

Integrating the General Comment 26 on Children's Rights and a Healthy Environment in the implementation of the FAO Guidelines on Small-scale Fisheries

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This policy brief is aimed at experts in small-scale fisheries law, governance and management. It seeks to clarify the relevance of the 2015 Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication ([SSF Guidelines](#)) for the realisation of children's right to a clean, healthy and sustainable environment.

To that end, this note explains the extent to which the SSF Guidelines already refer to children, and how these references implicitly connect with the [UN General Comment No. 26](#) on children's rights and the environment, with a special focus on climate change (GC26). The General Comment was adopted by the UN Committee on the Rights of the Child, and can be relied upon to clarify the risks and opportunities to ensure the protection of children's rights in the small-scale fisheries sector. This policy brief will focus in particular on the substantive content of children's human right to a healthy environment in the fisheries context, and the links to their right to education, as part of the concern enshrined in the SSF Guidelines for children's wellbeing.

The SSF Guidelines and children

The Food and Agriculture Organisation of the United Nations (FAO) supports the implementation of the SSF Guidelines, which are the only international instrument specially dedicated to small-scale fisheries and making express references to [fishers' human rights](#). The SSF Guidelines were developed as part of FAO's long-standing efforts to contribute to the coherent interpretation and application of [international instruments](#) on sustainable fisheries, at the crossroads of international fisheries law and international environmental law.

The SSF Guidelines note that "small-scale fishing communities face a lack of alternative livelihoods, youth unemployment, unhealthy and unsafe working conditions, forced labour, and child labour.... Pollution, environmental degradation, climate change impacts and natural and human-induced disasters add to the threats facing small-scale fishing communities." In noting that several factors impede full enjoyment of human rights in

KEY MESSAGES

States must:

- **protect children's human right to a healthy environment in the context of small-scale fisheries;**
- **transform industrial fisheries to produce healthy and sustainable food aimed at preventing malnutrition and promoting children's growth and development;**
- **prevent marine pollution, by banning the direct or indirect introduction of substances into the marine environment that are hazardous to children's health and marine ecosystems;**
- **set and enforce environmental standards in the fisheries sector that protect children from disproportionate and long-term effects;**
- **provide opportunities for children's effective and meaningful participation when an environmental decision concerning fisheries may have a significant impact on them and conduct a prior assessment to determine children's best interests in that context;**
- **protect children's rights to education, play and culture by ensuring opportunities for children to interact with the natural environment, including the animal world;**
- **provide children with age-appropriate and accessible, scientifically accurate, up-to-date environmental and human rights education, including children's right to a healthy environment;**
- **collect regularly disaggregated data on environmental harm on children's rights in the fisheries sector.**

small-scale fishing communities, including civil, political, economic, social and cultural rights, the SSF Guidelines refer to children in the following two paragraphs:

6.16 Small-scale fisheries actors should recognise the importance of children's well-being and education for the future of the children themselves and of society at large. Children should go to school, be protected from all abuse and have all their rights respected in accordance with the Convention on the Rights of the Child.

6.15 States should provide and enable access to schools and education facilities that meet the needs of small-scale fishing communities and that facilitate gainful and decent employment of youth, respecting their career choices and providing equal opportunities for all boys and girls and young men and women.

To interpret these provisions according to a human rights-based approach (which is specifically called for by the SSF Guidelines), it is essential to understand children's well-being, as well as their education, in the light of the internationally protected human rights of children.

Children's human rights

The UN Convention on the Rights of the Child is the global human rights treaty that considers the civil, political, economic, social, and cultural rights of children –defined as all persons under the age of 18. The Convention is the most widely and rapidly ratified of all UN human rights treaties, with almost universal ratification. Children's human rights include rights such as the right to life, survival and development, the right to non-discrimination, the right to education, the right to information, freedom of expression and assembly, and the right to be heard.

The UN Committee on the Rights of the Child is responsible for monitoring the implementation of the Convention, and it provides authoritative guidance on how to interpret the Convention in different thematic contexts, through General Comments. General Comments help to ensure the continued relevance of the Convention, as the world and children's experiences of it evolve. They also serve an important role as a mechanism for the accountability and monitoring of States.

The General Comment No. 26 considers children's rights and the environment, with a special focus on climate change. It outlines all relevant aspects of the right to a healthy environment, in the context of children's human rights. Significantly, the GC26 incorporated the substantive definition of the right proposed by the UN Special Rapporteur on Human Rights and the Environment as – 'clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food and non-toxic environments'.¹

The General Comment then clarifies that 'a clean, healthy and sustainable environment is both a human right itself and necessary for the full enjoyment of a broad range of children's rights. Conversely, environmental degradation, including the consequences of the climate crisis, adversely affects the enjoyment of these rights...'.² For the protection and promotion of the right to a healthy environment, there must be adequate attention on the significant role of the ocean and sustainable fisheries. As such, the Committee considers that:

- 'While the present general comment is focused on climate change, its application should not be limited to any particular environmental issue', and
- States 'must take immediate action' to protect children from the triple planetary crisis (climate emergency, biodiversity loss and pervasive pollution) as 'an urgent and systemic threat to children's rights globally'.³

This provides critical insights on how to understand children's well-being in the context of ensuring sustainable fisheries. In effect, the General Comment makes specific references to fisheries and ocean protection, by indicating that States must, to protect children's human right to a healthy environment, take immediate action to:

- transform industrial fisheries to produce healthy and sustainable food aimed at preventing malnutrition and promoting children's growth and development; and
- prevent marine pollution, by banning the direct or indirect introduction of substances into the marine environment that are hazardous to children's health and marine ecosystems.⁴

2 GC 26, para 8.

3 GC 26, paras 1 and 5.

4 GC 26, para 65(c)-(f).



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1 GC 26, paras 63-64.

Children's wellbeing in the small-scale fisheries context

The General Comment No 26 makes several key points that help understand children's wellbeing from the perspective of their human right to a healthy environment, which should be placed in the small-scale fisheries context. Children are "particularly susceptible to environmental hazards due to their unique activity patterns, behaviours and physiology,"⁵ so there are specific risks to children's rights to life, survival and health when small-scale fisheries are not managed to avoid such environmental hazards.

The General Comment then fleshes out how environmental degradation negatively impacts on children's right to development: "environmental degradation jeopardises children's ability to achieve their full developmental potential, with implications for a wide range of other rights under the Convention."⁶ Children experience "developmental windows of increased vulnerability [that] can easily disrupt the maturational processes of the brain, organs and the immune system and cause disease and impairments during and beyond childhood, sometimes after a substantial latency period."⁷ Further, children's right to development also intersects with their right to a standard of living (including housing, food, water and sanitation) adequate for their physical, mental, spiritual, moral and social development – all of which depend on a healthy environment.⁸

Environmental degradation also negatively impacts another crucial right – children's right to play. The General Comment recalls that:

"Play and recreation are essential to the health and well-being of children and promote the development of creativity, imagination, self-confidence, self-efficacy and physical, social, cognitive and emotional strength and skills. Play and recreation contribute to all aspects of learning, are critical to children's holistic development and afford important opportunities for children to explore and experience the natural world and biodiversity, benefiting their mental health and well-being and contributing to understanding, appreciation and care for the natural environment."⁹

On the whole, children are far more likely than adults to suffer serious harm, including irreversible and lifelong consequences and death, from environmental degradation. Given their heightened duty of care, States should therefore set and enforce environmental standards that protect children from such disproportionate and long-term effects.¹⁰ The General Comment further emphasises that "States bear the responsibility for foreseeable environment-related threats arising as a result



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of their acts or omissions now, the full implications of which may not manifest for years or even decades."¹¹ This and related obligations also apply to the fisheries sector, including the small-scale fisheries sector.

States should provide opportunities for children's effective and meaningful participation when an environmental decision related to small-scale fisheries may have a significant impact on them and the conduct of an environmental assessment of policies and projects to determine children's best interests with a view to taking into account the possibility of future risk and harm to children's well-being and development.¹² It should be borne in mind that the notion of "best interests of the child" under the Convention on the Rights of the Child "aims to ensure not only the full and effective enjoyment of all rights in the Convention, but also the physical, mental, spiritual, moral, psychological and social development, integrity and human dignity of the child".¹³ The following obligations for States detailed by the General Comment are also relevant in the fisheries sector:

- protect children's right to life by ensuring "the sustainable use of resources needed for covering basic needs and the protection of healthy ecosystems and biodiversity," including special measures "to prevent and reduce child mortality from environmental conditions and for groups in vulnerable situations";¹⁴
- prevent or mitigate foreseeable environmental harm on children;¹⁵

5 Ibid, para 24.

6 Ibid, para 23.

7 Ibid.

8 Ibid, para 45.

9 Ibid, paras. 59-60.

10 Ibid, para 73.

11 Ibid, para 11

12 Ibid, para 17.

13 CRC Committee (2013), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), para. 14.

14 GC 26, para 21.

15 Ibid.

- consider “consistently and explicitly...the impact of exposure to toxic substances and pollution in early life”¹⁶ and “each stage of childhood, the importance of each stage for subsequent stages of maturation and development and children’s varying needs at each stage”;¹⁷
- provide for timely and effective remedies to redress both foreseeable and actual harm”;¹⁸ and
- share information on children’s health-related issues that should be “physically accessible, understandable and appropriate to children’s age and educational level”, co-designed with children.¹⁹

Education

The General Comment also clarifies States’ obligations with regard to children’ right to education, which are relevant also for the small-scale fisheries sector. These obligations include to protect the opportunities for children “to experience outdoor activities and to interact with and play in natural environments, including the animal world,”²⁰ which contributes to how children learn to respect the natural environment, as well as Indigenous and other forms of knowledge. This obligation, therefore, contributes to protect their right to play, their right to education and their cultural rights. In the context of small-scale fishing communities, outdoor activities may be intertwined with traditional fishing activities, which raises a question of carefully understanding the need to protect children’s rights to culture and education and the prohibition of child labour.²¹

In addition, children’s right to education encompasses the right to be provided with age-appropriate and accessible, scientifically accurate, up-to-date environmental and human rights education, specifically including children’s right to a healthy environment, and a supportive and enabling environment, in safe, healthy and resilient infrastructure for effective learning.²² Education should be transformative, inclusive, child-centred, child-friendly and empowering.²³

States should:

- ensure physical access to schools, during and after extreme weather events;²⁴



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- address the disproportionate indirect and knock-on effects of environmental degradation on children’s education, paying special attention to gender-specific situations, such as children leaving school due to additional domestic and economic burdens in households facing environment-related shocks and stress;²⁵
- ensure the collection of reliable, regularly updated and disaggregated data and research on environmental harm, including the risks and actual impacts of climate change-related harm on children’s rights; and
- include longitudinal data on the effects of environmental harm on children’s rights, in particular on health, education and standard of living at different ages.²⁶

Participation

As part of States’ obligations to consider their international biodiversity obligations in the fisheries sector, States should also keep in mind the new Target 22 in the [Global Biodiversity Framework](#) to ‘ensure the full, equitable, inclusive, effective and gender-responsive representation and participation in decision-making, and access to justice and information related to biodiversity’ by children.

See [here](#) another policy brief on the synergies between the Global Biodiversity Framework and the General Comment no 26.

16 GC 26, para 24.

17 GC 26, para 25.

18 Ibid.

19 GC 26, para 58-59.

20 Ibid.

21 S Ibrahim et al, *Reconsidering Child Labour as Human Rights Violation Embedded in Socio-Cultural Construction of Childhood: Insights from Ghanaian Marine Small-Scale Fisheries* (forth).

22 GC 26, para 27 and 55.

23 GC 26, para 53 and 66.

24 GC 26, para 54.

25 GC 26, para 56-57.

26 GC 26, para 67.