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Establishing the Right to Play as an Economic, a Social and a Cultural Right

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Abstract

The right to play is a multifaceted right and in its very nature crosses boundaries. Whilst human rights are indivisible, interrelated and interdependent, this article explores unique aspects of economic, social and cultural rights. It examines the ways in which the right to play applies to these categories of rights through looking at the nature and impact of play. The article argues that the right to play should be established and understood as an economic right, a social right *and* a cultural right, enabling discussion on the right to play to move forward to address its implementation.

Keywords

right to play – Article 31 – implementation – economic, social and cultural rights – child development

1 Introduction

The UN Convention on the Rights of the Child (“CRC”) was the first international human rights treaty to contain both civil and political rights and economic, social and cultural rights (Nolan, 2018). However, no clear distinction or guidance is provided within the CRC as to which rights fall under which category. Turning to the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) provides some guidance but not all CRC rights are held

within these documents, including the right to play. The right to play is found in Article 31 of the CRC which reads:

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.

The Committee on the Rights of the Child's General Comment No.17 (2013) on Article 31 ("GC17") hints at a perception of the right to play as an economic, social and cultural right as the Committee borrows concepts from the literature around ICESCR such as progressive realisation and non-retrogression when discussing State Party obligations (see, for example, para. 55). I have elsewhere detailed the obligations pertaining to the right to play (Lott, 2020). However, to comprehend fully the nature of these obligations, the ways in which they must be fulfilled, and how they relate to the frameworks and mechanisms associated with the implementation of human rights, a clear understanding of the nature of the right to play is valuable. It is thus necessary to look at what the right to play offers children and how this applies to the broader framework of human rights. This paper argues that the right to play can be viewed as an economic, a social *and* a cultural right. This categorisation is valuable as it enables the application of concepts, frameworks and mechanisms associated with these categories of rights to the right to play.¹ This has significant implications for how better to understand, implement and enforce the right to play.

This paper is based on a study that examined the right to play through doctrinal research on the Convention on the Rights of the Child, archival research into the drafting of both the Declaration on the Rights of the Child and the Convention, multi-disciplinary research into the importance of play and challenges facing its implementation and enjoyment, and empirical research into a) the work of the Committee on the Rights of the Child and b) the experiences of those advocating for the realisation of the right to play "on the ground" in the United Kingdom and Tanzania. This paper focuses on findings that arose from the multi-disciplinary research on the importance of children's play.

By engaging with extensive multidisciplinary research to understand children's play, this article highlights ways in which the right to play can be seen as economic, social *and* cultural in nature. This paper will evidence this by, first, drawing upon legal scholarship to provide an explanation of the nature

1 For an in-depth discussion of the obligations pertaining to the right to play, application of concepts associated with economic, social and cultural rights' implementation, see Lott, 2020, 154–208.

of economic, social and cultural rights, addressing each category of rights individually. It then draws upon multidisciplinary research to show how the right to play meets the criteria of each category of rights. Play provides children with the skills necessary to access their future wealth, to live a minimally decent life, autonomously to participate in society, to be an active member of cultural life, and to understand, internalise and adapt cultural norms.² Through evidencing the economic, social and cultural nature of the right to play, the article also asserts the need to move away from viewing the right to play as a luxury right (Hodgkin and Newell, 2007: 469; David, 2006: 17), but rather as a right of fundamental importance and significance.

Much of the argument within this paper hinges upon the instrumental value of play – the fact that children's play has secondary benefits for children. Whilst this is the case, children's play also carries significant intrinsic value. This must not be undermined and it is critical that the instrumental value of play does not override the intrinsic value of play. Nevertheless, there is importance in understanding the instrumental value of play, not least due to its significance politically and as a tool for advocating for the right to play. There is a fine balance that must be struck in acknowledging, and leveraging, the instrumental value of play and it is imperative that play does not become *simply* a tool or means for the implementation of other rights (Lott, 2020). Not only is the right to play indispensable in its own right, it also underpins and facilitates the enjoyment of other immediate and future economic, social and cultural rights such as, *inter alia*, the rights to education and health (Davey and Lundy, 2011: 4). Indeed, the right to play touches upon nearly all aspects of children's economic, social and cultural rights and relates closely to some civil and political right enjoyment; its importance cannot be overstated.³ Due to its imperative nature, a clear understanding of how the right to play fits within the human rights framework is essential.

² See Section 2.3 for explanation of the capitalisation of "Culture".

³ The author believes that if the right to play was to be viewed as a civil or political right it would need to be couched in terms of rights to freedom of expression/association etc. This would frame the content of the right to play too narrowly and would not be in line with the intentions of the drafters (Lott, 2020, 101–121). That is not to say that civil and political rights cannot protect the right to play. Indeed, the protection of civil and political rights is critical to the enjoyment of the right to play. Nor is it that the right to play cannot support the enjoyment of civil and political rights; indeed, children often express themselves through play (Henricks, T., *Play Reconsidered: Sociological Perspectives on Human Expression* (University of Illinois Press, 2006); Bae, B., "Children's Right to Participate – Challenges In Everyday Interactions", *European Early Childhood Education Research Journal*, 17: 2009). Rather, it is that the right to play is not a stand-alone civil and political right in itself.

A limitation of this paper is the dependence on research that arises from the minority world context, and that which focuses on the early years. This, whilst regrettable, reflects the availability of research and the considerable lack of research on children's play that takes a global perspective, or that focuses on the play of adolescents. Where possible, research that addresses adolescence or arises from the majority world is discussed or cited. These are clear gaps in the literature that would benefit from greater development. The focus on the play of young children is endemic not only through academic research on children's play, but also in the work of the Committee on the Rights of the Child and those advocating for the right to play (Lott, 2020). The need to address this is significant to ensure the realisation of the right to play for children of all ages.⁴

The concept of play is complex, with whole books dedicated to attempting to unpick that very question. I have discussed key examples of this elsewhere (Lott, 2020, Chapter 1), and it is not within the scope of this paper to conduct such an analysis here. Nevertheless, it is valuable to present the definition of play supplied by the Committee. This definition is not devoid of problems (*ibid.*), yet as the definition offered by the Committee it is of significance for children's rights law. The Committee defines play as follows:

Children's play is any behaviour, activity or process initiated, controlled and structured by children themselves; it takes place whenever and wherever opportunities arise. Caregivers may contribute to the creation of environments in which play takes place, but play itself is non-compulsory, driven by intrinsic motivation and undertaken for its own sake, rather than as a means to an end. Play involves the exercise of autonomy, physical, mental or emotional activity, and has the potential to

4 An additional limitation of this paper is the lack of engagement with other areas of interest that are relevant to the right to play but are beyond the scope of this paper. These include: the dark side of play, the relationship between child labour and children's economic rights, and the role of poverty and gender-based issues in relation both to children's economic, social and cultural rights and to the enjoyment of their right to play. The gravity and complexity of such issues requires a level of serious analysis that is not possible within this paper, and it would be demeaning to attempt to address them in brief. For discussion on these issues, useful references include: Mayra, F., "Little evils: Subversive use of children's games", in A. Brown *et al.* (eds.), *The Dark Side of Game Play: Controversial Issues in Playful Environments* (Routledge, 2015); Hanson, K., D. Volonakis and M. Al-Rozzi, "Child Labour, Working Children and Children's Rights" in W. Vandenhoe *et al.*, (eds.), *Routledge International Handbook of Children's Rights Studies* (Routledge, 2015); Froden, S. and A. Quennerstedt, "The Child as a Gendered Rights Holder", *Childhood*, 2019; Lott, 2020, Chapters 3 and 6.

take infinite forms, either in groups or alone. These forms will change and be adapted throughout the course of childhood. The key characteristics of play are fun, uncertainty, challenge, flexibility and non-productivity. Together, these factors contribute to the enjoyment it produces and the consequent incentive to continue to play. While play is often considered non-essential, the Committee reaffirms that it is a fundamental and vital dimension of the pleasure of childhood, as well as an essential component of physical, social, cognitive, emotional and spiritual development

General Comment No. 17, para. 14(c)

2 Understanding Economic, Social and Cultural Rights

Human rights have historically been divided into two categories – civil and political rights (so-called first-generation rights) and economic, social and cultural rights (so-called second-generation rights). These categories are not unproblematic with much criticism laid upon the ‘supposed fault lines’ between the two as ‘both simplistic and overly deterministic’ (Saul, Kinley, and Mowbray, 2014: 1; Moeckli, Keller and Heri, 2018: 19). Research into the work of the Committee on Civil and Political Rights highlights economic, social and cultural aspects of ICCPR rights, for example.⁵ Furthermore, the European Court of Human Rights has stated that, ‘[w]hilst [its] Convention sets forth what are essentially civil and political rights, many of them have implications of a social or economic nature ... [and that] there is no water-tight division separating’ the two (ECtHR, *Airey v. Ireland*, App no. 6289/73, 9 October 1979: para. 26). On the other hand, there is some truth within the categorisations, both as wider categories and as individual categories. Whilst all human rights are interrelated and inter-dependent, it is arguable that no groups of human rights are more so than economic and social rights. Human rights literature often treats economic and social rights as an inseparable dyad, as ‘different sides of the same coin’ (Riedel, Giacca and Golay, 2014: 10). This section explores the *specific* definitions of economic, social and cultural rights in order to clarify their individual purpose and goals. This provides the foundations to explore their direct relationships with the right to play.

5 For an overview of the Committee on Civil and Political Rights’ inclusion of economic, social and cultural rights claims to article 24, see Joseph, Sarah and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials and Commentary*, paras. 21.15–21.18 (3rd edn., 2013).

2.1 *Economic Rights*

All rights are based on the concept of human dignity, and economic rights are key to ensuring an individual's ability to provide 'an existence worthy of human dignity' (Universal Declaration of Human Rights, "UDHR"). Economic rights are closely linked to labour rights and, crudely put, hinge upon the ability to earn money. Economic rights can be seen as '*abstract legal claims* over future wealth' as they are '*rights of access*' to the resources necessary to create, appropriate or exchange wealth (Gorga, 1999: 89–90). They permit 'participation in the economic life of the community' by providing the rights-holder with the tools necessary for such participation in the labour market (Riedel, Gaicca and Golay, 2014: 8). They relate to human dignity as 'only those who exercise economic rights can be said to participate in the economic process in full dignity and self-reliance' (Gorga, 1999: 88). Through providing access to the resources necessary to create wealth, they enable the rights-holder to fulfil their 'economic needs' and as such are 'inextricably linked to the basic requirements of life' and 'enlarge the range of freedom for everyone' (Gorga, 1999: 89, 92, 93). This paper demonstrates ways in which the right to play reaches the thresholds of economic rights, including through its role in supporting the realisation of other economic rights and through assisting children's development. Whilst other rights, and issues relating to the implementation of children's rights (such as children's work and poverty), are more obviously linked to children's economic rights, the argument within this paper is valuable through exposing the commonly overlooked link between the child's right to play and economic rights.

2.2 *Social Rights*

An examination of the literature on social rights shows that social rights are rights to the conditions or needs for an individual to lead a minimally decent life. Social rights embody a category of rights that rest upon autonomy, well-being and social participation (King, 2012: 29). Here, autonomy refers to the ability 'to make meaningful choices about the lives we want to lead' and to be able to act upon those choices (King, 2012: 29; Fabre, 2000: 9). It requires that an individual has the physical and mental capacity to access and competently decide upon opportunities available to them, and the knowledge 'to bring about what one wants to achieve' (Fabre, 2000: 9–10). Well-being refers to the 'absence of physical suffering' and is the 'basis of self-respect' (King, 2012: 18; Fabre, 2000, Chapter 1). This can be extended to include that of mental/psychological well-being, and the absence therefore of mental or psychological suffering (Keyes, Fredrickson and Park, 2011). Social participation relates to

‘the meaningful potential for participation in social and communal life’ and is viewed as ‘a core aspect of human dignity’ (King, 2012: 29, 33). Central to understanding social rights is the notion of a social minimum. King posits that this would involve a ‘bundle of resources’ that meets three thresholds: a healthy subsistence threshold, and social participation threshold and an agency threshold (King, 2012: 29–30). Young, alongside others, warns against ‘minimalist’ rights strategies that threaten ‘the broader goals of economic and social rights’ (Young, 2008: 113–114; Lott, 2021). Whilst this article shows the ways in which the right to play meets the criteria of social rights, including through providing the individual with the skills necessary for an individual to meet the minimum conditions or needs for a minimally decent life, it does so whilst acknowledging the potential for the right to play to offer more than simply a “minimum” and the value of moving beyond a minimum in social rights implementation.

2.3 *Cultural Rights*

At the centre of cultural rights is the concept of “culture” which, like play, ‘is a concept, the dynamics and complexity of which do not easily translate into legal terms’ (Donders, 2016: 94). This is due in part to its fluidity, its collective and communal aspects, and its scope (Donders, 2016: 94; Yupsansis, 2010: 211). It is within this context that scholars and international monitoring bodies have attempted to define and understand cultural rights. Whilst it is possible to define cultural rights as ‘human rights that directly promote and protect the cultural interests of individuals and communities, and that are meant to advance their capacity to preserve, develop and change their cultural identity’, the understanding of the term “culture” is still in need of clarification (Donders, 2016: 89).

Pineschi argues that there are two fundamental approaches to understanding culture: ‘a narrow interpretation’ which is limited to notions of the arts, e.g. literature, music, theatre and paintings; or ‘a wider notion’ which encompasses an anthropological understanding of culture that covers ‘the distinctive lifestyle, traditions and values of a certain community and the individuals belonging to it’ (Pineschi, 2012: 33). These can be understood, as suggested by Prott, as Culture with a capital “C” and culture with a lowercase “c” (Prott, 1986: 5). Others have argued that “culture” carries more meanings, splitting ‘C’ulture to ‘culture as capital’ and ‘culture as creativity’, and ‘c’ulture to ‘culture as a way of life’ and ‘culture as sets of collective meaning’ (Sabatello, 2009: 155; Stephenson-Chow, 2014: 613; Yupsanis, 2010: 265). For the purposes of this article, it is appropriate to utilise the two overarching sub-categories of “culture”,

crudely termed as cultural rights as rights to the arts (Culture) and cultural rights as a way of life (culture).

The view of cultural rights as encompassing all these aspects is in line with the work of the Committee on Economic, Social and Cultural Rights' guidelines on cultural rights in General Comment No.21 which states that "culture" should be understood as 'a broad, inclusive concept encompassing all manifestations of human existence' and therefore –

encompasses, *inter alia*, ways of life, language, oral and written literature, music and song, non-verbal communications, religion or belief systems, rites and ceremonies, sport and games, methods of production or technology, natural and man-made environments, food, clothing and shelter and the arts, customs and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their world view representing their encounter with the external forces affecting their lives.

UN Committee on Economic, Social and Cultural Rights ("CESCR") General Comment No. 21, paras. 11 and 13

This perception of cultural rights is also reflected by the Committee on the Rights of the Child in General Comment No. 17. The Committee's guidance reflects the understanding of 'C'ulture, as access, participation and creation of arts and knowledge, through placing great emphasis on children's 'cultural and artistic expression', access to 'arts and cultural venues' and engagement in the 'structure and programmes offered' by such venues (General Comment No. 17, paras. 14(f) and 44). It also reflects the understanding of 'c'ulture as a way of life through noting the role that cultural life has on the child's expression of their identity and sense of belonging, 'the meaning they give to their existence' and the emergence of culture from community (General Comment No. 17, paras. 11 and 14(f)). The Committee additionally notes the unique role of play in generating a 'culture of childhood' (General Comment No. 17, para. 12).

The understanding of cultural rights demonstrated by human rights' monitoring bodies reflects the perception that 'culture constitutes the essence of human existence, that cultural identity is closely associated with human dignity, self-respect and self-confidence and that, consequently, the recognition of cultural rights is an indispensable prerequisite for the exercise of the other human rights' (Yupsanis, 2010: 265). Understanding the ways in which the right to play sits within the category of cultural rights is valuable for recognising the ways in which it should be implemented and perceived.

3 The Right to Play as an Economic and Social Right

This section provides evidence for the ways in which the right to play is both economic and social in nature. It does so by drawing upon literature beyond legal scholarship to demonstrate the key role play has in child development, and in particular children's cognitive, social, physical and emotional development.⁶ Throughout this section the author refers to the definitions of economic and social rights discussed above in order to demonstrate how the right to play is economic and social in nature. It argues that the ways in which play assists with the cognitive, social, physical and emotional development of the child establishes that enjoyment of the right to play both enables access to wealth (economic right) and is required for children to lead a minimally decent life as both a child and later as an adult (social right).

3.1 *Cognitive Development*

The role of play in assisting the cognitive development of the child can be broken down into four key areas: literacy, mathematics, problem-solving, and creativity. There has been extensive research into these areas and the role that play has in encouraging such development. This section will provide an insight into key findings of such research to demonstrate the vital role of play in assisting children's cognitive development.

3.1.1 Literacy and Mathematics

ICESCR and the CRC both include a right to education (ICESCR, Article 13; CRC, Articles 28 and 29). The right to education is central to the notion of both social and economic rights as 'if children receive a basic primary education, they will likely be literate and numerate and will have the basic social and life skills necessary to secure a job, to be an active member of a peaceful community, and to have a fulfilling life' (Lee, 2013: 1; Beetham, 1995: 48). This therefore provides the individual with a resource necessary to access future wealth (economic), and the resources necessary to be autonomous, have a minimal standard of well-being and participate in society (social). A right to education is 'necessary for basic economic and social participation because one cannot engage with any sense of self-respect with peers and make one's way in society without this capacity' (King, 2012: 32). Education is also a 'prerequisite' for other rights as 'in the absence of knowledge about what causes illness, or

6 There is not complete unanimity on the role of play in child development. For discussion of a contrary perspective, see Fagen, R., "Play and Development" in Nathan, P. and Pellegrini, A. (eds.), *The Oxford Handbook of the Development of Play* (Oxford University Press, 2010).

how to make the best use of available food, an otherwise adequate supply may prove insufficient to meet basic needs' (Beetham, 1995: 48). Extensive research shows the unique and unrivalled role of play in the development of literacy and mathematic skills. As such, play is of significant value in assisting the realisation of children's right to education. This is a very instrumentalist use of the right to play, but it is nonetheless important to acknowledge, and it is of value in encouraging engagement with and implementation of the right to play in political and activist terms.⁷

Extensive research shows the unique and unrivalled role of play in the development of literacy and mathematic skills. From as early as infancy and throughout adolescence children play with sounds, forming and developing literary understanding and reading ability (Orr and Geva, 2015: 148; Hughes, 2010: 226; Athey, 1984). Pretend play has also been shown to greatly enhance literacy development with several key aspects of pretend play relating closely to literacy and its development. Both pretend play and reading require that the reader enters a fantasy world or move beyond the immediate present. They also include the practice of moving between frames of reference, seen in pretend play when children move in and out of their make-believe characters when engaging with those around them (Roskos, Tabors and Lenhart, 2004). Furthermore, pretend play is of significant value in developing an ability to generate and comprehend a story schema and narrative structures as the structuring of play can help children understand cause and effect and the structuring of stories (Pellegrini, 1985: 112; Bergen, 2002). Additionally, dramatic play has a significant effect on a child's ability to understand, derive meaning from and remember details from a story, and is shown to improve children's vocabulary, grammatical constructs and ability to make inferences on character's emotions and actions (Han *et al.*, 2010: 83; McGee, 2003; Pellegrini and Galda, 2000).

Research shows that play and mathematical understanding are intertwined, and that play can greatly improve and assist mathematical learning and ability. Children's play with "play tools" has been shown as of considerable benefit in developing children's understanding of mathematical concepts. Research shows that through playing with play tools, such as blocks and water, children obtain and develop comprehension of mathematical concepts and issues such as measurement, spatial capacity, space and structure, visualisation and mental rotation, and volume and conservation of liquid (Pirrone *et al.*, 2018; Verdine *et al.*, 2015; Hughes, 2010: 217; Rogers and Russo, 2003; Casey and Bobb, 2003).

⁷ For greater discussion and of the value of mapping the right to play onto government goals surrounding education, see Lott, 2020.

This is not unique to young children, with research showing that older children's play with play tools such as bikes or skateboards has been capitalised on by researchers and educationalists to assist disadvantaged adolescents in their understanding of mathematical concepts (Robertson, Meyer and Wilkerson, 2012). Studies evidence that these benefits of play with tools can have long-term consequences for mathematical ability and learning (Wolfgang, Stannard and Jones, 2001; Trawick-Smith *et al.*, 2016).

The evidence outlined in this section demonstrated that play assists in the attainment and deepening of understanding of literary and mathematical concepts. Due to this secondary benefit of play, the right to play both serves a similar purpose to the right to education and supports the realisation of the right to education. As such, the right to play should be perceived as an economic and social right. Play is crucial for supporting the realisation of the right to education and meeting its goals in relation to literacy and mathematical skills. Play also enables children to learn by providing the right opportunities, environments and skills necessary to achieve the goals of the right to education. The Committee has also highlighted the role of play in supporting children's learning and education (General Comment No. 17, para. 27). As discussed above, the right to education is well established as a social and economic right. The connection between the right to play and children's education makes a clear case for the right to play being viewed as both an economic and a social right.

3.1.2 Problem-Solving and Creativity

Problem-solving can be broken down into two categories: convergent problem-solving and divergent problem-solving. Convergent thinking strategies involve 'single means' problem-solving that arises at a single correct solution, whilst divergent thinking strategies involve 'multiple means' with numerous viable solutions (Lloyd and Howe, 2003). Creativity is intrinsically linked to problem-solving; both involve divergent thinking, include an openness to new ideas, and require an ability to "think outside the box". The primary principle behind creativity is novelty (Bateson and Martin, 2013). Creativity involves moving beyond the basic information in front of one-self, learning from past experiences and utilising non-traditional approaches, to produce something novel (Vygotsky, 2004 [1967]). Paul Torrance identified creativity as having three main components: fluency, flexibility and originality (Torrance, 1972).

Research shows that play has considerable value in developing cognitive and affective processes imperative for problem-solving and creativity by developing logical thinking, gaining greater levels of awareness through comparison, and through developing reversibility in thinking, 'a critical underlying element

in logical reasoning' (Russ and Doernberg, 2018; Hughes, 2010: 221–2; Russ, 1999: 57; Dansky and Silverman, 1975). These skills are developed through practice and in gaining familiarity with various problems. Such familiarity and practice can be gained through play. Play enhances positive and light-hearted moods that foster original and divergent thinking through playfulness, freedom, spontaneity and curiosity (Lyubomirsky, King and Diener, 2005; Lieberman, 1977).

Research shows that children who engage in convergent play with convergent materials engage in problem-solving at a convergent level with strategy-based moves, whereas those who engage in divergent play with divergent materials engage in problem-solving at a divergent level with a wide variety of activities (Russ and Doernberg, 2018; Pironne *et al.*, 2018; Pepler and Ross, 1981). Children's creative processes are also developed through play as children tackle problems or devise novel ideas: 'Play is a window on the beginnings of the creative process' (Russ, 1999, 57; Vygotsky, 1967). The form of play most readily associated with creativity is make-believe play due to the intellectual flexibility required of the child as they use symbolism, adapt to new ideas and directions of play, and transform objects or situations into alternative objects and situations whilst still understanding their original identities (Russ, 1999; Lillard, Pinkham and Smith, 2010: 285). Pretend play has also been associated with the development of problem-solving skills and is shown to be of particular value in the development of divergent problem-solving skills (Chen *et al.*, 2020; Fisher, 1992; Dansky, 1980). The role of play in developing children's creativity levels has been tested and supported through numerous studies on children's play and creativity, including through longitudinal studies (e.g. Garaigordobil, 2006).

The importance of childhood play on adult problem-solving ability is clear in reports such as that regarding California Institute of Technology's Jet Propulsion Laboratory (JPL) who reformed their interview processes to include questions on childhood experiences of play after noting a lack of problem-solving ability in new employees following the retirement of scientists and engineers hired in the 1960s (Brown 2010: 9–11). This emphasises the significance of play in childhood for long-term benefit. It also evidences the significance of play, through assisting the problem-solving capacities of children, for access to future wealth. Not only did childhood play provide JPL employees with the skills necessary to succeed in their work, but it also became a central aspect of the interview process. Those who had played as children were therefore more suited for the roles available. Play also has the potential to offer great additions to life as we know it through the development of skills valuable for scientific discovery and artistic contributions. The continuing role of play in supporting creativity is evident, for example, in research conducted by Bateson and Martin who explored a plethora

of creative people from Mozart to Picasso, Escher to Fleming, highlighting their playful nature and approaches to their work.⁸ Fleming, for example, was quoted answering a question on his work stating, 'I play with microbes' (Bateson and Martin, 2013: 58). This further reinforces the link between play and economic rights, indicating that play provides skills necessary to succeed in labour and thus to access wealth. The ability to think creatively, to move beyond basic information and learn from past experiences, also enables individuals to come up with novel solutions to access wealth and engage successfully in the labour force.

Such notions were emphasised during the 2018 World Economic Forum Annual Meeting. Emphasis was placed on the need to adapt both what and how children are taught (Balibouse, 2018). According to the McKinsey Global Institute, robotics could replace 800 million jobs by 2030 (Manyika *et al.*, 2017). This poses a problem economically on a global scale. Jack Ma, the founder of Alibaba, emphasised this stating that, 'if we do not change the way we teach, 30 years from now we will be in trouble' (Ma, 2018). He argued that what children are taught now are 'the things from the past 200 years: knowledge based and we cannot teach our kids to compete with machines who are smarter. We have to teach something unique so that machines can never catch up with us ... values, [belief], independent thinking, teamwork, care for others' (Ma, 2018). This was also emphasised by the Director of the London School of Economics who stated that children should be taught 'the soft skills, creative skills. Research skills, the ability to find information, synthesise it, [and] make something of it' (Balibouse, 2018).

The realisation of children's right to play enables individuals to access future wealth by providing them with the skills necessary to succeed in the world of work. Through the development of divergent and convergent thinking, children are given the capacity to access the 'resources that are needed to create *future* goods and services' and are thus able 'to participate in the economic process [with] dignity and self-reliance' (Gorga, 1999: 88, 91). The economic nature of the right to play is thus clear; the right to play is necessary to develop skills and resources required to access wealth, through the development of skills necessary to be active in the labour market.

Beyond access to future wealth through engagement with the labour market, the ability to problem solve and think creatively is vital in assisting and

8 Children such as Aelita Andre (artist) and Vinisha Umashankar (inventor) also evidence creativity and problem-solving in their contributions to art and scientific discovery. It would be valuable to conduct research into child artists/inventors to explore their perceptions of the role of play in their creations.

developing the autonomy of an individual. Autonomy requires that an individual can decide how they want to lead their lives, and act on their decisions. In order to do so, 'one must not only be physical able to do so, but one must also have the mental competence to make decisions, to know how to get what they want to achieve and to know how to bring about what one wants to achieve' (Fabre, 2000: 9–10). Individuals need to be able to think creatively about, and solve problems in, situations they face and opportunities available to them. Play enables adaptability, exploration and the ability to learn from past experiences. All these skills empower an individual to act autonomously, evidencing the social nature of the right to play. Additionally, it may be necessary for an individual to think creatively or problem-solve to protect themselves from physical suffering and have a minimal level of well-being. Accessing resources necessary to ensure individual well-being may require adaptability and the ability to arrive at novel solutions, skills developed through childhood play. The role of play in supporting the development of both problem-solving skills and creativity, and thus the individual's economic and social ability (whether through accessing wealth or through assisting autonomy) suggests that the right to play is inherently an economic and social right.

3.2 Social Development

There are two substantial ways in which play assists social development: learning how to interact with others, and making sense of the world and social roles. When children play, they engage with peers and adults around them, facilitating a growth of social understanding and development of social skills vital for social interaction and social competence into adulthood. This process begins when children play with their parents, and further develops as they play with peers. Vygotsky, a key thinker in child psychology, is understood as having seen parent-child interaction as scaffolding children's play and social behaviour (Vygotsky, 1967: 62–76; Vygotsky, 1978). Parent-child play assists child social development through allowing children to gain experience in dominance and success, building self-confidence, for example when a parent lets a child win at a game (Biben and Suomi, 1993), and through modelling social skills such as reciprocity (Creasey *et al.*, 1998: 122). Parents encourage social development by facilitating peer-play activities and showing their children how to interact with other children (Creasey *et al.*, 1988: 125). The social skills learnt through parent-child play are taken into and built upon during child-peer play.

For children to have good peer-play experiences they must engage and communicate with each other in order to explain their goals, roles, emotions and rules. This is communicated through 'coordination', 'co-elaboration' and 'clarification of meaning' throughout play in order to build on peer contributions

and to expand and improve play (Rogoff, 1998: 710; Verba, 1993). As children experience conflict or disagreements in their play, they are jarred 'into noticing that people can hold perspectives different from their own and that intentions rather than objective consequences underlie behaviour and are the appropriate basis for judging people's actions' (Creasey *et al.*, 1998: 122; Piaget, 1926). These situations require children to improvise, to learn how to deal with conflict, de-escalate feelings and resolve disagreement, and in-so-doing improves social competency and flexibility (Gottman and Graziano, 1983; Piaget, 1926). Rough and tumble play has an important role in facilitating and encouraging children to develop an ability to encode and decode social signals, and develop affective perspective taking or empathy (Pellegrini, 1988: 802–5; Pellegrini, 1998). The importance of these skills for adulthood is evident in a multitude of studies that suggest children who lack social skills or evidence social withdrawal are at increased risk of significant adjustment problems and mental health problems in adolescence and adulthood, as well as effecting academic prospects (Creasey *et al.*, 1998: 116–7; Bergen, 2002).

In addition to developing valuable skills necessary for positive social interaction, play allows children to make sense of the world around them and different social roles. In pretend play children create a 'twin earth' to act out familiar situations and social roles whilst gaining understanding of the 'scripts' of life (Lillard, 2001). For example, children may choose to play 'school' where they take on roles of teachers and students. In play children are able to 'free themselves from the situational constraints of everyday time and space and the ordinary meaning of objects and actions' in order to test 'the meanings and rules of serious life' and gain a greater understanding of the relationships they witness and engage in (Rogoff, 1998: 709). Through play children assimilate social norms into their personalities, and adapt and test the social order and experiment with social convention without serious consequences (Creasey *et al.*, 1998: 122; Packer, 1994: 273–4; Lester and Russell, 2010: 20; Rogoff, 1998: 710).

Such research underlines the importance of play for the development of communication and social skills vital throughout childhood and adulthood. The ways in which this provides an individual with the minimal skills necessary to participate in society is clear. A minimal level of social development enables an individual to engage with 'family and peers' (King, 2012: 29–30). Without play, children may be significantly inhibited in their ability to participate socially in an autonomous manner with agency. Such skills are also crucial for participation in 'the economic life of the community' (Riedel *et al.*, 2014: 8). It is not possible to access future wealth without interacting with others, and to be able to do so successfully requires the use of social skills and resources

that are developed in childhood, primarily through play. Consequently, it can be argued that the right to play is both a social and an economic right.

3.3 *Emotional Development*

Emotional development is commonly associated with “emotional intelligence”. This ‘refers to an ability to recognize the meanings of emotions and their relationships, and to reason and problem-solve on the basis of them’, it is ‘involved in the capacity to perceive emotions, assimilate emotion-related feelings, understand the information of those emotions, and manage them’ (Mayer *et al.*, 2000: 267). It is shown in ‘the process by which people make inferences about their own and others’ feelings and behaviours that in turn influence their thoughts and actions’ (Seja and Russ, 1999: 269).

The development of emotional intelligence begins with the process of identifying emotions in ourselves, which requires the interpretation of ‘both external situational and bodily cues as well as information about internal experiences’ (Seja and Russ 1999, 269–70). Through play children gain emotional literacy (Hromeck, 2004: 8) by learning to identify their own and others’ emotions (Seja and Russ, 1999: 270). When engaging in play, whether with others or alone, children repeatedly experience and gain familiarity with a wide range of emotions – from joy, success and excitement, to frustration, disappointment and rejection – ‘discerning situational and expressive cues’ and inferring their own and others’ emotions in the process (Seja and Russ, 1999: 270). Pretend play is key for developing emotional intelligence as it naturally involves a high level of imagination requiring children to ‘role play and take different perspectives’ and to ‘consider others’ emotional experiences’ (Seja and Russ, 1999: 270 and 275). Additional to providing a learning space for children to experience and practice emotional identification, unstructured free play involves ‘early influences on the developing brain’ (Burdette and Whitaker, 2005: 48) leading to the establishment of ‘neural architecture [that enhances] the integration of systems that support emotion and cognition’ (Lester and Russell, 2010: 20).

Following the identification of emotions in themselves, children need to learn how to regulate and respond to their emotions. Research suggests an association between deficits in emotion regulation in childhood with emotional and behavioural difficulties through to adulthood (Gayler and Evans, 2001: 93). The development of emotional regulation through play also has positive effects on emotional well-being ‘such as minimizing anxiety, depression, aggression and sleep problems’ (Burdette and Whitaker, 2005: 48). Emotional regulation involves ‘a diverse set of skills’ collectively seen as ‘executive function’ (Gayler and Evans, 2001: 94, 105; Lillard *et al.*, 2013). Pretend play is particularly valuable for enhancing executive function as it involves the need to

balance and control internal desires within an ‘imaginary situation’ through ‘private speech’ (self-regulation), whilst inhibiting and responding to the real, external, world (Lillard *et al.*, 2013: 22; Creasey *et al.*, 1998: 123). This develops the ability to think laterally, build flexibility and regulate emotions, important for both the continuation of play and development of emotional intelligence (Gayler and Evans, 2001: 105). Research shows that children that engage in pretend play regularly have higher rates of emotion regulation than those who do not, and that this higher level of emotional regulation is carried into everyday life (Gayler and Evans, 2001). Through play, children also develop emotional capabilities such as empathy and flexibility, skills that are vital for successful social interaction (Gayler and Evans, 2001: 104; Burdette and Whitaker, 2005: 48).

Play can improve children’s attention, inhibition and impulse control (Burdette and Whitaker, 2005: 47). Play also supports independence and self-confidence. Free play is particularly important in enabling children to develop a sense of independence as they engage in self-directed play away from adults (Brockman *et al.*, 2011: 2) and discover their own identities, capabilities and personalities (Bunker, 1991: 468). Positive emotional and physical feedback throughout play, alongside experiences of failure, serve to enhance and encourage the development of self-worth and self-confidence (Bunker, 1991: 469–470).

Emotional development enables individuals, from childhood through to adulthood, to engage as active members of society. It provides a skill-set necessary to interact with others successfully, as well as to make informed decisions as to what forms a ‘good life’ and the skills required to access opportunities to reach individual goals, whether personal or financial (Fabre, 2000: 64). The development of emotional intelligence and regulation provides the skills needed for emotional resilience and offers the best possibility for healthy individual mental health and psychological well-being. The unique role of play in the development of emotional intelligence evidences a further reason for viewing the right to play as both a social and an economic right.

3.4 *Physical Development*

Play has a valuable role in children’s physical development; simply put, ‘a smile on the face of a playing child reflects multiple physiologic processes in the body that can improve health’ (Burdette and Whitaker, 2005: 48). The health benefits of physical activity are well known, and children engaging in regular physical activity are likely to have ‘lower body mass, blood pressure, insulin levels, and improved mental wellbeing’ (Brockman *et al.*, 2011: 2). With studies such as the Millennium Cohort Study showing significant increases in childhood obesity,

with 35 per cent of participants classed as obese or overweight by the age of 14, there is a need to examine ways to encourage good physical health (Fitzsimons and Pongiglione, 2016/2017; Brockman *et al.*, 2011; Burdette and Whitaker, 2005: 46). Research shows that children's active play has a significant role in tackling obesity, particularly when contrasted with general physical activity (Janssen, 2014; Janssen, 2015). Active play is unstructured, child led, and often occurs for extended periods of time, having a substantial impact on energy and caloric expenditure (Janssen, 2014: e22; Janssen, 2015). As children develop and grow older, the 'duration and intensity of active play changes' to adapt to their needs and interests, in order to best assist physical development (Herrington and Brussoni, 2015: 477).

Similarly, the development of motor skills is naturally and uniquely embedded within children's play, with a wide range of play activities assisting in both fine and gross motor skills. For example, as children play with loose stimuli they develop fine motor skills and control, alongside hand-eye coordination and accuracy (Dinehart and Manfra, 2013: 141). Likewise, as children jump over logs, climb or skateboard, they improve gross- and loco-motor skills (Bunker, 1991: 470). These play activities also develop physical attributes such as co-ordination, bodily strength and agility, and balance. Research suggests there is 'a significant relation between motor skills and cognitive achievement' (Son and Meisels, 2006: 772). It is worth noting that the best environment for active play is a natural, 'complex', environment, and that independent outdoor play in such environments brings about meaningful increases in fitness (Luchs and Fikus, 2013; Aggio *et al.*, 2017).

The above discussion shows that play holds a distinctive role in furthering children's physical development and physical health. Fabre argues that well-being is 'the absence of physical suffering' (Fabre, 2000: 9). Well-being in its nature will vary throughout life yet access to the resources necessary to alleviate physical suffering is vital, hence a general acceptance that a right to health is minimally necessary for individuals. The right to play relates to well-being as it has a fundamental role in ensuring physical health and fitness for children, which subsequently impacts on future health. Research is clear, for example, that obesity in childhood significantly affects health into adulthood (Biro and Wien, 2010). Health-risks linked to obesity can correspondingly limit an individual's ability to access work (Hertz *et al.*, 2004) and place significant weight on public services (Allender and Rayner, 2007; Agha and Agha, 2017). Such health and economic risks could potentially be avoided through engaging in physical play throughout childhood. The health benefits of play, both in the immediate term and for the long-term, and the potential impacts

of poor health on an individual's ability to access work, evidences that the right to play may be viewed as a social and an economic right.

4 The Right to Play as a Cultural Right

It is appropriate to deal with cultural rights separately as they can themselves be sub-divided into 'C'ultural rights (relating to arts, knowledge and science) and 'c'ultural rights (relating to a way of life). This section argues that it is justifiable to establish the right to play as a cultural right as well as an economic and social right.

4.1 *The Right to Play and Cultural Rights as Rights to the Arts and Science*

Drawing on the discussion above, it is possible to see the relationship between play and this sub-category of cultural rights. There are two basic ways in which these rights are realised: access and participation in arts, knowledge and scientific discovery; and the ability to create art, knowledge and scientific discovery. Yet the roots of these elements are the same; they both require creativity, the ability to understand and respond to stimulus, and the ability to physically create stimulus. Enjoyment of the right to play can provide individuals with these skills.

As outlined above, play is vital for the development of literary, mathematic, problem-solving and creativity skills. It is indubitable that the creation of new art, knowledge and scientific development is intrinsically linked with creativity. If an act is not creative, it is simply reproduction or 'a re-application of established scripts or action-patterns' (Carruthers, 2002: 226). In order to create something new, creativity has to be called upon. Creativity is fundamentally related to children's play through the development and practice of creative processes. Vygotsky expands upon this by outlining the reliance of creativity on imagination (Vygotsky, 2004 [1967]). The development, practice and use of imagination is central to the process of play, particularly pretend play. Symbolic play is a unique and vital source of creative imagination, and thus a vital tool for the creation of novel ideas. This creativity is expanded through, and co-dependent on, the experience of problem-solving and the development of problem-solving skills. The discussion above shows that children develop convergent and divergent problem-solving skills, and regularly experience scenarios which call upon and hone these skills, through play. This consequently produces the capacity to create.

Through children's literary development – their understanding of narrative structure, grammar, vocabulary, and language comprehension – supported in play, children are provided with tools necessary to access and create Culture. Vygotsky highlighted particular importance of this within adolescence, the stage at which children develop a greater understanding and ability to negotiate the written word (Vygotsky, 2004 [1967]). There are also claims that the very act of poetry, for example, is in fact a 'play-function' itself (Huizinga, 1949: 119). In addition to the *creation* of such works, the development of these skills is necessary for the individual to *access* literature. Understanding and comprehension of literary concepts and the ability to utilise imagination, developed through play, is necessary for the individual to connect to literature (Carruthers, 2002; Vygotsky, 2004 [1967]). There would be little use in a powerful piece of written prose, if it was not possible for the individual to access, connect with and understand it.

Furthermore, it has been shown that through play children develop understanding of mathematic and scientific concepts. The most obvious way in which this relates to cultural rights, is through the ability to initiate scientific and technological breakthrough (Van Vreden, 2018). The development of such skills, and the ability to utilise problem-solving and creativity skills to apply them to novel situations is the most basic way to perceive the invention of new scientific and technological ideas. The anecdote outlined above from CalTech's Jet Propulsion Laboratory reinforces this further. It is clear that knowledge attainment and practice through play, of mathematic concepts and problem-solving skills, is key to future scientific breakthroughs. The physical development of fine and gross motor skills is also necessary for the production of physical works such as art or physical inventions. Play is a crucial way for children to develop motor skills. It is these skills that are required for individuals to create works of art such as paintings, drawings, sculptures and music.

The relationship between the development of emotional intelligence, the right to play, and cultural rights relates both to the creation of and access to culture. It is through the experience of emotion that one is drawn to be creative, particularly in the arts. Vygotsky shows how this is heightened for adolescents, who receive a surge of emotions, and that this explains a 'propensity for creative writing at this stage' (Vygotsky, 2004 [1967]: 53). In addition to emotions driving the creation of art, emotional intelligence is necessary for the individual to access art: art evokes, shapes and modifies emotion (Silvia, 2005: 342; Robinson, 2005). Lindqvist states that 'when the artist creates his art, he gives realistic material an aesthetic form, which touches upon the emotions of the readers and makes them interpret the work or art and bring it to life' (Lindqvist, 2005: 248). In order, therefore, for an individual to *access* art, they

must have developed emotional intelligence. The central role of play in the development of emotional intelligence further compounds the argument that realisation of the right to play is necessary for individuals to create and access culture.

This section argues that play provides skills necessary for individuals to create and access Culture, and thus accordingly it is appropriate to view the right to play as a 'c'ultural right. For individuals to have the tools and ability to offer, and access, the great additions and innovations to life as we know it through scientific discoveries and artistic contributions, the child's right to play must be realised.

4.2 *The Right to Play and Cultural Rights as Rights to a Way of Life*

This section explores the ways in which the right to play is a 'c'ultural right through supporting the development and understanding of culture as a way of life. The key aspect of development discussed above that relates to this element of cultural rights is social development. It is through play that children foster comprehension of the relationships they witness and the "scripts" of life. It is here that the right to play relates to cultural rights, as play is engaged in within a specific cultural context. Roopnarine and Johnson (1994: 4) argue that there are:

three interacting layers of environmental influence on play: (1) physical and social aspects of children's immediate settings; (2) historical influences that affect the way adults (and children) conceptualize play; and (3) cultural and ideological beliefs relative to the meaning of play for sub-groups of children.

Children's cultural context is impacted upon by both the direct familial and broader cultural traditions and norms. These norms, developed and transformed throughout history, determine whether and how children's play is stimulated and encouraged by the physical and social environments around them (Edwards, 2000: 338; Schwartzman 1982: 2–9). For example, whether children's play is viewed as a waste of time, as an activity to be done with peers of all ages, or an adult-led activity; or whether children are provided with a plethora of toys and games aimed at stimulating play, or are to play with natural materials (Edwards, 2000; Goncu *et al.*, 1999; Gosso, 2009; Schwartzman, 1982). These factors 'make explicit reference to cultural attitude and practice' (Gosso, 2009: 94).

As these factors affect the play of children, it is unsurprising that 'children's play varies from one community to another' (Goncu *et al.*, 1999: 162; Edwards,

2000; Goncu *et al.*, 2000; Haight *et al.*, 1999; Schwartzman, 1982). For instance, Parakana children in South American Indian communities are provided with bows, arrows, baskets and machetes to play with as they engage in pretend play, hunting for animals or foraging for food, whereas Irish American children have rooms filled with toy miniatures such as costumes, vehicles and kitchen sets (Goncu *et al.*, 1999; Haight *et al.*, 1999: 1481). Likewise, children in urban societies may focus pretend play on aspects of schooling or on parents leaving home to work in offices, whilst children in agrarian societies may focus pretend play on farming, hunting or weaving (Lancy, 2015: 5). This variation in play is unsurprising when considering that play can be a tool for understanding the world (Henricks, 2015). Play is therefore an 'effect of culture', representing the activities and values seen in society (Gosso, 2009: 80, 89).

Through play, 'children incorporate cultural information in a unique and special way, making it their own' (Vandenberg and Kielhofner, 1982: 22). This internalisation leads to the transmission of cultural 'traditions, values, and skills to each new generation' (Vandenberg and Kielhofner, 1982: 22). However, children's play does more than simply reproduce culture; it is also the forum for development of new culture. Play involves taking apart and experimenting with norms and traditions in order to understand them. As children then 'recombine' culture through play, they 'spawn the ideas and behaviours that serve as prototypes for new behavioural adaptations' (Vandenberg and Kielhofner, 1982: 22). Some will not be adopted, but some will, resulting in the generation of new cultural norms and traditions. Children's play is thus 'bidirectional' in its relation to culture: it is 'both a cause and an effect of culture' (Roopnarine and Johnson, 1994: 4–5). It sustains and creates culture. The ways in which children test, adapt and internalise social structures, norms and values clearly shows the interwoven relationship between play and culture, and evidences the right to play as a cultural right.

5 Conclusion

Throughout this article literature relating to children's play from a wide range of disciplines has been applied to the conceptual framework of human rights, particularly the construction of economic, social and cultural rights. This paper has argued that the unique ways in which children's play supports child development, and supports the realisation of other children's rights such as education and health, necessitates that the right to play must be identified as an economic right, a social right, and a cultural right.

The paper shows that the right to play has a distinctive value in supporting children's cognitive, social, emotional and physical development. Through the advancement of skills in these areas, the right to play should be understood as an economic right as it enables individuals to acquire tools necessary to access future wealth and participate in economic life. Similarly, the right to play, both intrinsically and instrumentally, must be established as a social right as it enables children to live a decent life. It is such not only as it supports the development of a child's social skills and thus supports their potential for participation in social and communal life but it also supports a child's current and future well-being, and enables a child to practice and develop autonomy.

In addition to establishing the right to play as an economic and social right, the paper examines the ways in which the right to play shares the characteristics of both capital 'C' 'C'ultural and lowercase 'c' 'c'ultural rights. The paper argues that through supporting the development of creativity and the skills necessary to understand and respond to stimulus, the right to play is necessarily a 'C'ultural right as it aids the ability of the skills required to access and contribute to 'C'ulture. Similarly, the paper shows that children's play involves the practice, internalisation, transmission, and development and adaptation of culture. Due to this significant function of children's play, the right to play must be understood as a 'c'ultural right.

Through illuminating the multifaceted value of the right to play, albeit focusing on its instrumental value, this paper also evidences the imperative nature of the right to play and substantiates the importance of examining the right to play's relationship to the broader human rights framework to support its implementation and realisation. It shows *how* the right to play 'is both an important right in itself and an important means of achieving other rights' (Davey and Lundy, 2011). The examination within this article is a necessary first step to understanding how the right to play fits within the economic, social and cultural rights framework as establishing the right as an economic, social and cultural right has significant implications for understanding how the right to play should be implemented. It requires that the unique and challenging concepts linked to the implementation of economic, social and cultural rights are employed and defined distinctively to the unique and challenging right to play.⁹

9 For a detailed discussion of the scope and content of the right to play, and the obligations pertaining to the right including application of concepts linked to the implementation of economic, social and cultural rights (including the minimum core, progressive realisation, maximum extent of available resources, international cooperation, non-retrogression, the "3AQ" framework, and the tripartite typology), see: Lott, 2020.

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