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The Right to Play: Interpretation through the Lens of the Convention on the Rights of the Child**

ABSTRACT: Children’s rights are human rights. When internalizing this mantra, it is crucial to understand that children are not only the youngest and most vulnerable population group but also that they have their own particular needs. To ensure that these needs are met, we must recognize an additional subset of human rights that are unique to children. These are comprehensively represented in the United Nations Convention on the Rights of the Child, including, among others, the right to protection from all forms of violence, the right to play, and children’s right to express their views in matters affecting them. Children’s rights, however, require more than just an understanding of the relevant theory and implementation of these rights is lagging dangerously behind what is optimal. This shortcoming is further amplified in cases involving certain so-called forgotten rights, and even among these, the right to play is undoubtedly the red-headed stepchild of the Convention that is often overlooked and constantly undervalued.

KEYWORDS: right to play, children’s rights, protection of children, parental responsibility, parental care, parental rights and obligations.

1. Introduction

Children’s rights are human rights. It is no easy feat to write an introduction to such an elusive, often forgotten topic. It is, however, apt to start with this reminder before we delve into the topic at hand—to emphasize the nature of this specific subset of human rights that exist to ensure that all children are

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treated with respect, equality, and human dignity and are free of discrimination, recrimination, or intimidation. All humans are born free and equal in dignity and rights, and to ensure that these human rights are appropriately protected with regards to children, we need to consider children's fragility, vulnerability, and age-specific needs and tailor these rights specifically to children accordingly. Human rights—and therefore children's rights are fundamental to advancing our society. Children are frequently referred to as “our future,” and though that is true and might even sound like an idealistic statement, we must not forget that children need protection now; that is, children's protection should not be deferred to “tomorrow” on the premise that they are our future. Rather, child protection is an immediate matter because, first and foremost, children are human beings right now, in this moment, and they are equal to adults in human dignity and fundamental rights.

According to the United Nations Children's Fund's (UNICEF) flagship report, *The State of the World's Children*,¹ there are currently 2.4 billion children in the world, meaning that one-third of the world's population is under the age of 18 years. Over 2 billion of these children live in developing countries (UNICEF Data, n. d.), where, often, even their most fundamental rights are violated. Thus, protecting children's rights is a human imperative upon which our entire society depends, and only by effectively protecting children's rights can we ensure that children are able to live up to their full potential. It is the wider community's responsibility to ensure that children are raised in nurturing and loving families and that their basic needs are met, and it is crucial that policymakers understand the necessity of specific rights to protect children from discrimination and all the threats to which they are vulnerable. This special set of human rights is embodied in the Convention on the Rights of the Child and its Optional Protocols.

The 54 articles of the Convention spell out the basic human rights to which children are entitled. These include, among others, freedom of expression, freedom of thought, conscience, and religion, the right to be heard, the right to privacy, and the right to protection from violence. There is an ongoing debate on the Convention's effectiveness in general and whether a treaty can serve the goal of protecting children's rights globally or whether there is a more efficient mechanism for this purpose. It is true that many countries with significant shortcomings regarding the protection of

¹ UNICEF, 2021, p. 259.

children's rights are parties to the Convention and that the reservations that certain countries have attached to the Convention are contrary to the Convention's original intent.² We shall not forget, however, the incredibly significant impact the Convention has had since its drafting. Several states have used the Convention to strengthen and enhance their domestic legislation already in force.³ The Convention has also played a role in the creation of dozens of independent human rights institutions in 38 countries.⁴

Though huge strides have been made in the past 34 years, progress still needs to be accomplished regarding implementing the Convention. Certain rights occupy a more favorable position than others, and we can generally conclude that the right to play is among those that are usually the last to be addressed. In fact, the right to play is considered to be a neglected right. It is often forgotten by the States Parties implementing the Convention, by academics researching children's rights, and even by the UN Committee on the Rights of the Child.⁵ This historic lack of engagement has led to nary any implementation of this right among the Convention's provisions. Despite the developments of the past 34 years, the right to play is still generally undervalued and frequently overlooked in theory and in practice as well. Research, however, clearly shows that play is fundamental to children's development and well-being.

2. The definition of play

Oh, it was child's play! *Gyerekjáték!*⁶ *Kinderspiel!*⁷ *¡Juego de niños!*⁸ 兒戲.⁹ Across many languages, we often use the term "child's play"

² State Parties that have attached reservations declaring that they will not apply the provisions of the Convention on the Rights of the Child (hereinafter referred to as: CRC) that they deem incompatible with Sharia law include, among others, Afghanistan, Egypt, Iran, Iraq, Kuwait, Saudi Arabia, Syria, etc.

³ According to the UNICEF press release 'Despite Progress, Children's Rights Far from Universal,' more than half of the State Parties had incorporated the provisions of the CRC into their domestic laws and a third of the State Parties had incorporated CRC provisions into their national constitutions.

⁴ UNICEF, 2004.

⁵ Hughes, 1990.

⁶ Hungarian.

⁷ German.

⁸ Spanish.

⁹ Japanese.

dismissively to express that an undertaking is way too easy of a task—but can child’s play be reduced to that? Wider interdisciplinary research has shown that play is a concept that has unacknowledged depth and importance and is thus crucial to children’s individual development as well as to societal development as a whole. Play teaches children how to function as members of society and how the rules of a system work and guides them to develop a sense of self-respect and respect for others. Children develop all of these crucial skills that they need to flourish through play, more precisely through unstructured, spontaneous, and self-chosen play. So, what is play?

Play is not easily defined in terms of any single characteristic; it involves a plethora of characteristics and features, including emotional, mental, and behavioral. Friedrich Wilhelm Fröbel, the German pedagogue who laid the foundations of modern education by focusing on children’s unique needs and abilities, made an early attempt to define play in 1887. According to him, play is

the highest expression of human development in childhood, for it alone is the free expression of what is in a child’s soul. Children have an innate ability to be curious and to investigate and to play to find things out.¹⁰

The Dutch cultural theorist Johan Huizinga, who, in the opening pages of his 1938 work *Homo Ludens*, explores the relationship between culture and play, made one of the first attempts to precisely define play. Huizinga ascribed such great importance to play that he went as far as suggesting that *homo ludens*, or playing man, might be a more appropriate classification term for our species or subspecies in the human taxonomy than *homo sapiens*, or wise man. He defined play as follows:

Play is a free activity standing quite consciously outside “ordinary” life as being “not serious,” but at the same time absorbing the player intensely and utterly. It is an activity connected with no material interest, and no profit can be gained by it. It proceeds within its own proper boundaries of time and space according to fixed rules and in an orderly manner.¹¹

¹⁰ Froebel, 1887.

¹¹ Huizinga, 1938.

From his definition, we can derive the features that characterize play, namely freedom, being distinct from ordinary life, demanding order, being bound by its own rules, and being connected with no material interest. He argued that the most essential element of play is simply fun. Players 'plainly experience tremendous fun and enjoyment.'¹²

The seminal Russian psychologist Lev Vygotsky examined the role of play in children's learning, and in his 1967 essay 'Play and Its Role in the Mental Development of the Child,' defined play as an activity that the child desires and which always involves an imaginary situation and its own rules. He argued that play improves children's well-being in the social, emotional, cognitive, and physical aspects as well. He formally defined play as

an adaptive mechanism promoting cognitive growth. It creates the zone of proximal development. In play[,] a child always behaves beyond his average age, above his daily behaviour; in play it is as though he were a head taller than himself.¹³

Mihaly Csikszentmihalyi, a Hungarian professor of psychology, defined play as

a state of experience in which the actor's ability to act matches the requirements for action in his environment. It differs from anxiety, in which the requirements outnumber the ability, and from boredom, in which the requirements are too few for the ability level of the actor.¹⁴

Csikszentmihalyi emphasized the flow experience of play, in which players lose track of time, personal worries, and their external surroundings.

Julie Ozanne and Lucie Ozanne (2017), researchers at the University of Canterbury, defined play by contrasting it with what it is not: 'Play does not involve work; it is not realistic, it is not serious, and it is not productive.'¹⁵

Play theorist Brian Sutton-Smith (1997) devoted his lifetime to researching the cultural significance of play and concluded that play 'is a

¹² Ibid.

¹³ Vygotsky, 1978.

¹⁴ Csikszentmihalyi and Bennett, 1971.

¹⁵ Ozanne and Ozanne, 1997.

pleasure for its own sake, but its genetic gift is perhaps the sense that life, temporarily at least, is worth living.’¹⁶

Stuart Lester and Wendy Russell (2010), from the University of Gloucestershire, asserted that

Play is a behaviour that is distinguished by specific features that represent a unique way of being: a way of perceiving, feeling and acting in the world. The act of playing, where children appropriate time and space for their own needs and desires, has value for developing a range of flexible and adaptable responses to the environment.¹⁷

As Swiss child psychologist Jean Piaget (1962) said: ‘Play is the work of children.’ In the words of Fred Rogers, American author and TV producer: ‘Play is often talked about as if it were a relief from serious learning. But for children, play is serious learning.’

It is clear from the above that there is no shortage of definitions of play, though it is likely much easier to compile a list of games than it is to define play itself. All of these definitions suggest features of play, what play is, and what play is not. However, after reviewing them all, we still face the following question: What makes play a fundamental right of the child?

Having reviewed the definitions psychologists, educators, and game theoreticians have provided, we shall look at the legal definition of play. The Convention on the Rights of the Child recognizes the right to play in its Article 31, and the UN Committee on the Rights of the Child (2013) published its General Comment No. 17 on the right of the child to rest, leisure, play, recreational activities, and cultural life and the arts, which is our only source of interpretation of Article 31. The main objective of General Comment No. 17 is to enhance understanding of Article 31 of the Convention and of the right to play in general. It attempts to differentiate and define the concepts of leisure, rest, recreation, and play. We find a rather broad definition of play here that does not resolve the lack of conceptual clarity regarding the right to play. The definition of play provided here is as follows:

Children’s play is any behavior, activity or process initiated, controlled and structured by children themselves. Play is non-compulsory,

¹⁶ Sutton-Smith, 1997.

¹⁷ Lester and Russell, 2010.

driven by intrinsic motivation and undertaken for its own sake, rather than as a means to an end. It may take infinite forms, but the key characteristics of play are fun, uncertainty, challenge, flexibility and non-productivity. While play is often considered non-essential, the Committee reaffirms that it is a fundamental and vital dimension of the pleasure of childhood and is an essential component of children's development.¹⁸

This is indeed a very broad definition that raises a few questions. If play is indeed 'any behavior initiated and structured by children,' do we conclude that all activities started and governed by children constitute play? On the plus side, the definition of the Committee does reiterate a few key concepts that academic literature has highlighted as well. Just like the definitions that preceded it, the Committee's definition also stresses the voluntary nature of play. The phrase 'initiated, controlled and structured by children themselves' is included precisely to emphasize the voluntary element of play that is crucial when enjoying this right. Another important feature we can derive from the Committee's definition is the non-productive nature of play. This is a motive we have seen in other definitions as well: Play is driven by intrinsic motivation, and according to the Committee, it should be "undertaken for its own sake."

3. The evolution of the right to play

As the most frequently disregarded right, the right to play is often consigned to oblivion. Of the key international human rights treaties, a mere two recognize the right to play, namely the Convention on the Rights of Child and the Convention on the Rights of Persons with Disabilities, both of which view it as a child-specific right. There is no adequate right to play in general human rights theory that would apply to adults as well. The provision that most closely mimics the right to play is perhaps Article 7 of the International Covenant on Economic, Social and Cultural Rights, which declares the right to rest and leisure.

However, given our exploration of the definition of play in the previous section, we know that play is a distinct concept that the Convention explicitly differentiates from rest, leisure, and recreation.

Conceptualization of play as a child's right is guaranteed today under Article 31 of the Convention on the Rights of the Child (1989), which

¹⁸ General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts.

states: ‘States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.’

To understand how Article 31 of the Convention came to be, we need to retrace history and examine the evolution that led to the drafting of Article 31. The Geneva Declaration of the Rights of the Child is an international document that was drafted by Eglantyne Jebb, adopted by the League of Nations in 1924, and extended by the UN in 1959. The Declaration, in a sense, was the herald of the Convention, which followed in 1989. The Declaration did not include the right to play; it did, however, discuss the child’s ‘means requisite for its normal development, both materially and spiritually.’¹⁹ In 1946, after World War II, the UN decided to adopt the Declaration instead of drafting an entirely new document. The Declaration was amended in 1948 and then significantly expanded in 1959. It was during the drafting phase of this expanded version in 1959 that the first discussions regarding the right to play arose. The Third Committee of the General Assembly discussed the proposed amendments widely in 1959.²⁰

The draft of the Declaration as proposed by the Commission on Human Rights included Principle VII which stipulated that the child is entitled to receive free and compulsory education, at least in the elementary stages. The education of the child shall be directed to the full development of his personality and the strengthening of respect for human rights and fundamental freedoms; it shall enable him, enjoying the same opportunities as others, to develop his abilities and individual judgement and to become a useful member of society.

The right to play was not included in the draft of the expanded version at the time when three countries, namely Mexico, Peru, and Romania, proposed the expansion of Principle VII. The third paragraph was adopted per those three countries’ proposal, and it states: ‘The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall be under an obligation to ensure the enjoyment of this right.’²¹ This amendment views play as a supplementary concept to education that should contribute to the child’s healthy development. The amendment is critically important because

¹⁹ Declaration of the Rights of the Child, 1924.

²⁰ United Nations General Assembly, 1959.

²¹ United Nations Commission on Human Rights, 1959.

it is the first reference to the right to play in legal history. Though the conceptualization of the right to play appears to be limited in scope here, the reference to education in the phrase ‘directed to the same purposes as education’ still makes it a milestone in legal history. In our current interpretation of the right to play, we tend to emphasize its voluntary nature and non-productivity, which this definition clearly contradicts. Even in 1959, representatives from Poland, Romania, and Saudi Arabia cautioned about linking the principles of education and play, stressing that, historically, play has not been present in educational settings, and it would therefore be a limitation to include this link in the final text of the Declaration.²² These concerns were not reflected in the final text of the Declaration.

Twenty years later, in 1979, the UN decided to commemorate the anniversary by proclaiming 1979 as the International Year of the Child²³ with the general aim ‘to provide a framework for advocacy on behalf of children and for enhancing the awareness of the special needs of children on the part of decision-makers and the public.’²⁴ Poland seized this opportunity to revive the discussion about drafting a new Convention on the Rights of the Child, and on 7 February 1978, Poland submitted a draft convention to the Commission on Human Rights.²⁵ To date, this has been the most important initiative that Poland has undertaken in the field of human rights. It bears mentioning that Poland was in a particularly fragile position after World War II. The war inflicted unimaginable suffering on children in Poland, violating their fundamental human rights. Thousands of children were displaced during the war, and children of Jewish and Gypsy origin endured indescribable atrocities in concentration camps. Polish children at large were starving, had no access to education or health care, and were forced to work. These tragic circumstances sensitized Polish experts to the question of children’s rights and led to their pioneering the change in the conceptualization of children’s rights. UNICEF, the UN agency responsible for providing humanitarian aid to children worldwide, was also founded as a result of the Polish Dr. Ludwik Rajchman’s initiative. Furthermore, delegates from Poland were highly involved in the issue since they were

²² Ibid.

²³ United Nations General Assembly, 1978.

²⁴ Ibid.

²⁵ United Nations Commission on Human Rights, 1978.

actively and directly involved in drafting the Declaration. The combination of these factors allowed the Polish delegation to spearhead this change.

Poland proposed recalling the Declaration and adopting a new, binding international legal instrument in the form of a convention, which provides a higher level of protection, that would be based on the key principles and ideas protected by the Declaration. In December 1978, the General Assembly moved forward with the proposal and included the question of a convention on the rights of the child in its work agenda at its thirty-fourth session. Thus, the preparatory work for the draft convention started in the form of an open-ended working group with yearly meetings. The documented preparatory work for the Convention provides a wealth of information on the interpretation and the emergence of the right to play as we see it defined today in Article 31.

The first Polish draft did not have the same structure as the current Convention, but regarding content, Article VII of the first draft is comparable to the current Article 31. The draft Convention's Article VII reads: 'The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.'²⁶

No explanation was given as to why the right to play was worded differently than in the 1959 version of the Declaration; however, based on the discussions held around the time, it is clear that the intent was to change the rhetoric in order to stop interpreting the right to play as a luxury right and start viewing it as a right that is vital to the development and well-being of all children, not only in the theoretical sense but also in the practical sense as well.

When the Commission on Human Rights opened the first call for comments, several comments were received that addressed Article VII and the right to play. Among these, the Society of Comparative Legislation wanted to keep the link between education and play, as acknowledged through the inclusion of the phrase 'directed to the same purposes as education,'²⁷ just as it was in the 1959 Declaration.

The comment from Norway suggested reorganizing the paragraphs of Article VII so that the Article would start with the right to play, thus giving it its due weight in the first paragraph as opposed to including it in the third paragraph. The Norwegian suggestion was not only to change the placement

²⁶ United Nations Commission on Human Rights, 1978.

²⁷ United Nations Commission on Human Rights, 1978.

of the right to play but also to slightly modify the wording of the paragraph so that it would read:

Children, including children of preschool age, shall have full opportunity of play, social activities and recreation, as a means to ensure their full mental and physical development. Society and the public authorities shall endeavour to promote the enjoyment of this right.

This wording places particular emphasis on children of preschool age, and contrary to the comment from the Society of Comparative Legislation, it shifts the emphasis from play in the context of education to play in the context of mental and physical well-being.

The Federal Republic of Germany indicated which rights from the Convention they viewed as rights of the individual to be provided for in the broadest sense and which ones they viewed merely as undertakings on the part of the States. According to the German comment, the right to play was considered to only be discretionary undertaking.

The United Nations Educational, Scientific and Cultural Organization asserted that the right to play should be based to a greater extent on the Recommendation on Participation by the People at Large in Cultural Life and Their Contribution to It by 'taking up the idea of protecting and enhancing all forms of cultural expression such as national or regional languages, dialects, folk arts and traditions both past and present, and rural cultures as well.'²⁸

The Commission on Human Rights made a second call for comments.²⁹ One of the responses regarding the right to play came from New Zealand.³⁰ They did not dispute the intent behind the Article but noted that they did not fully grasp the distinction between play and recreation. They also questioned the use of the phrase "full opportunity" and asked whether it meant merely physical access to playgrounds or ensuring that children have sufficient time to play or whether it had another meaning.

In the first round of comments, France, similar to Norway, raised concerns about the linkage of the concepts of play and education. According to the French comment, educational games should be encouraged, but it

²⁸ Office of the United Nations High Commissioner for Human, 2007.

²⁹ United Nations Secretary-General, 1979.

³⁰ United Nations Secretary-General, 1980.

should be stressed that there is a need to play games that are not part of a curriculum.

After considering all the comments, Poland revised the draft version of the Convention. In this revision, the content of Article VII was moved to Article 18. This was not only a change in location; it also included significant rewording. The reworded draft of Article 18 was as follows:

The child shall have full opportunity for recreation and amusement appropriate to his age. The parents and other persons responsible for the care of the child, educational institutions and state organs shall be obliged to implement this right.³¹

A key change we can observe here is the removal of the link between play and education, which was a desired change. A negative change, however, was the exclusion of the phrase “right to play” and its replacement with “right to amusement.” This was particularly odd since none of the comments from the delegations had even mentioned “amusement,” and Poland provided no explanation for the change. After this revision, Poland submitted another version that changed the structure and wording again. The second revision replaced the term “amusement” with leisure—again without any explanation. The second revision was as follows:

The States Parties to the present Convention undertake to ensure to all children opportunities for leisure and recreation commensurate with their age. Parents and other persons responsible for children, educational institutions and state organs shall supervise the practical implementation of the foregoing provision.³²

This second reworded version went forward to the first reading of the Draft Convention on the Rights of the Child. During the first and second readings, this Article was still referred to as Article 17. Numerous proposals were submitted to the working group. These first proposals and comments still included no direct reference to the right to play. A modification in this

³¹ Poland, Note verbale dated 5 October 1979 addressed to the Division of Human Rights by the Permanent Representation of the Polish People’s Republic to the United Nations in Geneva, E/CN.4/134 (17 January 1980).

³² United Nations Secretary-General, 1981.

regard was first proposed by the Canadian delegation, which suggested reintroducing the right to play and rewording the Article as follows:

1. Every child has the right to rest and leisure, to engage in play and recreation and to freely participate in cultural life and the arts.
2. Parents, States Parties, educational institutions and others caring for children shall take steps to implement this right, including making reasonable limitations on school and working hours.³³

This proposal was significant not only because it revived the right to play but also because it suggested limiting children's school hours, thus contributing to clarifying the question New Zealand posed regarding how States Parties should ensure that children have "full opportunity" to exercise the right to play. Subsequently, two more proposals were received, one from a group of non-governmental organizations and the other from the United States (which also omitted the phrase "the right to play"). The US proposal stated: 'The States Parties to the present Convention recognize the importance of recreational and cultural activity to the well-being and balanced development of the child.'³⁴

After reviewing all of the proposals and comments, the working group began discussing the drafting of Article 17 and based these discussions on the proposals from Canada and the United States, both cited above. During the discussions, several delegations suggested minor changes, and some technical revisions were suggested and approved. In the second reading of the draft Convention in 1989, no further substantive changes were adopted, and the working group finally accepted Article 17 as follows:

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall

³³ United Nations Commission on Human Rights, 1984.

³⁴ Office of the United Nations High Commissioner for Human Rights, 1985.

encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

The 2007 Office of the United Nations High Commissioner for Human Rights' (OHCHR) publication *Legislative History of the Convention on the Rights of the Child (1989)* contains the detailed transcript of the proposals and comments from the delegations, as well as the working group's discussions on each article of the Convention. This historical overview of the preparatory works of the draft Convention is extremely valuable in understanding the intent behind the Convention's provisions, and it provides additional layers of interpretation of each article.

This short summary of the legislative evolution of the right to play has shown that the journey was not without challenges, and it included many twists and turns. Wording the Article was only the first step. When it comes to the question of its implementation, it is clear that the bigger obstacles lie in practically implementing this right. Concerns that governments were not properly addressing their obligations to uphold Article 31 led to the publication of General Comment No. 17 (on the child's right to play, leisure and recreation). The General Comment defines play as behavior initiated, controlled, and structured by children and as non-compulsory and driven by intrinsic motivation and states that play has the key characteristics of fun, uncertainty, challenge, flexibility, and non-productivity.³⁵

4. Content of the right to play

As mentioned earlier, the right to play is a child-specific human right. Article 1 of the Convention contains a definition of the child and defines children as all human beings below the age of 18 years. The Convention also states that all children have the rights set out in the Convention until their eighteenth birthday 'unless under the law applicable to the child, majority is attained earlier.' This limitation allows for a margin of appreciation to account for differences in national legislation in terms of the age of majority due to cultural differences. Given the tendency to equate play with infancy, it is important to interpret the right to play in this context and understand that it is generally applicable to all children under the age of 18 years.³⁶

³⁵ United Nations Committee on the Rights of the Child, 2013.

³⁶ Convention on the Rights of the Child, 1989.

As stated in this paper's introductory section, children's rights are human rights. Based on human rights theory, it is well-established that human rights are universal, inalienable, indivisible, interrelated, and interdependent. Therefore, children's rights are also universal, inalienable, indivisible, interrelated, and interdependent. According to Article 2 of the Convention, these rights apply to all children equally without discrimination of any kind, that is, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Indivisibility and interdependency are of particular interest because they tell us that human rights are equal in importance and that none can be fully enjoyed without the others. This leads us to a potential examination of the right to play in the context of the other rights in the Convention. This is one of the routes we can take when examining the content of the right to play.

Another way of interpreting the content of this right is through linguistic analysis of the Article itself. The way the Article is worded provides a glance into the intent behind it. The Article refers to the right to engage in play, showcasing the active aspect of the right to play, where play is something in which children engage, ergo take part in actively. The term "participating freely" clearly refers to the voluntary element of play; it is something children do because they want to, not because they are forced or instructed.

The content of the right to play may also be examined as an obligation of the state. As discussed, human rights (and thus children's rights) cannot be viewed in isolation. The general obligation clause of the Convention is in its Article 4, which states that 'States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention.' It is clear that Article 31 also has to be interpreted in the context of Article 4, which emphasizes the state's role and legal responsibility to protect and implement this right appropriately. This is a particularly challenging feat, especially given the visible erosion of this right in our day-to-day lives.

Play is extremely beneficial for children; some of the benefits are evident immediately, that is, while children play, whereas others take time to develop. Nevertheless, it is through play that children learn about themselves and the society in which they live; further, through play, children experience and learn to deal with their emotions, and the beneficial impact of this has been well researched. Play builds confidence, resilience,

flexibility, self-respect, and respect for others, which are key in maintaining a child's social relationships. Despite all of these benefits, we can observe a gradual deterioration of children's right to play. Their access to play has been severely impacted in recent years by traffic, technology, social media, pandemic lockdowns, the closure of playgrounds, educational pressure, and in extreme cases, humanitarian and/or military conflict, which affects children immensely. Within the confines of the family, even in the safest countries, we see a growing fear for the safety of children, resulting in an urge to overprotect them—which ultimately leads to diminished access to play.

A recent European survey found a significant reduction in the length of school break times since 1995.³⁷ The authors reported that recesses have been reduced by 45 minutes per week for children in school aged six years to 10 years and by 65 minutes per week for children aged 11 years to 16 years. The main explanation schools provided for the reduction of break times has been that it is a necessary concession to create more time to cover the increasingly demanding curriculum. A key finding of the survey was that 60% of primary and secondary schools said that children will often miss a full break or lunch time due to perceived misbehavior or simply due to having to catch up on schoolwork.

All of these factors combined are contributing to the gradual erosion of the right to play, and it is crucial for policymakers to step up and address the changing circumstances in which we interpret the content of that right. Children's diminishing opportunities to play definitely constitute a concerning matter, and we need to advocate for a rights-based approach to children's play based on Article 31 of the Convention. The right to play is still often regarded as a luxury right or a right of privilege; this view reflects clear intransigence on the part of governments—a situation that needs to change. The right to play should not remain a neglected right, and it simply cannot be the last in line to be honored once all the child's other needs have been fulfilled. Play is a fundamental human right specific to children, that is, an integral component of the Convention serving to reinforce its four key principles: non-discrimination,³⁸ the best interest of the child,³⁹ the right to

³⁷ Blatchford and Baines, 2019.

³⁸ Art. 2 of CRC.

³⁹ Art. 3 of CRC.

life, survival, and development,⁴⁰ and the right to express views in all matters affecting the child.⁴¹

Once we take a look at the implementation of this right in different jurisdictions, we have to agree with the International Play Association's (2010) observation that the right to play is one of the least known, least understood, and least recognized rights of childhood, and consequently, it is one of the rights that is the most consistently ignored, undervalued, and violated in today's world.

The second part of this study, which is expected to be published in the near future, will deal with the international comparative legal perspective of the implementation of the right to play across various countries and whether General Comment No. 17 has had any bearing on how this right is implemented, as well as whether the content of the right to play has been understood across several countries' national legislation. This paper has underlined the neglected nature of the right to play, a fact that will be even more apparent when looking at the implementation of this right. Most States Parties fail to fulfill their obligations to uphold Article 31. Even the ones that do have a reference to the right to play mostly only refer to it in the context of play facilities and urban planning—which is far from exhausting the content of this right. To ensure the realization of this right, policies should highlight not only play facilities, which need to be easily accessible and safe, but also the mental and temporal aspects of play.

An unfortunate but interesting piece of evidence confirming the overlooked status of this right is that most countries are not even able to provide statistical data on it. When the States Parties were asked to report on the percentage of children in leisure activities or the number of public play facilities in communities and whether they are located in rural or urban settings, despite the obligation to do so, most States Parties could not provide any statistical information. This observation is crucial because, in order to improve something, you first have to measure it.⁴² Therefore, it is time to emphasize just how critical it is to foster the right to play. Children's rights have to be viewed holistically; thus, policies that ignore the right to play cannot be developed in favor of children. This is even more apparent in developing countries, where children are often mistreated and their rights are frequently violated.

⁴⁰ Art. 6 of CRC.

⁴¹ Art. 12 of CRC.

⁴² Adamson, 2007.

5. Conclusions

It is through play that children learn about themselves, the world around them, and their role in society. Through play, they are able to develop the key competencies they need to flourish. It is our responsibility to protect children's right to play and ensure that they can enjoy it fully to help each child develop into a complete person physically, psychologically, and morally. Because the right to play is the red-headed stepchild of the Convention, it is crucial to talk about this right, widely educate people about its importance, and advocate for its implementation. A society that understands children's right to play will ultimately be happier, healthier, and more alive than one without play. It is not just children who learn through play; if we follow them in their play and observe for a moment, it gives us an opportunity to learn everything we need to know about them: their dreams, their desires, their fears, who they are, what they can do, and who they would like to become. It is our duty, as parents, caregivers, policymakers, academics, and simply adults, to fulfill their needs and respect their rights –including the fundamental right to play.

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