

Lothar Krappmann

Monitoring Article 31 CRC on the child's right to play  
by the Committee on the Rights of the Child

Presentation at the World Congress of the International Play Association (Cardiff, Wales; July 7, 2011)

First, please let me convey the greetings and good wishes of the chairperson of the Committee on the Rights of the Child, Jean Zermatten, also of the former chairperson, Yanghee Lee, and of all committee members who I met when I was in Geneva two weeks ago. They all are very enthusiastic about the decision to draft and adopt a General Comment on the child's right to play, article 31 of the Convention on the Rights of the Child, and hope for a completion of this document in near future - supposedly by the end of next year. The Committee is very grateful for the good cooperation with the International Play Association, since it needs competent support. Together we will make it.

I will tell you some minutes later, why the committee is so enthusiastic to have a General Comment on play and related activities of children. But before, I would like to explain my background with regard to children's play and, I think, I also have to say some sentences about what the Committee on the Rights of the Child does and what the role and the benefit of a General Comment are - in particular for children, but also for all organizations, who want to support children in the enjoyment of their right to play.

About half of the committee members are experts of human rights law and international law; the others come from theory and practice of paediatrics, sociology, education or developmental psychology. I was a researcher on children's development, and many years ago I did a series of observational studies of children's play and game. I was influenced at that time by a statement of Hans Furth, a colleague and friend in the US, who gave an enlightening illustration about what play means for a child. He used the example of a four-year old girl sitting next to her father in a bus and listening to his explanations of bus driving and traffic in the city.

Furth points out that, from the perspective of the father, this is a real educational situation, while his daughter is playing being a well-behaving girl. She does not really understand the problems of the public transportation system her father is talking about. But her role is to listen to an authority. When a couple of minutes later she has come home and begins to play with her friend, when she e.g. shares an apple with her friend and negotiates a fair distribution of the pieces or when the two friends argue about the rules of a play, the interactions are full reality. Furth made clear that this play setting is the situation "in which two children are engaged to establish the rules of social interaction and to become socialized human beings"<sup>1</sup>.

I made similar observations in playgrounds and classrooms, which made so evident that play is an essential part of children's lives and development and has to be protected, encouraged and promoted with the same vigour with which we fight for children's adequate nutrition, their health or education and their protection against violence and exploitation. And this sentence is almost an almost literal quote of the Declaration of the Child's Right to Play adopted by your International Association.<sup>2</sup>

---

<sup>1</sup> Furth, H (1982). Das Gesellschaftsverständnis des Kindes und der Äquilibrationsprozess [Children's understanding of society and the equilibration process]. In W. Edelstein & M. Keller (Hsg. ), Perspektivität und Interpretation [Perspectivity and interpretation]. Frankfurt a.M.: Suhrkamp, pp. 188 - 215 (Quote page 190).

<sup>2</sup> International Association for the Child's Right to Play: Declaration of the Child's Right to Play (1977; revised 1982 and 1989). Go to: [www.ipaworld.org/about-us/declaration/ipa-declaration-of-the-childs-right-to-play/](http://www.ipaworld.org/about-us/declaration/ipa-declaration-of-the-childs-right-to-play/)

Thus, it was essential that a right to play had to be incorporated in the Convention on the Rights of the Child, which, as you all know, was adopted by the United Nations in November 1989 and meanwhile ratified by 193 states.<sup>3</sup>

The adoption of the Convention was a revolutionary act, which is not yet understood by everybody, since still many do not regard the child as a subject with own interests and objectives and a holder of rights, which have to be respected and given weight. Although we have a Universal Declaration of Human Rights, a child rights convention was needed in order to spell out these rights in view of the child as a human being with evolving capacities and in need of advice and support. The right to play is one of the inalienable rights of the child under the Convention. It is a right which was not incorporated in the Universal Declaration, the mother of all later human rights treaties.<sup>4</sup>

What is the consequence of play having become a right in an international Convention? State parties to the Convention have put themselves under the obligation to implement the rights of the Convention. If they do not, there is no sanction, though. Anyhow, State parties have to submit reports on the implementation of the rights to a monitoring committee, which they have established, the Committee on the Rights of the Child. The Committee analyzes the reports, receives and considers additional information from non-governmental organizations - in near future hopefully also from national IPA organizations. Then the Committee invites every government to a public debate on the progress or lack of progress with regard to the implementation of children's rights.

Most State parties send their reports, sometimes with delay, but they send it, and almost all reports include a section on play, leisure, rest and cultural and artistic activities.

The United Kingdom submitted its most recent report, the combined 3<sup>rd</sup> and 4<sup>th</sup> report in July 2007. The debate took place in September 2008; and the Concluding Observations of the Committee recognized efforts made, in particular by the government of Wales, but also stated that the right to play and leisure is not fully enjoyed by the children in the UK, due to poor play infrastructures, notably for children with disabilities. The reduction in playgrounds occurring in recent years, so the Committee, has pushed children into gathering in public open spaces, a behaviour that may be regarded as anti-social according to the ASBOs.<sup>5</sup>

As said, there are no sanctions. Yet in most countries this monitoring procedure instigates governments to reconsider what they have assured to do. Non-governmental organisations use the concluding observations to insist on action plans, revisions of laws, budget allocations, awareness raising, training of professionals, community development plans, or whatever may be appropriate.

The verb "insist" is important. NGOs and other advocates of child rights do not suggest, do not beg, they do not supplicate for implementation. I like to say: The remind governments of

---

<sup>3</sup> Convention on the Rights of the Child. See <http://www2.ohchr.org/english/bodies/crc/index.htm>

<sup>4</sup> A right to rest and leisure was laid down in Article 24 of the Universal Declaration, but a right to play, was not mentioned in this article, as the Universal Declaration had in mind working adults, not children. Art. 24 of the UDHR reads: "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay."

<sup>5</sup> State party reports and Concluding Observations are found by the search procedure on <http://tb.ohchr.org/default.aspx>. The 3<sup>rd</sup> and 4<sup>th</sup> State party report of the United Kingdom has the UN document no. CRC/C/GBR/4 (16 July 2007) and the Concluding Observations the no. CRC/C/GBR/CO/4 (20 October 2008). By the way: The next report of the United Kingdom is due in January 2014.

the obligations which they have voluntarily and explicitly taken over by the ratification of the Convention. The ratification has brought NGOs in a new role: They remind and insist. And also children and their parents do not beg for the implementation. Also they remind and insist.

All such activities require that the articles are well understood. The Committee has an instrument to raise the awareness and to improve the understanding of articles by State parties and everybody else, who is concerned about the implementation of child rights: General Comments. General Comments are based on the expertise and experience gathered in human rights committees and represent the most up-to-date and most knowledgeable explanations and interpretations of the obligations under the human rights treaties. They have high directive rank in rights development and implementation (Buergethal, 2001).<sup>6</sup>

Up to now the Committee has drafted, discussed and adopted thirteen General Comments on diverse articles and issues, one more is almost finalized, a General Comment on the adequate understanding of the best interests of the child.

AS already said at the beginning, in its 56<sup>th</sup> session, in January 2011, the Committee has decided to dedicate such a General Comment to article 31, the play article of the Convention: The unofficial full heading of this article in the Convention is: Rest, play, leisure, recreation and cultural and artistic activities. By the way: High performance sports will not be included, since it is an own intricate complex of problems.

Why such a General Comment? Isn't playing a well-understood aspect of children's lives that needs no further explanation? Unfortunately not, and I will give you some details - not to blame anybody, but to motivate us to put our serious effort in the drafting process of this General Comment.

Possible misunderstanding already began with the drafting process of the Convention. The first draft of the Convention prepared by Poland included a paragraph on play taken from the UN Declaration on the Rights of the Child in 1959. The reference to play was included in the article on education and reads as follows: "The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right."<sup>7</sup>

There were debates on whether play should be directed "to the same purpose as education", and also on, which other desirable activities of children should be included, e.g. cultural activities, artistic activities, and there was even the question, whether play should be mentioned at all. Eventually the article referred to play, rest, leisure, recreation and cultural and artistic activities, separated from the article on education, and the article required the provision of appropriate and equal *opportunities* for all children.

Attention should be paid to the term *opportunities*. It indicates that not play itself should be provided, but opportunities for play, which means time, space and facilities so that children can create their *own, self-organized* playful activities.

Obviously most States parties have not realized this difference. Their reports focus on activi-

---

<sup>6</sup> Buergethal, Thomas (2001). The UN Human Rights Committee. In J. A. Frowein & R. Wolfrum (Eds.), Max Planck Yearbook of United Nations Law, Vol. 5 (pp. 341-398). Dordrecht (The Netherlands): Kluwer. In particular section VI: General Comments.

<sup>7</sup> Office of the High Commissioner on Human Rights (Ed.). Legal History of the Convention on the Rights of the Child. New York and Geneva, 2007, pp. 683 ff.

ties, which they organize for children. This is clearly demonstrated by a review of ten reports from various regions of the world, which I examined, when I prepared this talk.<sup>8</sup> All these reports have a section on article 31, in which they focus on libraries, sports facilities, youth clubs, cultural centres, museums and exhibits. They also inform that tournaments, competitions and contest for sports, dancing, and arts were organized or that youth festivals revitalize traditions or contribute to national reconstruction and reconciliation - desirable and honourable objectives!

The reports also often explain why the state or the community organize such programmes and institutions and mention lack of safety in public spaces, young people hanging around in streets, children's extensive occupation with computer games and videos and parental inability to guide and educate their children. However, you will find nothing about the free, spontaneous, autonomous, self-organized, creative play and game of children! Nothing on traditional play and game, often adapted by the children to present conditions of playing! Nothing on the places, which children discover for play! Nothing about wild play, risky play, subversive play, about which we heard a lot during the days of the conference.

The Committee receives additional information from non-governmental organizations. Also they often do not report on children's play. If they address article 31 at all, they usually complain that children do not have the time and the places to play because of poor living conditions, extensive child labour, competitive educational systems or parental concerns about safety outside the home.

Children's play is endangered; there is no doubt. But, at the same time, there are observations that children play even under most adverse living conditions e.g. of a garbage dump, emergency situations, refugee camps or slum areas and create an alternative world, their own reality, often turning upside down what torments them. This is the free play children have a right to, and I am sure that some of the States parties do not at all realize what children's play includes, which they have promised to support.

I have to add that also the Committee has often failed to take adequate notice of article 31. Several observers of the Committee's work refer to the right to play, recreation and cultural activities as the "forgotten rights", so Paolo David in his Commentary on Article 31.<sup>9</sup> When I studied the Concluding Observations, which the Committee adopted after reviewing the ten mentioned reports, I found with surprise that the Committee did never react to the sections in the reports on rest, play and cultural activities - with one exception, the United Kingdom.<sup>10</sup>

The Committee did not welcome the organized leisure and cultural activities, and it did not use the opportunity to explain what article 31 is about: that, primarily, ample opportunities must be given for children's self-initiated, self-organized, self-owned play, which is not used - shall I say misused? - for any other purpose.<sup>11</sup>

---

<sup>8</sup> I examined the reports and the committee's concluding observations of Bahrain, Burundi, Cambodia, Costa Rica, Cuba, Czech Republic, Egypt, Finland, Ukraine and the United Kingdom (most of them considered in 2011 and 2010).

<sup>9</sup> Paolo David (2006). Article 31 - The right to leisure, play and culture. Leiden: Martinus Nijhoff Publ. (Series: A Commentary on the United Nations Convention on the Rights of the Child, ed. by A. Alen, J. V. Lanotte, E. Verhellen et al.).

<sup>10</sup> Paolo David (o. c.) examined 98 Concluding Observations from the years 2000 to 2004 and found that just 15% of them addressed the rights under article 31.

<sup>11</sup> The Implementation Handbook for the Convention on the Rights of the Child (edited by UNICEF and prepared by Rachel Hodgkin and Peter Newell; 3<sup>rd</sup> edition, 2002) shows that the Committee has addressed chil-

From all these observations it is so evident that a General Comment is urgently needed, and the Committee is firmly decided to do so in order to give better advice to State parties and their administrations on all levels of government, make aware civil society and its organizations, find ways to better use the information that comes from the organizations close to children and also enhance the committee's own understanding for the essence of article 31.<sup>12</sup>

The International Play Association will support the Committee and has offered its competence and its experience for the drafting process. IPA has already presented an excellent outline of what has to be included in the General Comment.

I would like to once more summarize the aspects, which should be our message to the world:

(1) *First*, it should be highlighted that play is as essential in children's lives as nutrition, health, housing, care, education and participation. We have to raise the awareness of play, leisure, recreational and cultural activities as rights of children, which States parties have to respect, protect and fulfil with the same energy as any other right. We have to end the disregard of the child's right to play.

In particular the right of the child to playful, recreational, cultural and other activities has to be emphasized, which originate from the children's own motivation, interests and desires. This does not indicate that schools, daycare centres, youth clubs should not run programmes for arts, literature, should not organize festivals and tournaments. This can and will inspire children of all ages. But it has to be clarified that children have a right to activities in which they can freely use all what they have heard, observed, learned in order to create and experiment with ideas, rules, desires, anxieties and imaginations.

(2) *Second*, the governments may argue that children, in particular young children, often spend their time in private settings and institutions and, for this reason, governments sometime maintain that they are not responsible for children's play activities. Thomas Hammarberg, human rights commissioner of the Council of Europe (and former member of the Committee on the Rights of the Child), contradicts and underlines that responsibility of the State "cannot be privatized". The State has to ascertain that private services for children abide by the standards of the Convention.<sup>13</sup>

(3) *Third*, playful activities of children should not be romanticized. These activities are sometimes noisy; children come into conflicts, shout at each other, tears may flow, doors may bang, friendships may break off. Children's play sometime has anarchic aspects. Many of the problems children are confronted with may arise in play and other self-initiated activities and may generate arguments, noise, clashes. Anyhow, many children find out in such activities how to deal with others they do not like and to control behaviours, which are not acceptable, and, as we have heard this morning, learn to tolerate uncertainty, cope with surprise and endure disadvantage and resistance. But again: No romanticizing: There are children, who need

---

dren's play in several Concluding Observations. But the quoted examples again demonstrate that the main emphasis was laid on activities, which were organized by adults and not by children themselves.

<sup>12</sup> In the report of the 35<sup>th</sup> session, Annex II (UN Doc. CRC/C/137, 2004) and in its recommendation after the Day of General Discussion on child rights in early childhood (...) the Committee had already appealed to State parties and all stakeholders to recognize article 31 as a key human right and to remove all obstacles to its full implementation.

<sup>13</sup> Thomas Hammarberg (2001). Children. In A. Eide et al. (Eds.), Economic, social and cultural rights. Dordrecht: Kluwer Law International (2<sup>nd</sup> ed.), page 367

more help than play and self-created activities can provide.

(4) This, *fourth*, brings us back to the many good reasons repeatedly indicated for promoting children's play: Play advances social, emotional, moral and cognitive development of children, furthers health and well-being. In the reports of the States parties long list of objectives are presented in order to justify their organized activities: prevention of crime, protection of the environment, combating sexually transmitted diseases, preservation of cultural traditions, stimulation of creativity - all this is highly respectable, but this is not the primary aim of this article: The primary aim is to ensure that children have time and space where they can play, explore, experiment, risk, have fun and trouble, success and disappointment relying on their own evolving capacities without being surrounded by demands, expectations, standards, instruction of adults and their institutions.

No objections against the promotion of playful learning in the classroom as long as all participants know: This is no real play. Sometimes it becomes real play, since modern learning theories are much closer play than the instruction methods which I experienced as a school boy in my childhood long ago.

I hope that you do not misunderstand me. Making learning more playful in order to motivate children shall not be criticized. Article 31, however, stipulates play as an activity in its own right. This is clearly expressed by the decision of the drafting group of the Convention to separate the right to play from the article on education and delete the clause "[play] serves the same purpose as education". Play has its worth in itself. Still it is no luxury, but an essential element of the human existence. Therefore, it has to be recognized as a right.

(5) Now, point *five*, we may ask whether the government can after all do something to ensure the right to play. If it is so strongly emphasized that play is based on own initiatives, is self-organized and self-controlled, one may ask, whether states can actively support play and recreational activities at all.

Yes, governments at all levels can do a lot to promote children's play, because they shall not organize the play, but

- raise the awareness of children's right to play,
- provide rich, safe, child-friendly, age and gender-sensitive opportunities, open also for marginalized and disadvantaged children, and
- protect access and use of such opportunities by preventing commercialization, reducing the workload of children or competitive stress and by creating social, economic and environmental living conditions for children, which give children a secure place in their communities.

I agree with Stuart Lester's and Wendy Russel's request That the General Comment has to clearly embed article 31 in all other articles of the Convention and specify the relations of play and children's survival and development, article 6, play and health, article 24, play and standard of living, article 27, play and education, articles 28 and 29, and so on.

The 1977 Declaration of the International Play Association has already pointed out, that many governmental ministries and administrations are responsible for ensuring the right to play: health, education, family and youth, welfare, community development. I will not repeat the

details, which the Declaration has put together.<sup>14</sup>

(6) My last point, *six*: We must not worry about children's genuine play if we listen to their views and invite them to participate in all decisions about their play opportunities. It is a matter of serious concern to them and so their views must be given due weight according to the article 12 of the Convention, which states their right to be heard. In a recent study published by the Bernard van Leer Foundation Stuart Lester and Wendy Russell have shown that children, sometimes over generations, create their own play culture with secret places, self-established rules and objects, the meaning of which is often unknown to adults, or regard as worthless.<sup>15</sup> Thus, children have to contribute their own perspectives, views and interests.

I will conclude with a citation of Jan van Gils, former IPA president: "In the whole CRC there is no article that stresses as explicitly [as article 31] the right to be a child in the present, without delaying his *raison d'être* to the future. So while stressing the importance of the right to play, people are supporting the right to be a child."<sup>16</sup>

I am so joyful that the IPA and the Committee have found together to elaborate the Comment on the Child's Right to Play.

---

<sup>14</sup> International Association for the Child's Right to Play: Declaration of the Child's Right to Play (1977 and revised 1982 and 1989). Go to: [www.ipaworld.org/about-us/declaration/ipa-declaration-of-the-childs-right-to-play/](http://www.ipaworld.org/about-us/declaration/ipa-declaration-of-the-childs-right-to-play/)

<sup>15</sup> S. Lester and W. Russell (2010). Children's right to play. Bernard van Leer Foundation: Working Papers in Early Child Development, no. 57.

<sup>16</sup> J. van Gils (2007). The child's right to play: the right to be a child. In A. Ang et al., The UN Children's Rights Convention: Theory meets practice. Ghent (Belgium): Mortsel: Intersentia.