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A framework for implementing the right of the child to play: space, time, acceptance, rights-informed¹

Naomi Lott* 

ABSTRACT

The child's right to play is of critical importance to every aspect of a child's life. Implementation of this right is crucial for the health, development, and wellbeing of the child, and the successful realization of a plethora of other children's rights. Yet, States continue to fail to prioritize or take steps to implement the right. In part, this is due to difficulties in understanding what measures States should take for its fulfilment. Neglect of the right to play has led to crises in children's mental and physical health, evident globally. Following doctrinal, empirical, and archival research and interdisciplinary literature analysis into the nature and content of the right to play, a framework for realizing the right emerged able to encompass many of the obligations pertaining to the right to play. This framework includes four core components: space, time, acceptance, and rights-informed. The paper develops each aspect of this framework. Discussions with those involved in play advocacy suggests that such a framework will be beneficial for supporting greater implementation of the child's right to play in practice, as well as deeper understanding of the content of the right.

KEYWORDS: children's rights, implementation, convention on the rights of the child, play, AAAQ framework, STAR framework

"... law and order, commerce and profit, craft and art, poetry, wisdom and science: all are rooted in the primeval soil of play"

Johan Huizinga²

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¹ This article arose, in part, from conversations with NGOs working in this field, who called for the development of a framework or model for implementing the right to play, similar to that of the Lundy Model on children's participation and voice, that can be utilized by a wide variety of stakeholders to advocate for and implement the right to play. (On the Lundy model, see: Lundy, "Voice" is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33 *British Education Research Journal* 927; a brief Google search of the 'Lundy Model' will bring up a plethora of examples of the use of Lundy's Model for participation from academia, health services, local government services, and even the European Commission, e.g. https://commission.europa.eu/system/files/2022-12/lundy_model_of_participatio_n.pdf.) For those who are keen to explore more on the issues within this paper, much of this article addresses topics that are examined in greater detail in Lott, *The Right of the Child to Play: From Conception to Implementation* (2023). The author would like to thank members of the Bonavero Perspectives workshops, Professor Jonathan Herring, Dr Juliet Scott-Barrett, Dr Alison Bisset, and Professor Christine Riefa for feedback on earlier drafts. All errors are author's own.

² Huizinga, *Homo Ludens: A Study of The Play Element in Culture* (1960) at 5.

1. INTRODUCTION³

The child's urge to play is recognized as compelling children to 'seek out opportunities [to play even] in the most unfavourable environments'.⁴ Over-emphasis and reliance on the power of this compulsion can result in the right of the child to play being overlooked in legislation, policy, and practice. Put plainly, whilst the integral urge to play means that children will often play in dangerous environments, when suffering from physical and mental harm or illness, in warzones, in the aftermath of environmental crises or in famine, this does not absolve States of their obligations pertaining to the right to play. By analogy, a starving person may steal to eat, but the fact that they have thus been able to eat does not absolve the State of its duties pertaining to the right to food. Thus, the right to play must not be perceived as simply a self-fulfilling right: States are obligated to undertake measures to ensure its full realization.

The right to play is provided for in Article 31(1) of the UN Convention on the Rights of the Child, which 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.'

This right, whilst reflecting a core component of what it is to be a child (or human being), has been labelled a 'forgotten right',⁵ in part due to the lack of engagement with the right by States, scholars, and the Committee on the Rights of the Child itself. This position has largely shifted, with a growth of engagement with the right to play. Most plainly, this was evidenced

³ At the outset of this article, I invite the reader to be aware of two critiques of the right to play that have posed considerable challenge for the realization of the right historically. My research has found both to be unfounded. The first is a belief that the right to play is a Western imposed right that promulgates ideals that are incompatible with the Global South; see, for example, Pupavac, 'Theories of Conflict and Children's Rights', *2nd Convention of the European Association for the Advancement of Social Sciences* (1997). Extensive analysis of the *travaux préparatoires* of the UNCRC has shown this criticism to be false (see Lott, *supra* n1 at 76–113). The second is a connected criticism: that the right to play is a luxury right (see David, *A Commentary on the United Nations Convention on the Rights of the Child, Article 31: The Right to Leisure, Play and Culture* (2006) at para 42; Hodgkin and Newell, *Implementation Handbook for the Convention on the Rights of the Child* (2007) at 469). Copious research has evidenced the critical importance of play for children's basic developmental and health needs (instrumental value) and as a critical element of childhood, centred on notions of human dignity (intrinsic value); on the instrumental value of the right to play, see Lott, 'Establishing the Right to Play as an Economic, a Social and a Cultural Right' (2022) 30 *The International Journal of Children's Rights* 755 and Lott, *supra* n1 at 14–38; on the notion of luxury rights and human dignity, see Lott 'Understanding Forgotten Rights' in Hohmann and Goldblatt (eds) *The Right to the Continuous Improvement of Living Conditions: Responding to Complex Global Challenges* (2021) 131 and Lott 'The General Principles of the UNCRC and The Right to Play' in Lott (ed) *The Interdependence of the UN Convention on the Rights of the Child: Understanding the Relationship of the Right to Play with other Convention Rights* (forthcoming).

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⁴ Committee on the Rights of the Child, General Comment No. 17 on the right of the child to rest, leisure, play, recreational activities, cultural life, and the arts (art.31), 17 April 2013 at para 32 (hereafter: GC17).

⁵ For discussion as to why the right to play was 'forgotten', and 'forgotten rights' more generally, see Lott (2021), *supra* n3.

with the inaugural UN International Day of Play, in June 2024.⁶ Nonetheless, children's right to play is still failing to be realized and enjoyment of the right is continually restricted by a wide range of barriers. Play is imperative for children's cognitive, physical, social, and emotional development, with the absence of play posing significant limitations on children's development. Children's play is also crucial for maintaining physical and mental health and wellbeing, and has been proven to be effective for mitigating the effects of trauma, and reversing physical and mental ill-health. Furthermore, the right to play is shown to be interdependent with, and thus necessary for the fulfilment of, a plethora of other rights such as the rights to life, survival, and development (Article 6), the right to be heard (Article 12), the right to health and good healthcare (Article 24), the right to education (Articles 28 and 29), children's environmental rights, *inter alia*, as well as being critical for the wellbeing of migrant children and children living with disabilities.⁷ In truth, it is hard to overemphasize the criticality of play for children. Evidence of the impact the failure to realize the right to play is widespread and significant. Much of this evidence regularly hits our TV screens and news headlines, referred to as national or global crises: the mental health crisis; the obesity crisis; a crisis of behaviour in schools, *inter alia*. Whilst children's play is proven as critical to children's health, development, and wellbeing, having the potential to improve mental and physical health, prevent mental and physical ill-health, and to improve children's behaviour in schools, States continue to fail to implement the right to play. In part, because play is an elusive concept.⁸ The framework proposed in this paper helps to break down core components of the right to play in a way that is tangible and applicable by States seeking to implement the Convention and by those looking to monitor and critique its implementation.

Throughout this article, reference is made to situations facing children across the globe. Many of these situations will face some, but not all, children. Most will face a combination of challenges to the enjoyment of their right to play. This paper does not present one 'exemplar' child and recognizes that children are not a homogenous group. Aside from enduring debates in childhood studies on the conceptions of children and childhood, my reasoning for taking this approach is primarily because no single child will face the same barriers or opportunities to their play—even children living within the same household will have different experiences. Instead, this paper provides a plethora of examples of barriers and facilitators to the enjoyment of the right to play, evident across research and the outputs of the Committee on the Rights of the Child, and employs them to illustrate the factors in the framework and demonstrate their relevance and potential application. This paper will first discuss the existing human rights framework and what it can offer for understanding the right to play and its obligations. It will then set out the methodology for the development of the framework that I propose, prior to a detailed outline of the proposed framework and its four core components: space, time, acceptance, and rights-informed.

2. FRAMING THE RIGHT TO PLAY: HUMAN RIGHTS AND BEYOND

International human rights law has its own practices, frameworks, traditions, and language. Human rights practitioners talk of the scope, content, and obligations pertaining to rights, the incorporation of rights, the implementation and monitoring of rights, rights fulfilment, and rights realization, and have proposed different frameworks to address many of these aspects of rights and rights practice. It is not within the remit of this paper to fully address each of these

⁶ GA Res 78/268, 25 March 2024, A/RES/78/268.

⁷ For an exploration of the interdependence of the right to play with other Convention rights, see Lott (forthcoming), *supra* n.3.

⁸ Sutton-Smith, *The Ambiguity of Play* (1997).

elements and their application to the right to play.⁹ Some, however, must be addressed: the scope of the right to play, Article 4 of the Convention on the Rights of the Child (the ‘general obligations clause’ of the Convention), and the 3AQ framework.

First, the scope of the right to play refers primarily to the question of ‘to whom does the right apply’. Two provisions in the Convention are key to this: Article 1 and Article 2. Article 1 stipulates that the rights within the Convention apply to *all* human beings ‘below the age of eighteen years unless under the law applicable to the child, majority is attained earlier’. The Committee has also stated that conformity with the Convention requires that States move towards raising national ages of majority to 18.¹⁰ Acknowledging that the right to play applies to all children under the age of 18 is of particular importance given a general association between play and young children, which in turn leads to a tendency for play-related measures to be directed towards young children exclusively. A legal approach to the right to play acknowledges that the right concerns adolescents equally as it does to young children. Article 2 provides further context for whom the right applies. Article 2 is known as the non-discrimination principle within the Convention. It requires that States ‘respect and ensure’ the rights in the Convention ‘to *each child* within their jurisdiction without discrimination of any kind’. Under the principles of equality and non-discrimination, it may, in some circumstances, be necessary to treat children differently or implement additional measures to enable their equal enjoyment of Convention rights. The right to play thus applies to *all children*, with some children needing additional support or measures for the realization of their right.

Second, it is valuable to briefly consider the application of Article 4 of the Convention. This provision is understood as the general obligation provision in the Convention, and reads:

‘States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation’.

This provision sets out the ‘general’, overarching, obligations that States have with regards to implementation of the Convention and is relevant to all provisions in the Convention. Article 4 is particularly relevant for the right to play, as the right to play can be framed as an economic, social, and cultural right as its fulfilment benefits the economic, social, and cultural life, and potential, of children.¹¹ This categorization of the right is not unproblematic, with economic, social, and cultural rights historically viewed as of less importance than civil and political rights, lacking in clarity (due a slowness in clarifying the normative content of these rights), expensive to implement, to be implemented progressively, as non-justiciable, and even as ‘not a matter of rights’.¹² Nonetheless, much of this framing has been challenged and refuted by scholars and practitioners alike.¹³ Whilst an in-depth analysis of Article 4 is not within the scope of this

⁹ I offer this analysis in Lott, *supra* n1 at 114–152; Lott (2022), *supra* n3.

¹⁰ See, for example: Committee on the Rights of the Child, Concluding Observations: Cuba, 3 August 2011, CRC/C/CUB/-CO/2 at para 23; and Concluding Observations: Nigeria, 21 June 2010, CRC/C/NGA/CO/3–4 at para 27. The right to play is a right for children; there is no equivalent right in general human rights texts that would expand the scope of the right to apply to adults. However, one could suggest that the right to play could be read into the adult right to leisure (Article 7(d) ICESCR), due to the Committee on the Rights of the Child’s definition of the right to leisure as ‘time in which play or recreation can take place’ (GC17, *supra* n4 at para 14).

¹¹ Lott (2022), *supra* n3.

¹² See: Eide, ‘Economic, Social and Cultural Rights as Human Rights’ in Eide, Krause and Rosas (eds) *Economic, Social and Cultural Rights*, 2nd edn (2001) 9; Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (2009); Nolan, ‘Children’s Economic and Social Rights’ in Kilkelly and Liefwaard (eds) *International Law on the Rights of the Child* (2018) 239.

¹³ *Ibid.*

paper,¹⁴ it is significant to note that States are expected to ‘undertake *all* appropriate measures’ for implementing Convention rights. This is deliberately broad and the listed examples of ‘legislative, administrative and other measures’ are not exhaustive. In the context of Article 31, for example, the Committee on the Rights of the Child enumerated several additional measures in *General Comment No.17* including, *inter alia*, the regulation of non-state actors and the provision of support to caregivers.¹⁵ Similarly to Article 4, whilst this paper at times provides examples of measures that are recommended for implementing the right to play, it is also not intended that these are seen as exhaustive.

For *General Comment No.17*, the Committee employed a framework that was developed, and is commonly applied by, the Committee on Economic, Social and Cultural Rights (CESCR)¹⁶ for the development and understanding of economic, social, and cultural rights. This framework examines the content of human rights through the lens of Accessibility, Availability, Acceptability, and Quality; as such, the framework has come to be known as the 3AQ or AAAQ framework. This framework was not specifically designed to operationalize the right to play. It has a broader application in helping to detail the obligations associated with economic, social, and cultural rights, and setting out a series of tests regarding their implementation. It forms a lens through which to assess and measure the extent to which the obligations of States pertaining to human rights have been fulfilled to an appropriate level or standard. Thus, these elements should be kept in mind whilst considering, applying, or measuring implementation of the framework set out below. For the purposes of this article, I highlight key elements of the framework that serve to inform the remainder of this paper.¹⁷

Accessibility in the 3AQ framework refers both to the *levels* of access and to *who* has access. CESCR refers to four subcriteria or ‘overlapping dimensions’ to accessibility—physical accessibility, economic accessibility, non-discrimination, and information accessibility.¹⁸ The question of who has access is commonly discussed in the context of disability but should be read broader than this to look at barriers to access relating to a wide range of features including age,¹⁹ gender, race, poverty, and identity. Availability concerns quantity. In the context of the right to play, it requires that children have enough opportunities to engage in play and relatedly enough resources to enable such engagement. CESCR has explained that quantity requires sufficiency ‘in accordance with demand’.²⁰ This should be assessed geographically and in reference to the size of the local population and thus concerns supply. Acceptability relates to the cultural appropriateness of the ways in which the right is implemented. This requires, thus, that implementation of a right is ‘respectful of the culture of individuals, minorities, peoples, and communities, sensitive to gender and life-cycle requirements’.²¹ Acceptability also

¹⁴ For an examination of Article 4, see: Tobin ‘Article 4: A State’s General Obligation of Implementation’ in Tobin (ed) *The UN Convention on the Rights of the Child: A Commentary* (2019) 108. For an application of Article 4 to the right to play, see: Lott, *supra* n1 at 114–152.

¹⁵ GC17, *supra* n4 para 56.

¹⁶ The Committee on Economic, Social and Cultural Rights (hereafter: CESCR) use Availability, Accessibility, Acceptability, and Quality (3AQ) to outline the content of the right to health in General Comment No. 14: The Right to the Highest Attainable Standard of Health, 11 August 2000 (hereafter: CESCR GC14) at para 12. Elements of this framework appeared previously, e.g. in CESCR, General Comment No. 12: The Right to Adequate Food, 12 May 1999 (hereafter: CESCR GC12) and General Comment No. 13: The Right to Education, 8 Dec 1999 (hereafter: CESCR GC13). ‘Quality’ first appeared as a separate measure in CESCR GC14. CESCR GC13 referred to ‘adaptability’. CESCR, General Comment No. 15: The Right to Water, 20 Jan 2003 (hereafter: CESCR GC15).

¹⁷ See Lott, *supra* n1 at 121–126 for an extensive and detailed analysis of the 3AQ framework and its application to the right to play.

¹⁸ CESCR GC13 at para 6(b) included just three ‘overlapping dimensions’ (information accessibility is not included). CESCR GC14 at para. 12(b) and CESCR GC15 at para. 12(c), *inter alia*, include the four dimensions. For an expanded discussion on each of these elements, see *Ibid*.

¹⁹ This is discussed further below. For more, see: Lott, *supra* n1 at 114–152.

²⁰ CESCR GC12 at para 12.

²¹ CESCR GC14 at para 12(c).

requires that implementation of a right is 'relevant'.²² Acceptability is temporally subjective, but cultural considerations must not result in the denial of a right. The concept, or test, of quality requires that rights implementation must be of sufficient value and condition, and must reflect appropriate characteristics associated with the right. CESCR has provided little guidance on what should be understood by 'quality' in general terms. In the context of water, CESCR applied the concept of quality to stipulate that 'water required for each personal or domestic use must be safe . . . [and] of an acceptable colour, odour and taste'.²³ In the context of food, CESCR applied the concept of quality to refer to the satisfaction of 'dietary needs of individuals, free from adverse substances'.²⁴ It must also reflect appropriate characteristics associated with the right (i.e. in the context of food, it should meet dietary needs) and thus in the context of play, characteristics such as 'fun, uncertainty, challenge, flexibility'²⁵ should be evident.

Whilst this framework is valuable for measuring the implementation of certain obligations pertaining to the right to play, it is not enough on its own. This is in part due to the nature of the right to play as necessarily impacting on a broad range of policy areas. Whilst the 3AQ framework was devised to be applied to rights such as the right to food or the right to water, rights that have a clear 'deliverable', play suffers from being less tangible, and in many cases a very individual experience. Additionally, this language is not familiar to play and childhood scholars and activists—those who have advocated for the implementation of the child's right to play for decades. For this group of stakeholders, the language that is most familiar is that of 'space' and 'time'.²⁶ Alongside these, there has been a growing use of the term 'permission' associated with the necessary factors for the realization of the right to play.²⁷ I critique the use of 'permission', below, and in the proposed framework I instead employ the term 'acceptance'. The proposed framework builds on this existing rhetoric, also, to add a fourth element: that any implementation of the right to play must be informed by children's other Convention rights, arguing that without such an approach any effort to implement the right to play will ultimately be flawed.

3. SPACE, TIME, ACCEPTANCE, RIGHTS-INFORMED: A NEW FRAMEWORK FOR THE RIGHT TO PLAY

The proposed framework is based on an extensive multidisciplinary examination of literature on children's play, archival research on the *travaux préparatoires* of the Declaration on the Rights of the Child and subsequent Convention on the Rights of the Child (Convention), coding and analysis of >600 outputs of the Committee on the Rights of the Child (Committee), and interviews conducted by the author with non-governmental experts working in the area of the child's right to play both in the Global North and Global South.²⁸ It also builds upon the work of the Committee in its *General Comment No. 17 on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art.31)*, in which the Committee utilized the 3AQ framework to develop the normative content of the right to play. This paper critically integrates the 3AQ framework emanating from the human rights field, with the language that

²² CESCR GC13 at para 6(c); CESCR GC12 at para 11 describes how implementation of the right to food must consider also 'non-nutrient-based values attached to food and food consumption'.

²³ CESCR GC15 at para 12.

²⁴ CESCR GC12 at para 8.

²⁵ GC17 at para 14(c). For discussion on the complexities surrounding defining the right to play, see Lott, *supra* n1 at 4–13.

²⁶ See, for example: Lester and Russell, 'Children's Right to Play: An Examination of the Importance of Play in the Lives of Children Worldwide', Working Paper No. 57, *Early Childhood Development* (Bernard van Leer Foundation, 2010); Gleave, 'Children's time to play: A literature review' (Play Day, 2009). This language is commonly used by play organizations such as Play England, Play Scotland, Playboard Northern Ireland, and Play Wales.

²⁷ See, for example, outputs of organizations such as the International Play Association; Outdoor Play And Learning; Playing Out.

²⁸ For more on this research, see: Lott, *supra* n1. Funded by the Economic and Social Research Council (Award Ref: 1366595).

is used by stakeholders actively working in children's play and prominent throughout literature regarding children, childhood, and play, to propose a new policy-relevant, and implementation- and measurement-focused, four-point framework comprising 'space', 'time', 'acceptance', and 'rights-informed'.

Out of the 549 Concluding Observations provided by the Committee between 1996 and mid-2022, only 100 refer to the right to play (less than a fifth),²⁹ concerning due to the importance of play for children and the interdependence of the right to play with other Convention rights. Yet, the language of 'space', 'time', and 'acceptance' is visible within these outputs. Out of the 100 Concluding Observations that refer to the right to play, 27 make clear reference to ensuring that children are given time to play, 74 refer to issues relating to space for play, and 31 refer to issues relating to acceptance of play.³⁰ The Concluding Observations are referenced throughout this piece, directly. This all sits within the wider children's rights context. This paper provides a detailed analysis of how these factors relate to the child's right to play and, through drawing on the 3AQ Framework where relevant, provides a clear offering on how these factors should be implemented and measured.

An obvious criticism of this model may be that it has not been developed with children themselves. This paper itself notes the criticality of involving children in decision-making related to their right to play. This paper does, nonetheless, provide a useful framework that is grounded in doctrinal, empirical, and interdisciplinary research, much of which is supported and informed by research and practice that involves children. The next stage for this research is to take the framework to children themselves and test it: it may be that this model is confirmed, amended, or even thrown out, ripped apart, and re-built all together. The first stage of this empirical research is underway.³¹

4. SPACE

The implementation of the right to play requires that children have space to play. The right to play is an issue of spatial justice and, ultimately, both the right to play and the child's right to an adequate standard of living³² cannot be realized without the provision of space for play. Analysis of the Committee's Concluding Observations from 1996 through to 2022 shows that of the 100 concluding observations that refer to children's play, 74 of these highlight space-related issues. This demonstrates the criticality of this factor for the implementation of the right to play. The Committee highlights this both in its recommendations to States and in its criticisms of State practice. For example, in the 1996 Concluding Observation for Lebanon, the Committee recommended that the development of children's play spaces should be considered in city planning.³³ Conversely, for example, in the context of the 2015 Concluding Observation for Uruguay, the Committee raised concern with the lack of, and poor conditions of, playgrounds, parks, and other public spaces.³⁴

²⁹ On discussion of the lack of engagement with the right to play by the Committee, how this has changed over time, and the substantive content of the Committee's comments, as well as the methodology for the coding of these documents, see Lott, *supra* n1 at 96–113.

³⁰ For details, see Lott, *UN Committee on the Rights of the Child on the Child's Right to Play*. University of Oxford. Dataset. (2022) <https://doi.org/10.25446/oxford.21436164.v1>. Some examples are included throughout the article.

³¹ *Developing a Framework for the Implementation of the Right to Play*, funded by the John Fell Fund, The University of Oxford (see <https://www.law.ox.ac.uk/developing-a-framework-for-the-implementation-of/developing-framework-implementation-right-play>). This project works with ~100 children in England aged 2–18 and acts as a pilot for a future global study.

³² Article 27(1): 'States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.'

³³ Committee on the Rights of the Child, Concluding Observations: Lebanon, 7 June 1996, CRC/C/15/Add.54 at para 36.

³⁴ Committee on the Rights of the Child, Concluding Observations: Uruguay, 6 March 2015, CRC/C/OPSC/URY/CO/1 at para 61.

There are two core elements to the space component of this framework, physical space and mental space, addressed in turn.

A. Physical space³⁵

The Committee's work highlights several factors relating to space for play that can be drawn together to build a picture of how physical space for play relates to the implementation of the right. First, children must have access to space for play. Beyond ensuring that play spaces are accessible for all children,³⁶ this involves ensuring that children have space for play either in their immediate locale—close to home—or that play spaces beyond this are easily accessible. This has implications for the design of homes and the spaces around them, and impacts children differently based on their individual contexts. It also relates to the design of schools, institutions, and hospitals, requiring that children in all settings have access to play spaces. Assessing space for play at the most basic level thus triggers measures of both availability and accessibility. The COVID-19 pandemic brought to the fore the impacts of overcrowded housing and the lack of spaces for play in cities, for example, regarding tower blocks, and showed the discriminatory impacts of poor housing design.³⁷ Where play space is not directly accessible to children in their immediate locale, the accessibility of play spaces further afield must be taken into consideration, including the cost of access.³⁸ Questions such as whether a child can travel on foot or by public transport, or whether a car is required, must be considered. Similarly, issues such as whether a child can travel alone or whether an adult would be required to supervise travel to ensure their safety, and the affordability of public transport, are relevant.³⁹ Recent research shows

³⁵ On perceptions of children in public spaces, which directly impacts upon their access to space, see below at section 5.

³⁶ Here, a connection with Article 22 (on refugee and migrant children), Article 23 (on disabled children), and Article 24 on the right to healthcare can be drawn. For more on this see: Raissian, 'Towards Implementation? Recognising the Importance of the Right to Play for Refugee and Migrant Children'; Gulyurtlu and Voce, 'Playing with Children's Health? The Right to Play for Children Who are Sick'; and Byrne, 'The Right to Play for Children with Disabilities: Perspectives from England and India' all in Lott (forthcoming), *supra* n3.

³⁷ Berg, 'COVID-19 School Closures in South Africa and Their Impact on Children', *The Conversation*, 14 July 2020, available at: <https://theconversation.com/covid-19-school-closures-in-south-africa-and-their-impact-on-children-141832> [last accessed August 2020]; UNESCO, 'Education: From Disruption to Recovery' (2020), available at: <https://en.unesco.org/covid19/educationresponse> [last accessed August 2020], describes the impact of school closure measures on >60% of the world's children; O'Neill, 'How COVID-19 Is Changing Our Perspective on Playgrounds', *Architectural Digest Middle East*, 24 April 2020, available at: <https://www.architecturaldigest.com/story/covid-19-playground-design> [last accessed August 2020]; Dodd et al., Report One: Findings from 1728 Parents/Carers of 2–4 Year Olds on Stress, Child Activities, Child Worries and Need for Support, Co-Spyce Study (2020); BBC, 'India Coronavirus: Children Portray Covid-19 and Lockdown', 10 May 2020, available at: <https://www.bbc.co.uk/news/av/world-asia-india-52590870/india-coronavirus-children-portray-covid-19-and-lockdown> [last accessed August 2020]; Kourti et al., 'Play Behaviours in Children during the COVID-19 Pandemic: A Review of the Literature' (2021) 8 *Children* 706; Riazi et al., "'You Can't Go to the Park, You Can't Go Here, You Can't Go There': Exploring Parental Experiences of COVID-19 and Its Impact on Their Children's Movement Behaviours' (2021) 8 *Children* 219 found a 'dramatic decline in [physical activity] and outdoor play among children'. Prior to the COVID-19 pandemic, discrimination in the development of play spaces for children in England was revealed in a piece by Harriet Grant in *The Guardian*. This piece showed that in a single housing block, children that were housed in social housing were given poor-quality play equipment, whereas those in the private rental sector were provided with a more expansive playground. Access to these playgrounds were restricted through the design of the buildings, showing direct discrimination against children in poverty: Grant and Michael, 'Too poor to play: children in social housing blocked from communal playground', *The Guardian*, 25 March 2019, available at: <https://www.theguardian.com/cities/2019/mar/25/too-poor-to-play-children-in-social-housing-blocked-from-communal-playground> [last accessed March 2024]; Gill, *Street Play Initiatives in Disadvantaged Areas: Experiences and Emerging Issues* (Play England, 2017), available at: <https://data.london.gov.uk/dataset/vdkpn/street-play-initiatives-in-disadvantaged-areas-experiences-and-emerging-issues> [last accessed May 2023]; Maas et al., 'Green space, urbanity, and health: how strong is the relation?' (2006) 60 *Journal of Epidemiology and Community Health* 587.

³⁸ On the cost of access, see for example: Committee on the Rights of the Child, Concluding Observations: Thailand, 17 March 2006, CRC/C/THA/CO/2 at para 64; Concluding Observations: Latvia, 14 March 2016, CRC/C/LVA/CO/3–5 at paras 58 and 59.

³⁹ On transport, see for example: Committee on the Rights of the Child, Concluding Observations: Austria, 5 March 2020, CRC/C/AUT/CO/5–6 at paras 30(b) and 38; Concluding Observations: Belarus, 28 February 2020, CRC/C/BLR/CO/5–6 at para 38; Concluding Observations: Republic of Korea, 24 October 2019, CRC/C/KOR/CO/5–6 at para 42(j); Concluding Observations: Belgium, 28 February 2019 CRC/C/BEL/CO/5–6 at para 40; Concluding Observations: Bahrain, 27 February 2019, CRC/C/BHR/CO/4–6 at para 41(b); Concluding Observations: Spain, 5 March 2018, CRC/C/ESP/CO/5–6 at para 41; Concluding Observations: Guatemala, 28 February 2018, CRC/C/GTM/CO/5–6 at para 39; Concluding Observations: UK, 12 July 2016, CRC/C/GBR/CO/5 at para 75(b).

that restrictions on children's independent mobility—the freedom given to a child to travel around their local community without adult supervision—have dramatically increased over the past 50 years.⁴⁰ This trend suggests that in order to meet obligations to realize the right of the child to play, States must either ensure ease of access to local playable spaces or address the reasons behind the increase in restrictions on children's independent mobility. The Committee emphasizes the importance of ensuring play spaces that are 'close to [children's] own homes'.⁴¹ Such guidance suggests that even where transportation links are strong, there should still be playable spaces in the immediate locale of children's homes. This also has implications for urban design and planning, in requiring that the playability of spaces close to children's homes are considered and that play in these environments is promoted.⁴²

Second, children's play spaces should be safe, with acceptability and quality as key considerations. The Committee has offered guidance on this, describing children's play spaces as needing to be free from environmental and human hazards. In relation to environmental hazards, the Committee focuses its recommendations on hazards such as 'polluted water; open sewer systems; overcrowded cities; uncontrolled traffic . . . [and] landmines and unexploded ordnance'.⁴³ Some of these hazards present challenges unique to specific contexts, such as threats from landmines. The International Campaign to Ban Landmines—Cluster Munition Coalition's Annual Landmine Monitor stated that, in 2017, of the 7239 casualties from landmines, 2452 were children.⁴⁴ Additionally, many of these hazards have relevance across the globe. States must mitigate against the impacts of such environmental hazards as they look to create safe spaces for children's play. The Committee provides detailed guidance on municipal planning and the development of 'child-friendly urban and rural environments', including, for example, in relation to ensuring appropriate road safety measures, and the 'design of zones in which players, pedestrians and bikers have priority'.⁴⁵ Alongside its list of environmental hazards, the Committee highlights a number of human hazards that may impact upon play spaces. Many of these hazards underline parental and societal fears relating to children's play in the public space, particularly those relating to crime and violence.⁴⁶ The Committee refers to matters such as 'high levels of crime and violence; community unrest and strife; drug and gang related violence; risk of kidnapping and child trafficking; . . . and bullying'.⁴⁷ Whilst such hazards are clearly in need of addressing in order to ensure children's safety in their play, measures to confront these through collective action must not further fuel a decrease in outdoor play.

⁴⁰ Dodd et al., 'Children's play and independent mobility in 2020: results from the British Children's Play Survey' (2021) 18 *International Journal of Environmental Research and Public Health* 4334; Shaw, et al., 'Children's Independent Mobility: an international comparison and recommendations for action' (July 2015), available at: https://www.nuffieldfoundation.org/sites/default/files/files/7350_PSI_Report_CIM_final.pdf [last accessed May 2023].

⁴¹ GC17 at para 34.

⁴² See, for example: Committee on the Rights of the Child, Concluding Observations: Hungary, 3 March 2020, CRC/C/HUN/CO/6, at para 37(c); Concluding Observations: Bolivia, 16 October 2009, CRC/C/BOL/CO/42009 at para 69; Concluding Observations: Guinea-Bissau, 13 June 2002, CRC/C/15/Add.177 at para 46.

⁴³ GC17 at para 35.

⁴⁴ Landmine and Cluster Munition Monitor, 'International Campaign to Ban Landmines—Cluster Munition Coalition', Landmine Monitor 2018 (Landmine and Cluster Munition Monitor) at 2, available at http://the-monitor.org/media/2918780/Landmine-Monitor-2018_final.pdf [last accessed May 2023]; on landmines see also Committee on the Rights of the Child, Concluding Remarks: Bosnia and Herzegovina, 21 September 2005, CRC/C/15/Add.260 at para 63.

⁴⁵ GC17 at para 56(f).

⁴⁶ Kimbro and Schachter, 'Neighbourhood Poverty and Maternal Fears of Children's Outdoor Play' (2011) 60 *Family Relations* 461; Clements, 'An Investigation of the State of Outdoor Play' (2004) 5 *Contemporary Issues in Early Childhood* 68; Weir, Etelson, and Brand, 'Parents' Perceptions of Neighbourhood Safety and Children's Physical Activity' (2006) 43 *Preventative Medicine* 212; Bateson and Martin, *Play, Playfulness, Creativity and Innovation* (2013) at 99.

⁴⁷ GC17 at paras 36, 39. I neglect to include the Committee's reference to 'hostile youth' in this list. On this, see Lott, *supra* n1 at 44–53. On bullying, see for example: Committee on the Rights of the Child, 'Concluding Observations on the combined third and fourth periodic reports of China' (29 October 2013) CRC/C/CHN/CO/3–4 at paras 77 and 78; Concluding Observations: Republic of Korea 2 February 2012, CRC/C/KOR/CO/3–4 at para 62.

Concerns of ensuring children's safety do, however, often impede upon children's play and particularly so regarding children's risky play.⁴⁸ Considering the need to ensure play spaces are safe for children does not necessitate that play spaces are void from risk, rather there is a balance that must be struck when ensuring safe spaces for play. The Committee recognizes that '[w]hile children must not be exposed to harm in the realization of their rights under article 31, some degree of risk and challenge is integral to play and . . . is a necessary component of the benefits of these activities'.⁴⁹ As such, the Committee maintains that children should have opportunities to play in 'a diverse and challenging physical environment'.⁵⁰ Research into children's play supports this position, showing the value of risk in play for children through to adulthood,⁵¹ and similarly the potential harms in limiting children's risky play.⁵² These two components—safety and risk—are not mutually exclusive, and States must ensure that they enable access to play spaces that are both free from environmental and human hazards and all the while permit the child to engage in risky play. This relates directly to the measures of acceptability and quality, with a need to ensure play spaces are safe for children, and meet cultural understandings of safety, but also reflect appropriately the characteristics associated with the right.

Third, the Committee specifies a need to ensure that children have access to play outdoors and particularly opportunities to play in natural environments. It places a high value on play outdoors and in nature, and expresses concern with a lack of access to nature in 'an increasingly urbanized and privatized world'.⁵³ As touched upon earlier, this is most likely to affect 'children in low-income urban areas'.⁵⁴ This advocacy for access to outdoor and natural spaces reflects a literature that emphasizes the value of outdoor play for children's development and health.⁵⁵ Research also points to the value of natural spaces for the quality of play; the promotion of unstructured free play, the varied creative uses of such spaces for play, and the presence of challenge and risk.⁵⁶ The Committee raises concern over an 'increasing erosion' of such play spaces and calls for 'greater Government intervention' to address this problem.⁵⁷ A prioritization of natural spaces has implications for urban development and the assessment or measure of play spaces.

⁴⁸ Jerebine et al., "All the fun stuff, the teachers say, 'that's dangerous!'" Hearing from children on safety and risk in active play in schools: a systematic review' (2022) 19 *International Journal of Behavioural Nutrition and Physical Activity* 72; Jerebine et al., "Children are precious cargo; we don't let them take any risks!": Hearing from adults on safety and risk in children's active play in schools: a systematic review' (2022) 12 *International Journal of Behavioural Nutrition and Physical Activity* 111; Oliver et al., 'Parent perceived barriers and facilitators of children's adventurous play in Britain: a framework analysis' (2022) *BMC Public Health* 636; Bundy et al., 'The risk is that there is 'no risk': a simple, innovative intervention to increase children's activity levels' (2009) 17 *International Journal of Early Years Education* 1.

⁴⁹ GC17 at para 39.

⁵⁰ GC17 at para 32.

⁵¹ Dodd and Lester, 'Adventurous play as a mechanism for reducing risk for childhood anxiety: a conceptual model' (2021) 24 *Clinical Child and Family Psychology Review* 164; Brussoni et al., 'Risky Play and Children's Safety: Balancing Priorities for Optimal Child Development' (2012) 9 *International Journal of Environmental Research and Public Health* 3134; McGinley, 'Can Hovering Hinder Helping? Examining the Joint Effects of Helicopter Parenting and Attachment on Prosocial Behaviours and Empathy in Emerging Adults' (2018) 179 *Journal of General Psychology* 102; A Luebbe et al., 'Dimensionality of Helicopter Parenting and Relations to Emotional, Decision-Making, and Academic Functioning in Emerging Adults' (2018) 25 *Assessment* 841; Aziz and Said, 'The Trends and Influential Factors of Children's Use of Outdoor Environments: A Review' (2012) 38 *Procedia—Social and Behavioural Sciences* 204 at 209.

⁵² Gray, 'The decline of play and the rise of psychopathology in children and adolescents' (2011) 3 *American Journal of Play* 443; Sandseter and Kennair, 'Children's risky play from an evolutionary perspective: the anti-phobic effects of thrilling experiences' (2011) 9 *Evolutionary Psychology* 257.

⁵³ GC17 at para 40.

⁵⁴ *Ibid.*

⁵⁵ Amongst many, see for example, Dadvand et al., 'Risks and Benefits of Green Spaces for Children: A Cross-Sectional Study of Associations with Sedentary Behaviour, Obesity, Asthma and Allergy' (2014) 122 *Environmental Health Perspectives* 1329.

⁵⁶ *Ibid.*; Fjortoft, 'Landscape as Playscape: The Effects of Natural Environments on Children's Play and Motor Development' (2004) 14 *Children, Youth and Environments* 21; Moore and Wong, *Natural Learning: Creating Environments for Rediscovering Nature's Way of Teaching* (1997); Rivkin, 'Outdoor Play—What Happens Here?', in Wortham and Frost (eds) *Playgrounds for Young Children: National Survey and Perspectives* (1990); Tittman, *Special Places, Special People: The Hidden Curriculum of School Grounds* (1994) 41. For greater discussion of this, see Lott, *supra* n1 47–51.

⁵⁷ GC17 at paras 36 and 40.

Fourth, play spaces must be resourced. Often children's outdoor play is associated with kit, fence, and carpet playgrounds. These playgrounds are heavily criticized in the literature due to the limited and prescribed options for play that these spaces offer children.⁵⁸ Nonetheless, where these playgrounds are designed well, they can begin to counter these critiques. Such spaces should therefore be resourced in a way that encourages variety, adventure, challenge, and creativity. They must also be designed in a way that enables all children to play, for example, by ensuring accessibility by wheelchair users, in order to be compliant with a State's non-discrimination obligations.⁵⁹ The Committee provides specific guidance in relation to school spaces, noting that schools should have equipped spaces that 'afford opportunities for all forms of play', for all children, and that these spaces should facilitate play both during and outside of school hours.⁶⁰ This has implications for the accessibility of school spaces outside of school hours and shows the important role of schools in supporting children's play. The resourcing of play spaces will also require additional measures in unique or more complex settings. For example, in hospital settings, specialist play provision and resources such as play workers or play therapists may be required to implement the right to play within the hospital setting (and may be critical to realizing a child's right to health).⁶¹ The resourcing of children's play spaces, alongside other measures, also includes a requirement to ensure that budgets and policies are developed to enable such resourcing.⁶²

Alongside addressing physical space for play, it is also important to acknowledge that children may choose to engage in play in the digital environment. Here, critical considerations must be children's safety and health. Whilst issues of accessibility and availability are also of concern,⁶³ particularly considering areas where there is no access to digital technology, there is growing evidence of the potential harms of the digital environment for children where this space is not appropriately governed.⁶⁴ In the same way that children's physical space should be managed to ensure appropriate levels of risk and the removal of hazards, so too should the digital environment be safeguarded.⁶⁵ This requires appropriate governance of

⁵⁸ See, for example: Luchs and Fikus, 'A Comparative Study of Active Play on Differently Designed Playgrounds' (2013) 13 *Journal of Adventure Education and Outdoor Learning* 206; Herrington and Brussoni, 'Beyond Physical Activity: The Importance of Play and Nature-Based Play Spaces for Children's Health and Development' (2015) 4 *Current Obesity Reports* 477 at 478.

⁵⁹ On this, the Committee refers to the work of Robert Mace on the concept of 'Universal Design' and relates also to the Convention on the Rights of Persons with Disabilities (Article 4(1)(f)). See also Committee on the Rights of the Child, Concluding Observations: Austria, 5 March 2020, CRC/C/AUT/CO/5-6 at paras 30 and 38; Concluding Observation: Belarus, 28 February 2020, CRC/C/BLR/CO/5-6 at para 38; Concluding Observations: Bosnia and Herzegovina, 5 December 2019, CRC/C/BIH/CO/5-6 at para 42; Concluding Observations: Bahrain, 5 December 2019, CRC/C/BIH/CO/5-6 at para 41; Concluding Observations: Spain, 2018 at para 41; Concluding Observations: Ecuador, 25 October 2017, CRC/C/ECU/CO/5-6 at para 38; Concluding Observations: United Kingdom, 12 July 2016, CRC/C/GBR/CO/5 at paras 74 and 75; Concluding Observations: Luxembourg, 29 October 2013, CRC/C/LUX/CO/3-4 at paras 36 and 37; Concluding Observations: Belgium, 18 June 2010, CRC/C/BEL/CO/3-4 at paras 70 and 71; Concluding Observations: Romania, 30 June 2009, CRC/C/ROM/CO/4 at para 79; Concluding Observations: France, 22 June 2009, CRC/C/FRA/CO/4 at para 83; Concluding Observations: United Kingdom, 20 October 2008, CRC/C/GBR/CO/4 at paras 52, 68, and 69.

⁶⁰ GC17 para 56(g).

⁶¹ See, for example, Yemada-Rice et al., 'The importance of multimodal play and storytelling in medtech for children: A case study of co-designing a mixed realities play-kit to prepare 4 to 10-year-olds for an MRI scan' (2023) 3 *Multimodality & Society* 170. See also, for example: Committee on the Rights of the Child, Concluding Observations: United Kingdom—Dependent Territories, 30 October 1996, CRC/C/15/Add.63 at para 7.

⁶² GC17 at para.58(a) and (d). This was mentioned regularly throughout the 100 concluding observations analysed (Lott, *supra* n6).

⁶³ See, for example: Livingstone and Helsper, 'Gradations in Digital Inclusion: Children, Young People and the Digital Divide' (2007) 9 *New Media and Society* 671; Banerjee et al., 'Can Digital Technologies Play a Role in Improving Children's Learning Outcomes in India?' (2017) 3 *Journal of Development Policy and Practice* 55; Copley and Ziviani, 'Barriers to the Use of Assistive Technology for Children with Multiple Disabilities' (2004) 11 *Occupational Therapy International* 229; Committee on the Rights of the Child, General Comment No. 25 on children's rights in relation to the digital environment, 2 March 2021 (Hereafter: GC25) at para 11.

⁶⁴ For a more extensive discussion of some of the literature around technology and play, see Lott, *supra* n1 at 64–74.

⁶⁵ GC17 at para 46.

the digital environment.⁶⁶ Furthermore, consideration should be had to appropriate use of digital technologies with thought to the age and maturity of the child and suitable activities, limits on time spent on digital devices, the ability of the child to deal with online content, and the protection of time for play away from the digital environment alongside time that is offered to digitally based play.⁶⁷ Governance of digital spaces suitable for children's play should also consider the potentials of addiction, physical health impacts, and mental health risks.⁶⁸

B. Mental space

The second element to the requirement of ensuring children have space for play relates to children's mental space for play. This factor is equally important to that of physical space and relates closely to the implementation of other rights as it requires that children are, for example, protected from abuse, trauma, poverty, and the impacts of conflict.⁶⁹ It also requires ensuring that pressures related to academic attainment and competitive schooling, and pressures to engage in competitive extracurricular activities, discussed above, are mitigated. Whilst the compulsion for play is strong for children, external factors can hinder a child's ability to play by squashing the mental or psychological space needed for engaging in play.⁷⁰ The Committee notes that '[w]ithout sufficient rest, children will lack the energy, motivation and physical and mental capacity for meaningful participation or learning'; this is the same for children's play.⁷¹

Traumatic experiences also hamper children's enjoyment of play due to a change in nature of play as a setting for trauma and distress to be played out or processed.⁷² Ensuring children have the mental space for play requires, therefore, both the fulfilment of children's rights focused on the prevention and protection of harm and trauma, and measures directed to the accessibility and availability of resources to help alleviate the impact of negative experiences in line with the State's duties relating to Article 39 of the UNCRC,⁷³ including access to play itself due to its therapeutic benefits.⁷⁴

5. TIME

The implementation of the right to play requires that children have the time available for play. This is repeatedly emphasized throughout the Committee on the Rights of the Child's work. Throughout GC17, the Committee highlights a need to create time for children to engage in play and shares its concern over practices that reduce this time. The Committee criticizes 'the imposition' of programmed or competitive activities (such as sports),⁷⁵ and the time-pressures

⁶⁶ See, for example, GC25 at paras 106–111 and GC25 generally.

⁶⁷ GC25 at paras 19–21, 108–109.

⁶⁸ At a minimum, see GC25 at paras 96, 110 and GC17 at para 46.

⁶⁹ Relevant provisions in the UNCRC include, *inter alia*, Article 3(2), Article 17(e), Article 19; Article 32; Article 33; Article 34; Article 35; Article 36; Article 37; Article 38.

⁷⁰ Hyder, *War, Conflict and Play* (2004) at 97; Glos, 'Children's right to play in times of war' (2023) 39 *Bioethics* 26.

⁷¹ GC17 at para 13.

⁷² Lindon, *Understanding Children's Play* (2001) at 18, 35. See also, Committee on the Rights of the Child, Concluding Observations: Dominican Republic 6 March 2015, CRC/C/DOM/CO/3–5 at para 60; Concluding Observations: Mexico, 3 July 2015, CRC/C/MEX/CO/4–5 at para 32(f).

⁷³ Article 39 of the UNCRC stipulates that 'States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child'.

⁷⁴ See, for example, Cochran Nordling and Cochran, *Child-Centered Play Therapy: A Practical Guide to Therapeutic Relationships with Children* (2022).

⁷⁵ On competitive sporting, see: Committee on the Rights of the Child, Concluding Observations: Ecuador, 25 October 2017, CRC/C/ECU/CO/5–6 at para 38.

invoked by domestic chores (particularly for girls) and child labor/work,⁷⁶ and competitive schooling, extracurricular tuition, and homework.⁷⁷ The Committee views these as placing demands on children's time that consequently reduce the time available for enjoying the right to play.

A cholerization of childhood,⁷⁸ with a focus on academic achievement and a perception of childhood as a period of learning and of cultural and social development, can also squash out time for play with a prioritization of education at the expense of play. Research signals to a general downward curve in time offered for free play in the school day,⁷⁹ and where play is encouraged in schools it is often utilized as a tool for learning.⁸⁰ Whilst play-based activities or play-based learning are accepted as valid tools for education, research shows that children do not always perceive such activities as 'play' due to the adult-assigned nature of the tasks.⁸¹ Outside of the school day, and beyond time spent on homework and extra tuition, research points to a growing 'backseat generation'⁸² with children spending increasing time being transported to-and-fro overly scheduled adult directed or chosen activities (such as extracurricular lessons or 'trips' to cultural settings with the goal of educating children and increasing their cultural capital).⁸³ The Committee also decries a decrease in contact with nature in schools and the corresponding increase of time spent indoors.⁸⁴

The Committee highlights children's labor or domestic work as restricting children's time for play.⁸⁵ Pressures on children to utilize their time for work (paid or domestic) are particularly high for children in poverty. Children that engage in some form of work require additional support to ensure the realization of their right to play due to a reduction in time and energy to engage in play.⁸⁶ For some, there are additional challenges relating to the impacts of engaging

⁷⁶ See, for example: Committee on the Rights of the Child, Concluding Observations: Micronesia, 3 April 2020, CRC/C/F-SM/CO/2 at para 63(b); Concluding Observations: Austria, 3 December 2012, CRC/C/AUT/CO/3–4 at para 59; Concluding Observations: Philippines, 2 October 2009, CRC/C/PHL/CO/3–4 at paras 71–72; GC17 at para 48.

⁷⁷ GC17 at para 41; Committee on the Rights of the Child, Concluding Observations: Korea, 24 October 2019, CRC/C/KOR/CO/5–6 at paras 41 and 42; Concluding Observations: China, 29 October 2013, CRC/C/CHN/CO/3–4 at para 62; Concluding Observations: Singapore, 4 May 2011, CRC/C/SGP/CO/2–3 at para 59(c); Concluding Observations: Thailand, 17 March 2006, CRC/C/THA/CO/2 at paras 64 and 65; Concluding Observations: China, CRC/C/CHN/CO/2, 24 November 2005 at para 78(c); Concluding Observations: Singapore, 27 October 2003, CRC/C/15/Add.220 at para 43(c). Whilst the examples here and above are critical of States practices, the Committee also provides positive recommendations for the protection of time for play throughout the 27 identified concluding observations, including for example: Concluding Observations: Zambia, 14 March 2016, CRC/C/ZMB/CO/2–4 at para 52(g); Concluding Observations: Brunei, 24 February 2016, CRC/C/BRN/CO/2–3.

⁷⁸ Mayall, 'The sociology of childhood in relation to children's rights' (2000) 8 *The International Journal of Children's Rights* 243.

⁷⁹ A study on breaktimes in state funded schools across England found that between 1995 and 2019, breaktimes reduced by an average of 45 minutes a week for children in Key Stage 1 (children between the ages of 5–7) and by 65 minutes a week for children in secondary schools (11–16). The main reasons given by schools for this reduction in breaktimes were (a) to create more time for teaching and learning, and (b) to limit perceived poor behaviour by students. This reduction in time does not include a loss of breaktimes for individual children due to misbehaviour or for catching up with schoolwork, a practice found in 60% of schools. Baines and Blatchford, *School break and lunch times and young people's social lives: A follow-up national study: Final Report* (Nuffield Foundation, 2019). Available at: <https://www.nuffieldfoundation.org/wp-content/uploads/2019/11/Baines204240220BreaktimeSurvey20-20Main20public20report20May19-Final1.pdf> [last accessed March 2024].

⁸⁰ My research points to a complicated relationship between the right to play and education since the drafting of the Declaration on the Rights of the Child, through to its implementation today (Lott, 'The Right to Play and its Relationship with (the Right to) Education: A Marriage Made in Heaven?', Working Paper).

⁸¹ King, 'Play: The Kindergartners' Perspective' (1979) 80 *Elementary School Journal* 81 at 84.

⁸² Karsten, 'It All Used to Be Better? Different Generations on Continuity and Change in Urban Children's Daily Use of Space' (2005) 3 *Children's Geographies* 275.

⁸³ This is not to say that such pursuits are in and of themselves wrong, but where these result in removing time for play there is a cumulative effect that negatively impacts upon a child's right to play.

⁸⁴ GC17 at para 41.

⁸⁵ See also supra n62.

⁸⁶ Lindon, *Understanding Children's Play* (2001) at 17.

in particularly hazardous work.⁸⁷ The topic of children's work is contentious and a detailed discussion of the nuances of these debates is beyond the scope of this paper.⁸⁸ Nonetheless, research does point to a reduction in time for play for children engaged in these activities, with an additional impact on girls.⁸⁹

Ensuring that children are provided with adequate time for play requires the implementation and realization of the right to leisure (Article 31). The Committee has defined the right to leisure as follows:

'Leisure refers to time in which play or recreation can take place. It is defined as free or unobligated time that does not involve formal education, work, home responsibilities, performance of other life sustaining functions or engaging in activity directed from outside the individual. In other words it is largely discretionary time to be used as the child chooses'.⁹⁰

The availability and quality of time for play is naturally influenced by time spent in other activities, as such time for play should be additional to time for rest. Implementation of the right to play must therefore include the provision of leisure time that is 'free from other demands', 'free from adult control or management' or determination, 'without obligations, entertainment or stimulus', that children are able to direct and invest in themselves.⁹¹ In order to protect such time, the Committee advocates for the introduction of legislation that addresses 'the principle of sufficiency—all children should be given sufficient time and space to exercise these rights'.⁹² This relates closely to the measures of availability and quality, outlined above. It is clear from the work of the Committee that it places significant value on time for spontaneous play that is child led. The Committee notes, for example, that 'where investment is made [into implementing Article 31 rights], it is in the provision of structured and organised activities, but equally important is the need to create time and space for children to engage in spontaneous play'⁹³ and 'self-directed activity'.⁹⁴ Specific to education, the Committee stresses the development of statutory provision that will 'guarantee appropriate time during the day to ensure that children have sufficient opportunity' for play, including taking homework into consideration.⁹⁵ The Committee also indicates that national plans of action should be developed that look to create time for self-directed activity, emphasizing the importance of such a measure alongside provision of facilities and specific activities.⁹⁶ Alongside these general measures, the Committee highlight particular groups of children that may require additional time, or protection of time, for their enjoyment of their right to play. For example, for children in post-conflict contexts the

⁸⁷ GC17 at para 29; *ibid.* at 18; Boyden et al., *Children and Poverty: Voices of Children: Experiences and Perceptions from Belarus, Bolivia, India, Kenya and Sierra Leone* (Christian Children's Fund, 2003).

⁸⁸ For discussion on these issues, see: Lott, *supra* n1 at 62–63; and Lott, Vargas-Gorena and Schwarz, *Advancing a Child Rights Informed Approach to Antislavery Policy and Practice: A systematic evidence review of literature at the intersection of children's rights and modern slavery* (ILO and IOM, 2023); Liebel, 'Protecting the Rights of Working Children instead of Banning Child Labour' (2015) 23 *The International Journal of Children's Rights* 529.

⁸⁹ Boyden *supra* n87; O'Neill, 'Young carpet weavers on the rights threshold: protection or practical self-determination?', in Hanson and Nieuwenhuys (eds) *Reconceptualising children's rights in international development: Living rights, social justice, translations* (2012) at 93, citing White, 'Defining the Intolerable: Child work, global standards and cultural relativism' (1999) 6 *Childhood* 113 and Woodhead, 'Combating Child Labour: Listen to what the children say' (1999) 6 *Childhood* 27; French, 'Children's Labor Market Involvement, Household work and Welfare: A Brazilian Case Study' (2010) 92 *Journal of Business Ethics* 63; Lindon, *supra* n86 at 17; GC17 at paras 29 and 48.

⁹⁰ GC17 at para.14(b).

⁹¹ *Ibid.* at paras 13, 32.

⁹² *Ibid.* at para 58(a).

⁹³ *Ibid.* at para 2.

⁹⁴ *Ibid.* at paras 40 and 42. The author acknowledges the important role of adults in facilitating children's play, and for younger children demonstrating play, and the requirement this may place on adults' time (e.g. parents and play workers). Progressive policies that look to support the implementation of the right to play should consider this also.

⁹⁵ *Ibid.* at para 57(g).

⁹⁶ *Ibid.* at para 58(a).

Committee encourages time for play to promote resilience, psychological healing, and as part of the normalization of their lives.⁹⁷ In accordance with their non-discrimination duties, States must ensure that in seeking to meet their obligations pertaining to the right to play they address the needs of marginalized children and children who may have greater restrictions on their time for play.

6. ACCEPTANCE

The third factor included in this framework for implementation of the right to play is that of acceptance. This factor closely relates to the test of acceptability included in the 3AQ framework but goes beyond an interpretation of acceptability as a tool for measuring the appropriateness or suitability of steps taken to implement the right to play. Instead, this factor relates to ensuring a broader acceptance of the child's right to play, as explained here. In *General Comment No.17*, the Committee outlines 11 challenges or barriers to the realization and enjoyment of the right to play. Underscoring all these challenges is a profound lack of understanding of both the value of play for children—intrinsically and instrumentally.⁹⁸ In order to alleviate these barriers to play, societal attitudes towards children's play must be addressed, starting with a deeper understanding of the value of play for children and acceptance of the child's right to play.

Some organizations that promote children's play talk of children needing 'permission' for play.⁹⁹ Whilst in practice the need for 'permission' for a child to engage in play may often be the case, as adults are habitually gatekeepers to the time and space available for children to engage in play (children often require parents/guardians/teachers' permission to play), this is not the appropriate term or concept for framing the factors needed for implementation and realization of the right to play. This is due to the nuances and implications associated with 'permission'. Permission implies, first and foremost, that the *right* to play is something that adults confer upon children. The concept of permission suggests that whether the child is a rightsholder is up to the individual adult policing the child's time and space for play. It does not respect children as rightsholders themselves. Children are rightsholders, and have a right to play, regardless of whether adults around them enable them to enjoy their right: whilst enjoyment of the right to play can be curtailed, one cannot forbid a child the existence of their *right* to play. This is clearer to see when considering rights that are historically less contentious. For example, withholding permission from a child to access education does not mean that the child has no *right* to education, withholding healthcare or food from a child does not equate to a child having no *right* to healthcare or food. Second, this language suggests that it is simply a lack of permission that must be overcome in order to implement the right to play. 'Permission' is a highly individualized term which strips away the societal and structural barriers to the realization and enjoyment of the right to play. Rather, what is necessary is *acceptance* that children have a right to play at both the societal and individual level. The right to play will not be realized for all children when perceptions of their play as frivolous, a luxury, or a nuisance prevail.¹⁰⁰

There are three core elements to this factor of acceptance, the first two overlapping directly with 'space' and 'time', discussed above. First, there is considerable hostility towards children's

⁹⁷ See, for example: Committee on the Rights of the Child, Concluding Observations: Dominican Republic, 6 March 2015, CRC/C/DOM/CO/3–5 at para 60; Concluding Observations: Mexico, 3 July 2015, CRC/C/MEX/CO/4–5 at para 32(f).

⁹⁸ Lott, *supra* n1 at 74–75.

⁹⁹ See, for example, OPAL and Play England (e.g. Ardelean, Smith and Russell, 'The Case for Play in Schools: A Review of the Literature' (OPAL, 2021)).

¹⁰⁰ For more on these framings of children's play, see Lott, *supra* n1. On luxury rights and the right to play, see Lott (2021), *supra* n3.

presence, and accordingly their play, in the public space.¹⁰¹ This is particularly so for adolescents, and research also points to further challenges for migrant children.¹⁰² The Committee condemns the introduction of ‘curfews on children; gated communities or parks; reduced noise-level tolerance; playgrounds with strict rules for “acceptable” play behaviour; restrictions on access to shopping malls [and] a perception of children as “problems” and/or delinquents’.¹⁰³ The Committee also points to the influence of negative media coverage and depictions of adolescents, and the impact of this on adolescents’ use of public space.¹⁰⁴ Addressing this requires a re-framing of children’s presence in the public space, in part through ensuring that the public space is designed for, and viewed as a space for, play and children. Projects such as the Child Friendly Cities Initiative, led by UNICEF, centre on this idea of urban planning that meets the needs of children. As public spaces are redesigned to accommodate and encourage play, attitudes towards children’s presence and play in these spaces should also change. As argued above, the right of the child to play is an issue of spatial justice. Not only should the public space be designed in a way that encourages acceptance of children’s presence and play, but States should also undertake further measures—such as education campaigns—to encourage the wider community to view children as equal users of the public space.

Second, play is often perceived as “deficit” time spent in frivolous or unproductive activity of no intrinsic worth . . . often considered noisy, dirty, disruptive and intrusive’.¹⁰⁵ This relates directly to the issues raised in relation to children’s time for play, of the reduction of time for play due to time in work, education, or programmed activities—play is viewed as less time worthy than other activities. There is a clear need to ensure that attitudes towards play are addressed to enable children to have sufficient time to engage in play.¹⁰⁶ This is particularly critical in relation to parental agreement, as parents have significant influence on the time available to children for play on a day-to-day basis. Equally, teachers should ensure that children’s time for play is not encroached upon for the purposes of additional learning, or as a punishment. This would ensure that goals relating to academic attainment, for example, are not hailed to the detriment of other childhood needs and developmental opportunities protected through play. Likewise, employment protection should be offered to children, with appropriate limits on hours and days of work.

Finally, the factor of acceptance directly relates to the States duties under Article 42 of the Convention, which stipulates that ‘States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike’. To arrive at a place where children’s play is afforded the consideration and value it merits, greater education and awareness-raising on the right, its importance, and measures

¹⁰¹ See, for example, Committee on the Rights of the Child, Concluding Observations: France, 22 June 2009, CRC/C/FRA/CO/4 at para 82; Concluding Observations: United Kingdom, 20 October 2008, CRC/C/GBR/CO/4 at para 68. For more extensive discussion of this issue, see Lott *supra* n1 at 53–57.

¹⁰² On the latter, see: Karsten, *supra* n83 at 284–285; Allport et al., “Like life in a cage’: Understanding child play and social interaction in Somali refugee families in the UK’ (2019) 56 *Health and Place* 191; Moore, Lynch and Boyle, ‘Can universal design support outdoor play, social participation, and inclusion in public playgrounds? A scoping review’ (2022) 44 *Disability and Rehabilitation* 3304. See also, for example, Committee on the Rights of the Child, Concluding Observations: Belgium, 20 February 2019, CRC/C/BEL/CO/5–6 at para 40; Concluding Observations: Austria, 5 March 2020, CRC/C/AUT/CO/5–6 at para 38.

¹⁰³ GC17 at para 37.

¹⁰⁴ *Ibid.* The Committee also points to the broader impact of excluding children from the public space on the development of their citizenship (at para 38).

¹⁰⁵ GC17 at para 33.

¹⁰⁶ See, for example, Committee on the Rights of the Child, Concluding Observations: Republic of Korea, 20 October 2019, CRC/C/KOR/CO/5–6 at para 42(j); Concluding Observations: Congo, 20 October 2006, CRC/C/COG/CO/1 at para 24.

for its realization is imperative.¹⁰⁷ To meet their obligations under Article 42, States should thus ensure education and awareness-raising across communities of (a) the *fact* that children have this right to play (they are rightsholders and the right is theirs already; it is not for adults to “give” to them), (b) the importance of this right for children, and (c) the validity of children’s presence in the public space. As explicated in Article 42, attempts to ensure knowledge of Convention rights must be directed to both ‘adults and children alike’. This underscores the importance of adults’ knowledge of rights in their capacity as gatekeepers and facilitators of rights realization, and the importance of children’s knowledge of rights as a process of developing children’s legal capability and agency. The commitment and obligation to ensure a society-wide acceptance of the child’s right to play has been present since the 1959 Declaration on the Rights of the Child, which stated ‘society and the public authorities shall endeavour to promote the enjoyment of [the right to] play’ (Article 7). The Committee has repeatedly called upon states to promote the right, awareness of the right, and ‘understanding of the centrality of play for children’s development: among parents, caregivers, government officials and all professionals working with and for children’.¹⁰⁸ Relatedly, the Committee stipulates that States should undertake a practice of ‘systematic and ongoing training’ and capacity-building of all ‘professionals . . . whose work impacts on children’ on children’s rights and Article 31, including on ‘how to create and sustain environments’ that most effectively realize these rights.¹⁰⁹ This statement is purposefully broad. If implemented properly, such a measure would see consideration of the right to play across every sector of society.

7. A CHILD RIGHTS-INFORMED FRAMEWORK

This article has, so far, argued that time, space, and acceptance are necessary for realization of the right to play and has given detailed comment on what measures comprise these factors. All three factors must be implemented to realize this right. A deficiency in relation to any one of these would severely limit the possibility of realizing and enjoying the right to play. For example, a child may have plentiful space that is available for them to play in, but without the time to do so or the acceptance of their presence in that space, or the value of their enjoyment of their right to play, the child’s right to play will not be fulfilled. Similarly, a child with copious time and space for play surrounded by adults who view play as frivolous will not be able to enjoy their right to play. Yet, even with all three factors present, without a broader rights-informed approach to implementation of the right to play, the right to play still cannot be fully implemented and enjoyed (Fig. 1). It is thus only at the intersection of all four components, with all four pieces of the jigsaw present, that the right to play can be fulfilled. This section details the nature of the final component: rights.

It may seem convoluted to claim that implementation of the right to play can only be achieved by employing a child rights-informed approach to the right—the right to play is, after all, a *right* itself. However, there are two reasons for emphasizing the need for this approach to the right. First, the language of ‘the right to’ play is often employed by organizations advocating for children’s play to be facilitated and enhanced,¹¹⁰ but without any real understanding or elaboration of what a ‘right’ entails or what a human rights approach to an issue involves. Second, as is often the case across the human rights field, rights are habitually presented, discussed, and

¹⁰⁷ See, for example: Committee on the Rights of the Child, Concluding Observations: Republic of Korea, 24 October 2019, CRC/C/KOR/CO/5–6 at para 42(j); Concluding Observations: Gambia, 20 February 2015, CRC/C/GMB/CO/2–3 at para 73.

¹⁰⁸ Ibid at para 5.

¹⁰⁹ Ibid at para 58(h).

¹¹⁰ The most obvious being ‘The Right to Play’ accessible at <https://righttoplay.org.uk/en-gb/> [last accessed May 2024].

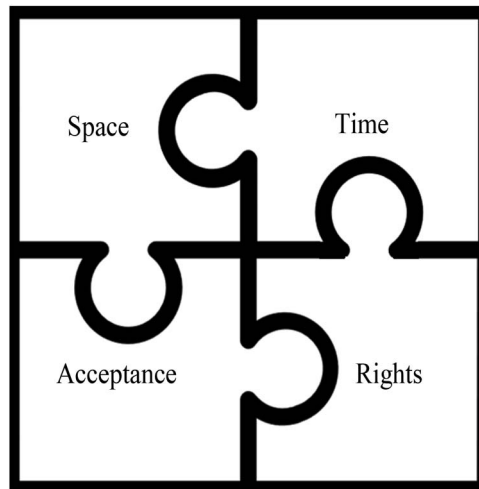


Figure 1. A framework for implementing the right to play.

advocated for, in silos. Yet, commonly their fulfilment is dependent on, or at least interrelated to, other rights. This is stated most clearly in the 1993 Vienna Declaration and Programme of Action, which states that '[a]ll human rights are universal, indivisible and interdependent and interrelated'.¹¹¹

As explained by Tobin, the core component of a human rights based approach 'is the requirement to integrate *rights* into the resolution of the issue that is the subject of analysis and consideration'.¹¹² Taking this in combination with an awareness of the interdependence of rights, a human rights-based approach to understanding the measures required to fulfil the right to play necessitates a broader engagement with the rights across the Convention: an integration of other Convention rights into the 'issue' of the right to play. Whilst a full examination of the interdependencies of the right to play and other Convention rights is of value, it is beyond the scope of this paper.¹¹³ Instead, this section considers some of the rights within the Convention that directly speak to the *implementation* of this framework (Fig. 2).¹¹⁴ This section does not engage with Article 2 (the right to non-discrimination) or Article 42, which have been discussed already in this paper.

First, the text of Article 31 includes its own limitation: '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* . . .'. This language directly relates to Article 5 of the Convention on the evolving capacities of the child. Article 5 requires that children are given 'appropriate direction and guidance in the exercise [of their rights]', 'in a manner consistent with the evolving capacities of the child'. When

¹¹¹ Vienna Declaration and Programme of Action, 25 June 1993, Article 5.

¹¹² Tobin, 'Understanding a Human Rights Based Approach to Matters Involving Children: Conceptual Foundations and Strategic Considerations' in Williams and Invernizzi (eds) *The Human Rights of Children: From Visions to Implementation* (2011) at 66. See also, Davey and Lundy, 'Towards Greater Recognition of the Right to Play: An Analysis of Article 31 of the UNCRC' (2011) 25 *Childhood and Society* 3 at 4.

¹¹³ Lott (forthcoming), *supra* n3; Committee on the Rights of the Child GC17 paras 16–31. This article has also pointed, for example, to the positive impact of the implementation of the right to play on rights such as the rights to life, survival, and development (Article 6), the right to health (Article 24), the right to education (Articles 28 and 29), and the right to an adequate standard of living (Article 27).

¹¹⁴ Application of this framework in specific contexts would also require additional rights consideration. For example, in the context of schools, the right to education would be directly implicated; and in the context of hospital play provision, the right to health would be of relevance.



Figure 2. Rights-informed framework for implementing the right to play.

considered together, these provisions call attention to the fact that children will have varying needs relating to their play, different experiences of play, and changes in how their right will be enjoyed, as they grow older. This is most obvious in relation to the supervision of children’s play. A young toddler will need significantly more supervision and support in their play than an adolescent. This may mean, for example, that an adolescent child ‘plays out’ with friends with no direct parental supervision, whereas a toddler would play with parents or with peers alongside other adults. This differentiation also relates to risk-taking, the types of play equipment available to children, and the forms of play they may choose to engage in. It also points to variations in the amount of agency and freedom of choice offered in play, and the determination of the amount of time afforded to play. As a child ages, the prevalence and balancing of other competing pressures on children’s time and space for play will also change, and different measures will be necessary to protect the enjoyment of their right to play.¹¹⁵ A rights-informed approach to the right to play must consider this nuance, and ensure the guidance and support offered to children is appropriate to their age and capacities, whilst not denying them their right. Thus, whilst the existence and relevance of the right to play does not change for children as they develop—children do not lose their right to play as they age—the implementation of the right to play will necessarily look different for children of different ages.

¹¹⁵ This article has underscored, for example, the significant negativity around adolescent play in relation to each of the other factors; time, space, and acceptance.

Closely connected to this is the right of the child to be heard, provided for in Article 12 of the Convention:

'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child'.

In the context of the right to play, at a minimum this requires that children's voices are heard in relation to what play they choose to engage in. This is particularly pertinent as play should be voluntary and child led. Furthermore, implementation of Article 12 in relation to the right to play also requires, however, that children are consulted in the design of play spaces and 'in the planning, designing and monitoring of the implementation of policies and programmes relevant to . . . play', at the national and local level.¹¹⁶ Yet, Article 12 stipulates that children's voices must be assured 'in all matters affecting the child'. The nature of play, as a core component of what it is to be a child and activity of childhood, central to the child's right to life and dignity,¹¹⁷ requires a broad reading of the application of Article 12 to the right to play. Thus, '[w]hen considered, it is hard to find any matters that do not affect children indirectly or directly. Transport and urban planning impact upon their access to play spaces, employment conditions impact upon their lives through the lives of their parents, and budgetary policies impact upon resources available for education, healthcare, and other services that directly affect children.'¹¹⁸ All these factors can implement on the child's enjoyment of their right to play. Thus, for the implementation of the right to play, Article 12 requires that children's voices are included, *inter alia*, in discussion on the development of urban spaces, transportation policies, state budgeting, and the structure and purposes of the school day. Both Article 12 and the right to freedom of expression, provided for in Article 13, also relate to the right to play due to the fact that play is a form of communication for children and thus children may choose to utilize their play to have their voice heard and views expressed.¹¹⁹

Article 13 also includes the child's right to access to information.¹²⁰ The right to access to information is required for the implementation of the child's right to play in two primary ways: first, and connected to Article 42, children must be informed of their right and what this means for them, including how the State should implement their right, how it can be monitored, who to speak to if their right is violated, and how they can have their voice heard on matters relating to the enjoyment of the right. This is particularly important also for supporting acceptance of the right to play amongst peers, especially for adolescents. Second, the right to access to information also relates to the availability of information specific to play, likely at a localized level, on the location of designated play spaces and how to access them (such as public transport information) and the provision of specific play opportunities, *inter alia*.

¹¹⁶ See, for example: Committee on the Rights of the Child, Concluding Observations: Rwanda, 28 February 2020, CRC/C/R-WA/CO/5-6 at para 40(c); Concluding Observations: Syria, 6 March 2019, CRC/C/SYR/CO/5 at para 46; Concluding Observations: Bahrain, 27 February 2019, CRC/C/BHR/CO/4-6 at para 41(c); Concluding Observations: Ecuador 2017, CRC/C/ECU/CO/5-6 at para 38; Concluding Observations: United Kingdom, 12 July 2016, CRC/C/GBR/CO/5 at para 75; Concluding Observations: Belgium, 18 June 2010, CRC/C/BEL/CO/3-4 at para 71.

¹¹⁷ Lott (forthcoming) *supra* n3.

¹¹⁸ *Ibid* at 11.

¹¹⁹ Committee on the Rights of the Child (2009) *General Comment No. 12: The Right of the child to be heard*. CRC/C/GC/12, at para 21.

¹²⁰ Article 13(1): 'The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice'.

Article 15 provides the child's rights to freedom of association and assembly.¹²¹ As noted by the Committee on the Rights of the Child, and echoed throughout much play literature, children's play experiences are particularly enhanced through engagement with peers, which is critical to their sense of belonging and often presented by children as a requirement for play. The Committee notes that 'children together create forms of imaginative play that are rarely achieved in adult-child relations'.¹²² The Committee also points to the importance of friendship, developed through play, for the wider community.¹²³ The right to freedom of association and assembly thus requires that the State 'facilitate opportunities to enable children to meet freely with their peers at the community level',¹²⁴ connecting directly to the factors of space and acceptance, discussed above, showing that implementation of the right to play is manifestly dependent on the rights to freedom of association and assembly. This is, again, particularly important for adolescent children, whose presence in the public space is often denigrated. This is also important for the right to play due to its common conflation with the right to recreation (Article 31) and an erroneous belief that children's right to play is implemented through the provision of sports opportunities and facilities.

Taken together, Articles 19, 32, 33, 34, 35, 36, 37, and 38 of the Convention present children's right to be protected from a range of harms including, *inter alia*, protection from violence, exploitation, abuse, and exposure to harmful materials. These intersect with the right to play due to the significant impact this may have on children's mental space for play and the reduced time that children in such situations may have to play. As explained above, the experience of harm can severely curtail children's ability to play whether due to a lack of motivation or ability to engage in play or through the changed nature of play as a setting for the processing of trauma, with play as 'the mediator of the invisible and visible'.¹²⁵ This also connects to the right to rest in Article 31; children need sufficient rest from other pressures and activities to enable them to engage in play. Thus, to ensure that children are most able to enjoy their right to play, and particularly to enable children to have mental space and time for play, States must undertake measures to protect children from significant harms.¹²⁶

Relatedly, children's right to play must be implemented in a way that is consistent with the States' duties under Article 3 of the Convention, which presents the need to ensure that children's rights are implemented in a way that is in the best interests of the child. The implementation of the right to play is integrally interconnected with the best interests of the child due to the substantial benefits of play for the child, and its intrinsic value and connection to what it is to be a child.¹²⁷ Indeed, the Committee states that the implementation of the right to play is 'by definition, in the child's best interests'.¹²⁸ This message must be communicated to meet the requirements of the acceptance component of this framework. Yet, enjoyment of the right to play must also be informed by the best interests principle through decisions on when, where, and with whom children play as well as the time that should be allocated to play, directly relevant to the implementation of the space and time components of the framework.

¹²¹ Article 15(1): States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

¹²² GC17 at para 21.

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ Quote attributed to Dora M. Kalfi, a Jungian therapist.

¹²⁶ For discussion on the meaning of 'harm' and the need to ensure children's access to risky play, see: Lott, *supra* n1 at 41–47.

¹²⁷ For more on the interdependence of these rights, see Lott (forthcoming), *supra* n3.

¹²⁸ GC17 at para 17.

8. CONCLUSION

This paper shows that the realization of the right to play requires a whole-society effort. It requires that parents, teachers, and the broader community recognize that children must have time for play and accept that children must be able to play in the spaces available to them, near their homes, and in their local community. It requires that urban planners and transportation officials consider children's access to the public space and the quality of its design for meeting children's play needs. It requires that budgets are allocated to support such design, the support of play in schools, the provision of play services in healthcare settings, and community-focused children's and youth work. It requires legislative backing to ensure the enforceability of the right to play. The realization of the right to play also requires that children's voices are included in discussions on a broad range of policy issues as well as the design and practice of play services. As I have argued elsewhere, the underlying challenge underscoring the failure to implement the child's right to play is the lack of understanding of its importance for children (and society as a whole).¹²⁹ States must ensure that adults and children across the community are aware of, and are motivated to accept, the necessity of the full implementation of the right to play.

As noted at the start of this article, this framework has been developed by drawing together the 3AQ framework utilized by the Committee in *General Comment No. 17* with consideration of the terminology already used by actors working on the ground to advocate for the realization of the right to play, and informed by empirical, doctrinal, and archival research and academic literature from a wide range of disciplines. When seeking to measure the implementation of the right to play through the four factors of this framework—space, time, acceptance, and rights-informed—the 3AQ framework can be employed to inform questions that assess the success of States' measures to realize the right. The four-part (STAR) framework proposed in this article is thus clear, can be applied to most contexts that relate to or impact the right to play, and has the potential to enable measurement and monitoring of the implementation of the right.

¹²⁹ Lott, *supra* n1 at 74–75.