakdown’ sometimes result in children leaving home and starting lives on the streets.¹¹ However, providing children with subsistence and safe and nurturing family settings can counter these risks. Indeed, family-based solutions can empower children by giving them a sense of belonging and identity as well as the opportunity to learn more about their rights.¹² Thus, states should encourage social services and relevant civil society organizations to follow up with specialist care and assistance to children and foster families to prevent such outcomes.

IV. RIGHTS-BASED, HOLISTIC, LONG-TERM STRATEGIES TO PREVENT CHILDREN FROM DEVELOPING STRONG STREET CONNECTIONS AND TO SUPPORT CHILDREN IN STREET SITUATIONS

While family-based placements are essential to alleviating street children’s plight; real and lasting change in this regard requires addressing the underlying causes of the phenomenon, including especially family poverty and lack of education.

Education and Community Development

Education, together with investing time and resources in community and family development, helps to give children the best opportunity to thrive and reduces the factors, such as poverty that lead vulnerable children to a life on the streets.

Access to education offers increased opportunities for children to develop intellectually and in fulfilment of their capabilities plus providing the wherewithal for increased opportunities to gain employment later in life. Nor should the importance of education be underestimated in giving children the life skills needed to understand the peril of life on the streets. It should be noted that even when ‘free’ education is provided, many current and former street children lack the necessary resources that they require to attend school, including food, books, writing instruments, uniforms, shoes, and

[http://www.ncca.ie/en/Curriculum and Assessment/Early Childhood and Primary Education/Early Childhood Education/Aistear Toolkit/Aistear Toolkit.html](http://www.ncca.ie/en/Curriculum_and_Assessment/Early_Childhood_and_Primary_Education/Early_Childhood_Education/Aistear_Toolkit/Aistear_Toolkit.html) accessed 8 April 2016.

¹⁰ Stahili has first-hand experience of such a problem, encountering children who were victims of forced labour in an orphanage.

¹¹ Retrak, “Family Key to a Positive Future: Retrak’s foster care helps a street child become top prefect,” *Retrak International*, http://www.streetchildrenresources.org/wp-content/uploads/gravity_forms/1-07fc61ac163e50acc82d83eee9ebb5c2/2013/01/Uganda-Success-Story-Foster-Care.pdf accessed 8 April 2016.

¹² Clark Butler (ed.) “*Child Rights: The Movement, International Law, and Opposition*” (Purdue University Press, 2012) pp. 19-20; here it is noted that children can gradually learn about their rights within the context of ‘the consistent help of others.’

toiletries, *inter alia*.¹³ The approach, then, must be holistic by taking into full account the deprivations which are apt to impede such children from utilising educational opportunities.¹⁴

Civil society organizations offer important models in providing such holistic care beyond formal education. Stahili, for instance, ensures all children whom it supports have the necessary financial assistance to cover meals, school requirements, *etc.* Hunger severely diminishes a child's ability to learn effectively. Governments and civil society must do what they can to ensure children, including street children in particular, receive the nourishment integral to enabling a meaningful learning process.¹⁵ States should be encouraged to work closely with regulated NGOs and civil society organizations which support education, family-based alternative care, and holistic development solutions that are sustainable.

Case Study: John's Story:

The story of John, the first student supported by Stahili, demonstrates the success of this holistic approach. John lived on the streets of rural Kenya for much of his formative childhood after his mother died. Deprived of a stable home and an education, John turned to stealing for his subsistence. When it rained, he lived in a porcupine hole for shelter. John was picked up off the streets by an unscrupulous orphanage which offered promises of a better life, such as the promise of education. John, however, was forced to work in the orphanage. Like many children who grow up in institutionalised care, John did not receive the benefits of stable and consistent education.

Stahili assisted John after learning of the exploitation and provided him with access to formal education and the additional tools and resources he needed to succeed. Today, John lives with his adult siblings, has graduated high school, and is enrolled in computer training. John looks forward to attending university. John's story shows how the opportunity to receive an education, to gain life skills, and to be supported holistically within a family and a community, can significantly reduce the likelihood of a child living his or her life on the streets with almost no hope for a better future.

V. CONCLUSION: BEST PRACTICES

In summary, Stahili and Talsky Center would encourage the following to be considered as best practices when dealing with the issue of children living in street situations:

¹³ See for example: "Where do you want us to go," p. 10.

¹⁴ Stahili's model centres around providing holistic support to at risk children, ensuring that they have support not only for education but for all additional needs.

¹⁵ Stahili, for instance, provides three (3) meals per day to students in its programme. Other organizations, such as Mary's Meals provide at least one meal per day (see "What we do," *Mary's Meals*, <https://www.marysmeals.org.uk/what-we-do/> accessed 7 April 2016).

- Legislative and policy frameworks which promote family reunification or family-based alternative care, and which ensure that orphanages are a last resort.
- Financial, material and moral support for families which care for children, whether as foster carers or extended family members.
- Provision of high quality education and material support necessary for all children – including street children – to access primary and post-secondary education.
- Cooperation with NGOs which are able to assist with the provision of educational and community support.